

STANDARD NO. 604

PROBLEM:

1. A mortgage on record is followed by another mortgage which asserts that the latter mortgage is given to correct some defect or omission in the former. Subsequently a discharge of one mortgage is recorded, but none is recorded specifically discharging the other mortgage. Should the examiner consider both mortgages discharged?
2. A mortgage on record is followed by another mortgage, which is a re-recording of the former and which corrects some defect or omission in the former. Subsequently a discharge referencing one of the recordings is recorded, but none is recorded specifically referencing the other. Should the examiner consider the mortgage underlying both recordings discharged?

RECOMMENDATION:

1. and 2. Yes, unless an instrument of record reveals or the title examiner otherwise has reason to believe that the discharge of mortgage was not intended to discharge both mortgages.