

## **“Together with” an easement**

**Q The legal description of the land in the record owner deed includes a recital “together with” an easement. The proposed insured has requested that we include that recital in the Schedule C description in our commitment and policy when issued. Are there any special requirements or steps that should be taken before doing this?**

A: Yes.

By including the “together with” recital in the legal description on Schedule C, we are insuring the title to that easement as if it were an additional tract. As such, the title to the easement in question must be searched and examined to be sure that it was properly granted, that it was not destroyed through the merger of the title to the dominant and servient estates earlier in the chain of title, and that there are no liens, mortgages, etc. on the servient estate which also burden the easement and have the ability to destroy the easement by foreclosure or execution.

It is important that we do not inadvertently insure an easement by including the “together with” recital in the description of the land on Schedule A of the commitment and policy. Such insurance should be given only after making an underwriting decision based upon a proper examination of title.