

THE TITLE EXAMINER

A QUARTERLY PUBLICATION OF THE MICHIGAN LAND TITLE ASSOCIATION



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- Member Survey Results
- Summer Convention Preview



The Michigan Land Title Association is a professional association dedicated to creating an environment which enables its members to provide the public with the highest quality land title evidencing, title assurance and settlement services.

www.MILTA.org



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SAVE THE DATE: Wednesday, May 1st - MLTA Legislative Day

at the Capitol in Lansing. This is a very important part of our overall Legislative/Lobbying effort and has been a major success in the past. It does not require any special familiarity or experience with the Lansing political scene, and is a great way to become more familiar with the MLTA's legislative concerns, while helping to make our presence known to our state legislators. A registration flyer will be forthcoming for this, as well (again, no charge). Please come join us in this team exercise - it's actually fun.

THE TITLE EXAMINER STAFF

Editor & Board Representative: Bob Wuerfel ■ Lighthouse Title Group
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with any questions, comments, or if you would like to contribute.



Mario Castillo

ASK Services, Inc., Business Development Executive, ASK Services Corporate Office is based in Canton, Michigan, but I am based out of Grand Rapids



MLTA Involvement: I am currently a member of the Membership committee and also have attended meetings with the Abstract and Title Agent committee during our last fall education seminar. As a member, I have routinely attended spring/fall education seminars. I have also participated as a Sponsor/Exhibitor at the Summer Conventions for the last 3 years. Additionally, I have been involved with the MLTA legislative day activities.

Personal Interests: I enjoy outdoor activities such as fly fishing, golfing and camping. I sometimes can be found doing some urban fly fishing a few hours before work or in the evening after dinner. I like to spend my time on some of Michigan's premier rivers such as the Flat River, Rouge River, Muskegon River, Pere Marquette River and the Grand River.

I am also a big Detroit Tiger fan, I enjoy attending games or listening to them on the radio (iPad).

Something about Mario: I have been blessed to have the opportunity to meet and work with many members of the MLTA. I started in this industry in 1997, after a career change as a Juvenile Delinquent Youth Counselor for Oakland County Children's Village. Following the move to Grand Rapids, I found my start in this industry as a title searcher/abstractor. That included running a variety of property indexes and covering many counties on the west side of Michigan. Later, I spent some years as a Title Examiner with Chicago Title.

I am married to Jody Castillo and we have three beautiful children Anthony (16), Ethan (10), Eva (3) and "Pudge" our English Bull Dog. We are a very busy sports family year round with Baseball, Track, Football and Wrestling. With the age gap of our children we usually split up to be sports mom/dad attached with Eva, our boy's biggest fan. You can figure who Eva tags along with; by following the trail of fruit loops leading to a game or event.

Michael Holden

State Agency Manager for Michigan, Ohio and Indiana (Great Lakes Region), North American Title Insurance Company), Painsville, Ohio



MLTA Involvement: Since joining North American Title Insurance Company in 2011 and joining MLTA at the same time, I have participated in the following events:

1. MLTA 2011 Summer Convention
2. MLTA 2011 Fall Education meetings (Livonia and Mt. Pleasant)
3. MLTA 2012 Spring Education meetings (Livonia and Mt. Pleasant)
4. MLTA 2012 Summer Convention in Traverse City, MI
5. MLTA 2012 Fall Education meetings (Livonia and Mt. Pleasant) (I was a last minute additional speaker for this event in both locations)
6. In 2012 I joined the education committee and have been participating since then.

Personal Interests: My personal hobbies include golf, bowling, skiing, hunting, hiking and travel. I currently serve as a associate coach at The First Tee of Cleveland as a volunteer helping at risk youth understand the game of golf and to promote the core values of the First Tee curriculum teaching good judgment, honesty and values to today's youth thorough golf. I am getting married this summer to my fiancée Laura. Many MLTA members met her at the July 2012 meeting in Traverse City.

Something about Michael: This is my family's 93rd year in the title industry. My grandfather began as an apprentice in 1920 working in St. Louis for a company called "Title Insurance Corporation of St. Louis". He was able to save enough money through the depression to open his own title agency in 1937. That company was taken over by my father in 1966 and was sold to Commonwealth Land Title in 1973. Both my mother and father worked in the business for other agencies in Florida and Missouri before opening their own title agency in 1988. I took over management of that company in 1997. That second agency was broken up into several agencies and sold in 2008 due to the financial market collapse in 2008. In 2008 I began a second career in the title business working for a small underwriter in South Dakota. In 2010 I moved to Ohio and in 2011 I began working for North American Title Insurance Company.

I have seen many changes in my personal 24 years in the business, let alone my family's 93 year history. I attended the University of Missouri to become a history teacher, and although I entered the family business, I have kept a keen eye to history. I have written many stories chronicling the changes of the title industry over the years. I produce a monthly email blast called "The Ramblings of a Title Man" that shares these stories and observations about the title industry we all love. If you would like to join my email list, please shoot me your email at: mholden@natic.com



ABSTRACTIONS

by Allan Dick, Best Homes Title Agency, LLC

What a busy and hopefully productive time for the MLTA, its board of directors and committees. What a spring time agenda – especially the month of May! Our very important Legislative Day on Wednesday, May 1; our regular spring Education Seminar in Livonia on Wednesday, May 8; and our newly created Title Basic Training Boot Camp for the less experienced title folks on Wednesday, May 15. Of course our first spring Education Seminar in Mt. Pleasant will be Wednesday, April 10. And our ALTA Best Practices will be on April 16.



A quick refresher on that – as many of you know, we had been confronted with one or more “vetting” companies, presuming to evaluate and certify title companies for the lending community, which has been put under considerable scrutiny by the Consumer Financial Protection Bureau, not only for their own procedures and security, but also for their vendors (including settlement agents). But this vetting raised several questions and concerns.

The American Land Title Association (ALTA) rose to the occasion, not only in defense of the title industry, but also in an earnest effort to provide an even greater program of Best Practices by which a lender could evaluate the quality and security of the title company vendors they use. The MLTA has forwarded the initial information regarding those Best Practices as the ALTA set about the task of elaborating and providing specifics for the seven Best Practice categories that were originally identified. That increased detail is now available in print (see our website). We have arranged a live presentation of ALTA’s now expanded and detailed Best Practices for April 16th in East

Lansing. This is free to our MLTA members. See the website for more information on each of these events



On the economic front, Zillow reports that over 2 million homeowners were freed up from negative equity during 2012 nationwide. Home values being up 6% and foreclosures clearing out other borrowers were the principal factors. Unfortunately, there are almost 14 million still underwater to the tune of an aggregate \$1 trillion. Zillow projects another 1 million will escape negative equity by the end of 2013. Housing overall is “doing quite well”, reports Zillow chief economist Stan Humphries. Certainly the continued low mortgage rates are a major factor.

January’s housing inventory is the lowest since 1999, reports the National Association of Realtors, down 25% from last year. CoreLogic reports that home prices nationwide increased 9.7% year over year, comparing January 2013 to January 2012, the biggest increase since April, 2006, up 0.7% from December 2012. The home price index increased in all but 2 states, Illinois and Delaware. And, in a survey conducted by Prudential Real Estate, homeownership continues to be “important” to 96% of Americans, especially with the younger generation, who see a more favorable housing market. “Millennials and Generation X – about 85 million people – face a unique opportunity in housing,” noted Earl Lee, President of Prudential Real Estate.

Ah, but not everyone is quite so enthusiastic. Both David Stockman, former director of the Office of Management and Budget in the Reagan Administration, and Robert Shiller, the co-creator of the S&P/Case-Shiller Index, have cautioned that we may be in for another housing bubble, due to the artificially low mortgage interest rates. According to Stockman, “We don’t have a real organic sustainable recovery because in a world of medicated money by the central bank, things aren’t what they appear to be.” Shiller worries, “Part of the reason the indexes have gone up is because the foreclosure boom has receded. Foreclosed homes sell at a lower price ... People might be deceived by this looking at the indexes.” Asked for his outlook, Shiller said, “It’s especially hard to say . We could be looking at a 1-2% increase per year for the next five years.” I guess we will just have to wait and see.

Hey did you hear about the Brazilian man, who took over a \$2.5 million waterfront South Florida mansion as a squatter, claiming adverse possession? Apparently there have been 38 such claims of adverse possession in Palm Beach County over the past three years. Fortunately, the courts have not looked favorably on such claims. But, meanwhile, the squatter has been living large. And, do you know what foreign flag was the last to fly over the State of Michigan? Britain? France? Surprisingly, it was the Spanish flag flying over Fort St. Joseph in Niles in 1781, which is why Niles claims the nickname of the City of Four Flags.



You asked for it, so we created it!!!
 For MLTA members ONLY we are offering our first
MLTA “BOOTCAMP – Title Basic Training”

Experienced Industry Professionals will take the attendees from the beginning of a Real Estate transaction, before the new Title Order comes in the door, all the way through the Closing and the issuance of the Title Policies – in a one-day overview. Here are just a few of the topics that will be covered in the day long training:

- What is Title Insurance and why is there a need for it?
- What is Real Estate “Title”?
- The Basics on which “Insurable Title” is based, including statutes, legal descriptions, real estate records, etc.
- Types of Real Estate documents and the concept of Fee Simple Title
- Title Commitments, Owner’s Policy, Loan Policy and Endorsements
- Explanation of Escrow and the Preparation of the Closing Documents
- Closing and Post Closing - what needs to be done?
- The difference between a Title Underwriter and a Title Agent
- And Much More!!!

DATE: Wednesday, May 15, 2013

8:30 AM - Registration

9:00 AM – 3:30 PM - Boot Camp
 (lunch will be provided)

LOCATION: Kellogg Center, East Lansing, Michigan

COST: \$85 per person Early Bird: \$75 per person

RSVP: Early Bird Registration through April 15 (take \$10.00 off each registration) \$75.00
 After April 15th - \$85.00

All RSVP’s must be received no later than May 8, 2013.

No refunds can be processed after May 8, 2013.

To make your reservation, please go to www.mlta.org – click the link on the home page to be directed to registration.

Public Service Committee

Jill Smalldon, Lighthouse Title Group

The Public Service Committee has great ideas for the coming year and hope you are ready to help us again support our 2013 charity of choice – Habitat for Humanity. Heading in to year 4 for supporting this charity, we hope this year to get even more support for this worthy cause.

So we have a challenge and incentive for each of you as member agents of the MLTA. We are asking all member agents to consider donating \$25.00 to Habitat for Humanity this year, and in return, your name will be put in a drawing to win a pizza lunch! To participate, send \$25.00 to:

Dave Moldovan
 Attorneys Title
 118 Cass Avenue,
 Mt. Clemens, MI 48043
 Please make checks payable to Habitat for Humanity

In addition to Habitat for Humanity there are lots of other charities out there for MLTA members to support. Your company may already support one of these other great charities. We would like to hear about how your company is involved



with either Habitat or another charitable organization. Please email your company's charity story to Jill Smalldon of Lighthouse Title Group at jsmallldon@lighthousegroup.net. We would like to share some of these stories with our membership.

Thanks for your support! If you have any questions on how your organization can get involved with Habitat for Humanity or if you are interested in becoming a member of our committee, please contact Dave Moldovan at dmoldovan@atatitle.com



IN THE NEWS

Meridian Title Corporation Celebrates 75 Years

Meridian Title Corporation, is headquartered in South Bend, Indiana, and has over 30 offices located in markets throughout Illinois, Indiana and Michigan. In addition to these statewide operations, Meridian Title has a National Commercial Services Division, located in downtown Chicago, serving nationwide commercial transactions. In association with a trusted network of professionals, Meridian Title serves residential transactions across the entire United States. Meridian Title expanded in to the Southwestern Michigan market in 1997. Berrien, Cass, St. Joseph and Van Buren counties are served by offices located in Cassopolis, Dowagiac, Edwardsburg, New Buffalo, Niles and St. Joseph.

To facilitate the needs of today's real estate climate, specialty departments and services also include REO/Foreclosure, Relocation, Short Sale, Tax Sale Services (Indiana). The efforts of these departments are supplemented by our on-staff legal team and enhanced by our seasoned title and escrow professionals. A privately held company, Meridian Title Corporation is one of the largest independently owned title agents in the nation and is known for community involvement and educational support to industry professionals and consumers.

George Amar Beyond the Pinnacle

The end of January marked the finale of a 36 year career in the title business for the man many of his friends and associates came to know as "The General". George Amar, former owner of Pinnacle Title Agency and an active member of the MLTA, has finally said good-bye to the title wars to spend more time travelling with Nancy, his charming wife of 40 years, and enjoying their two daughters' families (with five grandsons).



Born and raised in Grand Rapids, George worked in the family grocery stores growing up before heading to Western Michigan University to get his B.B.A. in 1971. There he met Nancy, and then followed his father into the real estate business. Despite a very successful four year career selling real estate, George recognized the cyclical nature of real estate sales and the demands on his time to stay successful meant spending far too little time with his young daughters. A loyal customer of Transamerica Title, he sought the council of Gary Kidd, who hired him, and George began his title career in July, 1976 (posting in the title plant).

And, in rapid succession George rose through the ranks and became County Manager of Kalamazoo in fifteen months. Remembering his real estate sales roots, George's attention to detail and strong sense of customer service he built a strong operation and a very loyal client base. Through two corporate mergers, Trans eventually became a part of LandAmerica. But, with all the changes and after 28 years with the same company, it was time for him to venture out on his own. George opened Pinnacle Title Agency, LLC in September, 2004.

Drawing from his father's entrepreneurial spirit and George's strong client relationships, Pinnacle Title focused on servicing the commercial market in the Kalamazoo area where George promoted himself as a real estate solutions provider. It worked. But, after years at the helm, and the desire for an exit strategy, Attorneys Title's interest in entering into the Kalamazoo market made for a perfect match. So George sold Pinnacle Title in November, 2010, paving the way for his retirement in 2013. You might say – the General has finally given up his command. But, once you have reached the pinnacle, where do you go from there? I suspect George would say – he's staying right there and enjoying it even more.

On the Move

Best Homes Title Agency Expands Statewide Services with Acquisition of The Closing Office Title Agency

Neill Sherman, President and Co-Founder of Farmington Hills-based Best Homes Title Agency, LLC, announced expansion of its statewide presence with the acquisition of Grand Rapids-based The Closing Office Title Agency. With the acquisition, Best Homes Title and its newly branded BHT Commercial division will now operate the six offices of The Closing Office in West Michigan, including Grand Rapids, Grandville, Kentwood, Newaygo, Portland and Rockford, joining its Farmington Hills headquarters and recently moved office in Saginaw. "We are so proud to be further expanding our reach across Michigan with the addition of a Grand Rapids office, but even more so, we are thrilled to be acquiring an agency with as stellar a reputation as The Closing Office," said Sherman. "Joining the Best Homes Title team means only good things for our customers," reported Wes Parkinson, The Closing Office President.



Legislative Update

by Cami Pendell,
Michigan Legislative
Consultants

97th Legislature Now in Session

The 97th Legislature began its 2013-14 Session on January 9, 2013 with legislators taking their Constitutional oaths of office, which was administered by Michigan Supreme Court Chief Justice Robert Young. This new legislative cycle ushered in 28 new members to the House of Representatives. Of those, two had previously served a term in the House so the true freshman number 26.

On that same day, the House of Representatives re-elected Jase Bolger (R-Marshall) to be the Speaker of the House. Rounding out the House leadership roster are: Rep. Jim Stamas (R-Midland), House Majority Floor Leader; Rep. John Walsh (R-Livonia), Speaker Pro Tempore; Rep. Tim Greimel (D-Auburn Hills), Minority Leader; and Rep. Rudy Hobbs (D-Southfield), House Minority Floor Leader.

In the state Senate, there were no changes to the Republican nor Democratic leadership structures since the Senators did not have to go through an election last year. Their election cycle is up in 2014. However, they did have one change in their membership. Sen. John Gleason did not return for the 2013-14 legislative cycle. He is now the Genesee County Clerk/Register of Deeds. Governor Snyder already called a special election to fill this now vacant Senate seat. The special election primary will be March 12th and the election will then follow in May. The winner of the special election will fill the remainder of Sen. Gleason's term which ends in 2014. Governor Snyder's State of the State Address

On January 16th, Governor Snyder delivered his State of the State Address. During his speech, the Governor referred to 2012 as a year of accomplishments highlighting tax reform, the regional transit authority and the New International Trade Crossing. He also noted that 2012 was one of the busiest legislative years with the signing of 625 bills into Public Acts, up from the 323 bills that were signed into law in 2011.

After reviewing the previous years' work, the Governor turned his message to his 2013 goals. As expected, one of his key proposals is to make improvements to the state's infrastructure and roads. He also called for insurance reform recommending changes to Blue Cross Blue Shield of Michigan and trying to eliminate fraud and changes to no fault insurance. He also called for campaign reforms, such as no-reason absentee voting, among other proposed changes.

Another major reform that he discussed was adding another department within state government. The Governor announced that the Office of Insurance and Financial Regulation (OFIR), which currently resides under the Department of Licensing and Regulatory Affairs, will become its own department.

Kevin Clinton to Head the Department of Insurance and Financial Services

The day following his State of the State Address, Governor Snyder signed Executive Order 2013-1 establishing the Department of Insurance and Financial Services (DIFS). He wanted to elevate this area, which was once encompassed in an agency, to a Department to provide a focal point for consumer protection, enable efficient and effective regulation, and position the insurance and financial services sector for economic growth.

The insurance and financial services industries are significant components of Michigan's economy, directly employing over 150,000 Michigan residents and generating more than \$9 billion in annual payroll. Michigan is home to over 300 state banks and credit unions and 149 insurance companies. Michigan serves as a port of entry and chief U.S. regulator for five Canadian insurance companies, and nearly 1,500 out-of-state insurance companies also do business in this state.

When the Executive Order becomes effective in 60 days from its signing, all

authority and responsibilities previously bestowed upon the Commissioner of OFIR will be transferred to the DIFS Director, including all board and commission roles. Governor Snyder plans to appoint current OFIR Commissioner Kevin Clinton as the DIFS Director, subject to advice and consent of the Michigan Senate.

Governor Snyder Unveils Executive Budget

Gov. Snyder presented to a joint session of the House and Senate appropriations his recommended fiscal year 2014 state budget. The recommended budget invests in priorities such as roads, education, health, human services, job growth and public safety. More than 75 percent of the total budget is directed to education and health and human services. State spending is again tied to measured outcomes through the use of performance metrics, continuing the strong focus on value for money.

The total executive budget recommendation for fiscal year 2014, including all state and federal revenue sources, is \$50.9 billion. The Consensus Revenue Estimating Conference projected that revenues will be \$9.3 billion in the general fund and \$11.4 billion in the School Aid Fund for fiscal year 2014, for a combined total of \$20.7 billion. Snyder also offered

a 2015 projected budget to help policymakers with long-range planning that ensures the state's fiscal house remains in order long into the future. Fiscal year 2015 projected revenues are \$9.6 billion in the general fund and \$11.8 billion in the School Aid Fund, for a combined total of \$21.4 billion.



Member Spotlight

With the new Legislature, new committee assignments and chairmanships naturally follow. One such change will impact who MLTA works with on the House Local Government Committee.

Speaker Bolger recently appointed Amanda Price (R-Park Township) as the Chair of this committee. Other members of the committee include: Reps. Pagel (Maj. VC), Daley, Franz, Pettalia, Somerville, Rendon, Graves, Rutledge (Min. VC), Stanley, Banks, and Talabi. In honor of her new committee chairmanship, this quarter's member spotlight is on Rep. Amanda Price.

Rep. Price was elected to serve her first term in 2010 and is now in her second House term. Her Ottawa County district includes the townships of Grand Haven, Olive, Park, Port Sheldon, Robinson, Blendon, Crockery and Spring Lake, and the cities of Ferrysburg and Grand Haven. In addition to the Local Government Committee, Price also serves on the following committees: Education; Energy and Technology; Tax Policy and the Joint Committee on Administrative Rules.

Price is no stranger to public service. She served as Park Township trustee for ten years and supervisor for two years. She is a former legislative aide to Sen. Patty Birkholz and also was the public affairs manager for SemcoEnergy.

Price is a graduate of Michigan State University, the Institute for Paralegal Training (Philadelphia, Pa), and holds a master's degree in Public Administration from Western Michigan University.

On a more personal note, Price has been married to her husband Rodger for over thirty years. Their family includes two sons, Nate and Collin, Nate's wife Dina, a granddaughter, Evelyn, and a grandson, Braxton. Price has served on the boards of several charitable organizations, including the Holland Area Chamber of Commerce, Macatawa Area Coordinating Council Policy Committee, West Michigan Airport Authority, and the Children's Advocacy Center.

Public Relations Update

by Bob Wuerfel and Darlene Wilsey, PR Committee Co-Chairs

In December 2012, the Communication/PR Committee solicited input from MLTA members, regarding promotional, branding and educational methods the MLTA might employ to better promote our industry's value in the real estate transaction. A survey link was hosted on our association website and below is a summary of results based on the 7 questions (plus 2 for Education Committee) were posted and below is a summary. Questions 1-4 were open ended and the responses were combined where same/similar.

Question #1

How can the MLTA most effectively publicize our industry's value?

Open-Ended Response (Top 3 responses by %)

- 35% - Educate by speaking at group events and seminars
- 30% - Print articles and claim stories, as well as success in newspaper organizations
- 21% - T.V. commercials, email blasts, social media advertising

Question #2

What can the MLTA do to ensure REALTORS, Lenders, Legislators, and consumers have a better understanding of the functions and purposes of title insurance and abstract companies?

Open-Ended Response (Top 3 responses by %)

- 39% - Hosting more free educational seminars for all 4 groups
- 23% - More advertising – whether commercials, or printed brochures
- 10% - Educational brochures to help train and explain

Question #3

How might the MLTA enhance its efforts to “collaborate and cooperate with other state professional or trade associations and state government departments and agencies whose actions affect the business of members of the Association?”

Open-Ended Response (Top 3 responses by %)

- 30% - Become proactive in the organizations that those department professionals are a part of, make ourselves known in the industry by being a part of all industries and work together
- 19% - Host seminars directed at individual association to inform and educate
- 15% - Form a committee to meet with these professionals and then report back to our members

Question # 4

What can the MLTA do to assist you with promoting your organization's role and value in the real estate transaction? In the local economy?

Open-Ended Response (Top 3 responses by %)

- 25% - Educate the public in the importance of our protection and services and its value
- 18% - More advertising to have logo recognition and let the public know the value of Title Insurance. Whether in print, radio, T.V. or social media
- 18% - Providing outlines and marketing material for local presentations as well as print and radio commercials

Question # 5

What business segment should a MLTA public relations campaign target?

- 10% - Legislative
- 11% - Lenders
- 12% - Realtors®
- 15% - Consumers
- 52% - All of the above

Question #6

Are you an American Land Title Association member?

- 54% - Yes
- 46% - No

NOTE: Based on the vagueness of the question, some MLTA members may have answered yes based on the ALTA License required vs. actual dues membership into ALTA

Question # 7

Are you utilizing ALTA's Marketing Kit and/or Home Closing 101 disk to promote your value, by educating your customers and prospects?

- 3% - Yes, I'm using ALTA's Home Closing 101 disk
- 7% - Yes, I'm using ALTA's Marketing Kit
- 17% - Yes, I'm using both
- 73% - No, I'm not using either tool

Membership responses emphasized the need for more education and networking with peer trade associations, state legislators and MLTA membership. There are many options for us to consider, over the next several months, including how to better utilize, both, internal and external resources. Already, we are working on implementing an e-mail campaign focused on education and increased awareness of our industry's vital role in our state and local economies and, more specifically, the real estate transaction.

Below is a proposed acronym for our MLTA PR Awareness Campaign:

T.E.A.M.

Title Education Awareness Michigan

Committee members: Darlene Wilsey, Bob Wuerfel, Allan Dick, Debbie Wiley and Jacquie Brink continue to review and explore various PR ideas based on the survey feedback. Our goal is to have a Public Relations recommendation in place by the summer convention. We would welcome additional members to join our team or to contact any of us with ideas or input.

Contact us at: Darlene.Wilsey@fnf.com or bwuerfel@lighthousegroup.net





Crystal Mountain Resort

Thompsonville Michigan

2013

Summer Convention July 14-16

The MLTA is Proud to Present Several Respected Speakers



Frank Pellegrini
C.E.O. Prairie Title, Inc. & President of ALTA

Frank has practiced law in Illinois since 1976 and been in the title insurance industry since 1976. He and his wife formed Prairie Title in 1983. He is chair of the Agents & Abstracters Committee as well as a member of various committees of the ALTA and has served on the Board of Directors of the Illinois Mortgage Bankers Association. He has been very involved with the Illinois Land Title Association, serving as its president from 2004 until 2005 and currently serving on its board of directors. He has also served the Illinois Mortgage Bankers on the Legislative Committee and as chairman of the Political Action Committee.



John Paul
President of Bank of Northern Michigan

John D. Paul, Jr. is the president and chief executive officer of The Bank of Northern Michigan, a position he's filled since January, 2010. John joined the bank in 2006 as executive vice president and market manager for its Traverse City office.

Prior to that, he held various senior positions in banking, including positions as president of Old Kent Bank's Traverse City operations and as Fifth Third Bank's community president in Kalamazoo.



George Erickcek
W.E. Upjohn Institute for Employment Research

While maintaining a strong research focus on west Michigan, Erickcek has expanded his research to regional economic issues across the state and nation. He has conducted numerous economic impact studies and prepares annual employment forecasts for each of the region's six metropolitan areas. Recently, he led a research team in the preparation of an occupational forecast for greater Grand Rapids.

Since 1992, he has directed the production of Business Outlook for West Michigan and in 2001 he became a co-editor of Economic Development Quarterly, a national journal that explores economic development issues.



Scott Patchin
President trU Group

Scott founded The trU Group around the mission of helping others realize the excellence they were born to achieve. He has put his mission into practice by becoming an expert in the areas of leadership development, executive coaching, and hiring/developing organizational talent. He has held executive level human resource positions and worked in the manufacturing, mortgage/banking, and healthcare industries.

Scott has a core belief that the habits leaders practice and the conversations they have with their people are the key to having an engaged and productive team. Expect to leave with some practical tools and to practice a little as you listen and learn.



MLTA-PAC STYLE at Summer Convention

The MLTA-PAC Committee is at it again. We have come up with what will hopefully be a fun, entertaining and successful fundraiser to be held at the MLTA Summer Convention at Crystal Mountain in July. MLTA-PAC Family Feud will pit teams of MLTA members against each other to see who know the most about title and title related matters.

We are looking for six team Captains who will agree to assemble teams of three to five members for the competition at the convention. Teams will also be responsible for fundraising for the MLTA-PAC. The two teams who raise the most contributions to the MLTA PAC will get an automatic bye into the second round of competition. Please contact Tim McDonnell at timcdonnell@oldrepublictitle.com if you are interested in putting a team together. All team members must be present at the Summer Convention. We are looking forward to a spirited competition!

OFFICE and personal safety



The most disturbing statistics were the top three real estate crimes: data theft, stalking and assaults. It is no secret identity theft, also referred to as data theft, is on the rise. Although the Company has installed firewalls, invested in anti-virus software and restricted access to unsafe websites on our computer systems, our business still requires us to have non-public sensitive information in file folders in our offices. On a daily basis we have people in and out of our offices with access to all of this information.

What part can settlement agents play in keeping this information safe? Here are a few tips:

- Make sure if you walk away from your computer (even for a minute) you hit "ctrl+alt+delete" to lock your computer. It takes only seconds for a thief to download information from your computer or load a virus on your system using a USB drive.
- Do not leave back doors unlocked. Only allow customers to enter through the front door.
- Have a bell on the front door if it is unattended.
- Do not leave someone unattended in your personal office where they have access to your files.
- Never allow a visitor to freely wander through the office. If someone needs to use the restroom ask a colleague to escort them.
- Scale down. It is not necessary to keep a copy of everything, especially a copy of the entire loan package in your files.
- Encrypt emails which contain non-public personal information.
- Consider having visitors sign in or be sure the receptionist has a list of appointments scheduled for the day.

Most of all, plan ahead by having a process. Discuss office safety together, come up with a plan and follow it. Our Company has an entire website dedicated to Information Security which can be accessed through the Company's intranet at home.fnf.com. You can learn about our policies and procedures.

Although the class provided the great office safety tips I was much more inspired by the personal safety tips. Having been in this business for 20 years I have seen many settlement agents put themselves in harm's way. Truthfully, I have even put myself in harm's way. All of these tips are common sense but serve as an excellent reminder of the simple steps you can take to protect yourself.

- Do not put your vacation schedule on Facebook® or Twitter®. Make sure your out of office message does not say you are leaving town.
- Lock up or keep your purse out of sight at the office and in your car.
- When leaving the office after hours, call to let someone know you are leaving. Talk on your cell phone while walking to your car or ask the security guard to escort you if there is one available to you.
- The same is true if you attend a local event or meeting outside of the office. Be sure someone knows where you are and when you are leaving.
- Slow down, take a look around. Take just one second to look around before leaving the office, getting in or out of your car.
- Do not park near shrubs or something a perpetrator could hide behind.

I learned all of these tips from Andrew Wooten, C.P.P. and President of Safety Awareness Firearms Education (S.A.F.E.). Their website is full of tips for living a safer life including an option to sign up for their monthly newsletter (www.justbesafe.com). The newsletter offers quick and easy tips on how to live a safer life. Take advantage of these free tools to be safe.

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Isn't Mortgage Fraud a Serious Offense?

Phillip J. Neuman, Esq., COUZENS, LANSKY, FEALK, ELLIS, ROEDER & LAZAR, P.C.

A recent sentencing decision made by a Federal District Court Judge calls into question the perception of mortgage fraud as a serious offense. Jennifer Kojs was a closer for a now-defunct title agent in Waterford, Michigan. Kojs pled guilty to one count of conspiracy to commit bank fraud. Here is an excerpt from Kojs' plea agreement:

Beginning in October 2005, and continuing through February 2008, in the Eastern District of Michigan, JENNIFER KOJS conspired with others, both known and unknown, to obtain fraudulent mortgage loans. In order to further the conspiracy, Kojs acted in various capacities, including loan facilitator. In her capacity as loan facilitator, Kojs falsified and/or caused the falsification of material information in the mortgage loan applications for properties, including inflating straw buyer asset and income information, creating fraudulent and false income documents used to support the loan requests, and providing false verification of employment and bank account balances. As Kojs knew and intended, these applications were submitted to financial institutions which, relying on the false information, approved and disbursed mortgage loans. These mortgage loans are in various states of default and will result in losses to the financial institutions. Kojs stipulates that the loss resulting from the fraudulently obtained mortgage loans with which she was involved exceeds \$200,000.

The plea agreement does not mention the fact that Kojs actually

closed numerous transactions where she failed to pay off prior mortgage loans and notarized documents that ultimately proved to be forgeries, although the Court was made aware of these facts at the time of sentencing. Additionally, it appears that Patriot Title caused losses in excess of \$10 Million because of the unpaid prior mortgage loans; again, the Court was made aware of this fact at the time of sentencing. The sentencing guidelines based on Kojs' crime and other factors indicated that a sentence of 21 to 27 months in jail was appropriate.

On February 4, 2013, US District Judge Marianne O. Battani sentenced Jennifer Kojs to just one day in jail and three years of reporting probation, along with restitution of \$160,000. It is hard to understand why a person who caused millions of dollars in losses and ruined the credit histories of many straw borrowers should receive what is effectively a slap on the wrist. In a similar case (US v Nicole Jackson, 05-cr-80897) involving a loan officer who compiled fraudulent information that was included in applications submitted to lenders and caused losses of over \$300,000, US District Judge Julian Abele Cook sentenced the defendant to one day in jail, five months of home confinement, three years of supervised release and restitution. The sentencing guidelines in that case provided for a 21 to 24 month sentence. While there are certainly other cases of criminal mortgage fraud in Detroit that have resulted in higher sentences, it appears that many District Judges are simply not following the sentencing guidelines and making drastic departures downward. One could speculate that the Judges have seen so much mortgage fraud over the past few years that they have now become impervious to new cases of significant wrongdoing. It is disheartening to see that people who have been placed in a position of trust in the title industry are not being appropriately punished when that trust has been violated.



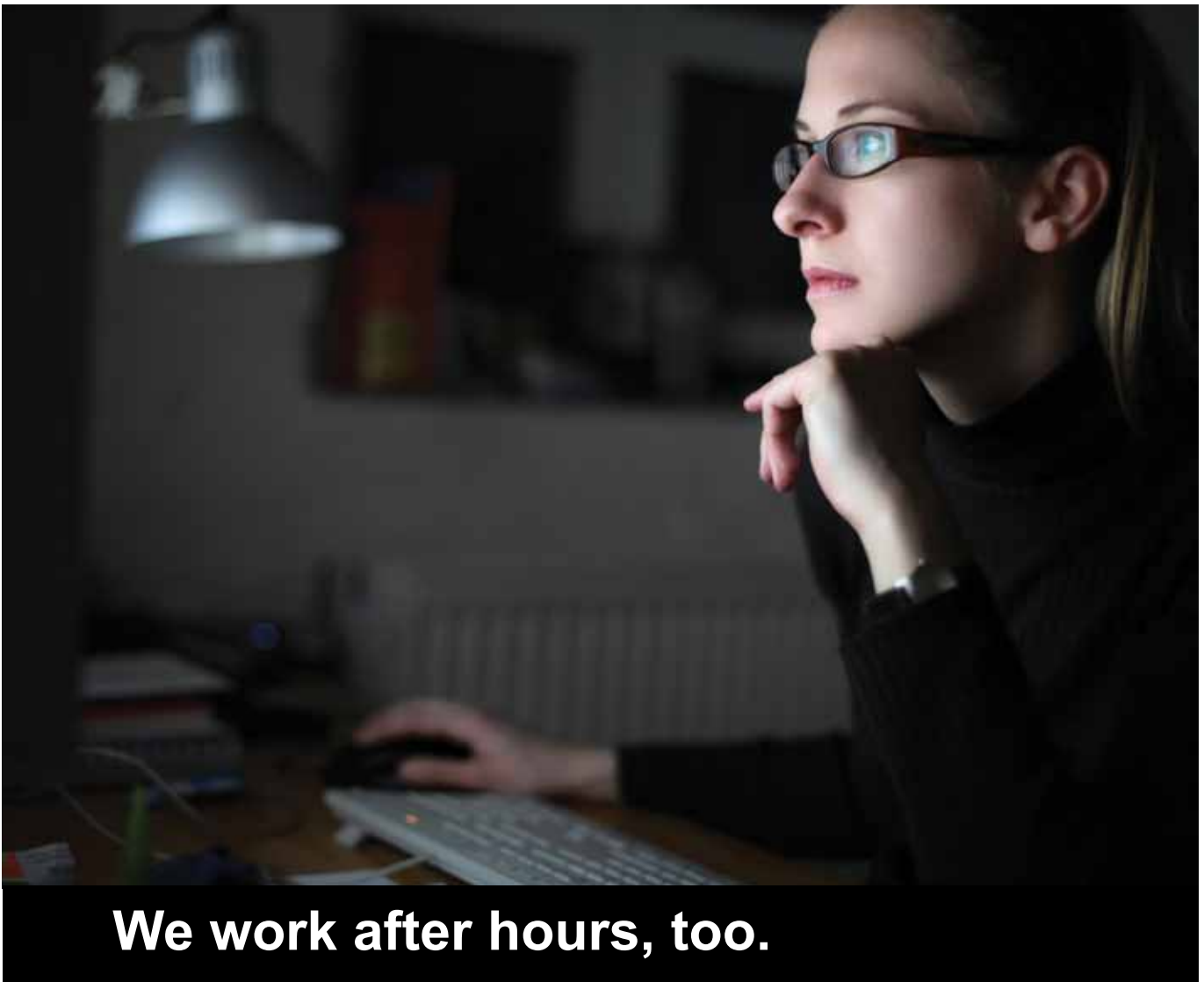
Lisa Cicinelli, VP-MI State Manager and her friend, Mila.

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MLTA Members Who Care 2013 Campaign Off to a Good Start

Once again, the MLTA-PAC is looking for MLTA Members Who Care. The campaign was introduced in 2012 and restarted at the beginning of the year. The campaign is a simple one - the MLTA-PAC is looking for members to make a contribution of \$100 or more to the PAC campaign during the 2013 calendar year. We are happy to report that so far we have received contributions from 11 members totaling \$1,450. Those members are:

<u>NAME</u>	<u>EMPLOYER</u>
Jeffrey Basil	Safe Title
Lisa Cicinelli	Old Republic National Title Insurance Co.
Allan Dick	Best Homes Title Agency, LLC
Michael Donovan	LaMont Title
Cathy LaMont	LaMont Title
Marcy Lay	Michigan Land Title Association
David Martyn	First American Title Insurance Company
Tim McDonnell	Old Republic National Title Insurance Co.
Dawn Patterson	First American Title Insurance Company
Deborah Wiley	First American Title Insurance Company

WILL YOUR NAME BE THE NEXT ONE ADDED TO THE LIST?

Adding your name to the list of Members Who Care is much easier this year because you can now make your contribution online using

PayPal. There is a link on the home page of the Michigan Land Title Association at www.milta.org

This campaign is very important to our industry. Over the past several years, the integrity of our industry and the value of the work that we do every day have been called into question. The industry faces many challenges on a number of different fronts. We are currently under tremendous scrutiny from a number of governmental and regulatory agencies; including the Consumer Protection Financial Bureau (CFPB) and the National Association of Insurance Commissioners (NAIC). Your contribution to the MLTA-PAC will allow us to support candidates who know and understand the value of our industry and who will help us to maintain our important role of protecting the American Dream of home ownership!

Please add your name to the list of MLTA Members Who Care by directing your contribution of \$100 or more to the MLTA-PAC. Contributions can be made online through www.milta.org or by personal check to the MLTA offices in Lansing. Thank you in advance for caring about our industry! Now, we've made it easier to contribute. Just go to our MLTA Website at <http://www.milta.org/pac.html>, and you can pay by Paypal. You don't have to have a Paypal account; you can charge it to a major credit card.

DO YOU HAVE A BACKUP PLAN?

MOST TITLE AGENCIES DON'T!

Today's markets are tough. Operating with just one underwriter relationship is risky. Market changes have forced underwriters to close abruptly, cease doing business in some states, or require unreasonable remittance goals from agents. If you agree that having a backup plan is wise, consider an agency relationship with North American Title Insurance Company.

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MICHAEL HOLDEN
t: 440.728.8973
e: MHolden@natic.com

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“Allodial Title” Found to be Slander of Title by the Michigan Court of Appeals

by John C. Bommarito, Attorneys Title Agency

In a decision reached on March 7, 2013 in the case of People of the State of Michigan v. Anthony Lee Johnson-El (for publication), the Michigan Court of Appeals ruled that an affidavit of allodial title constituted an unlawful encumbrance on real property and upheld the conviction of a defendant on the charges of forgery, uttering & publishing, and unlawfully encumbering property.

On July 21, 2010, defendant, Anthony Lee Johnson-El, recorded an “Affidavit of Allodial Title” with the Wayne County Register of Deeds claiming an interest in real property located at 14503 Faust in Detroit. The Affidavit stated that defendant owned the property, that its value was secured by a \$100 billion bond, and that defendant was a secured party. Defendant claims allodial title because he is a “Washitaw Moor,” as indicated in his tribe-endorsed birth certificate provided to the circuit court.¹ Defendant was of the opinion that his claim to the subject property was superior to all others. Consistent with this belief, defendant filed affidavits of allodial title for several properties in Wayne County. Benjamin Way, a deputy register of deeds in Wayne County, explained that in relation to the Faust Street property and the others over which defendant claimed ownership, he found no recorded documents from a previous owner or security-interest holder transferring any interest to defendant. Defendant’s actions clouded the property’s title. The property’s true owner, Jesus Martin-Roman, was unable to redeem the property, which was then subject to a bank

foreclosure, by attempting to sell it to an interested buyer to secure the funds necessary to satisfy the secured debt. When Martin-Roman’s real estate agent contacted defendant, defendant asserted his “property rights” and warned the agent not to close the sale or “I got their ass.”

Defendant was eventually prosecuted for forgery², uttering & publishing³, and unlawfully encumbering real property⁴ and after being convicted by the circuit court, he appealed.

The Court of Appeals found that the prosecutor presented enough evidence that the affidavit was a false instrument, that the defendant intended to defraud, intimidate or harass anyone holding an actual interest in the subject property and that the defendant unlawfully encumbered the property when he recorded the affidavit. Thus his conviction was upheld. In upholding the convictions, the Court stated “Claiming to be a citizen of a fictional sovereign does not bestow upon defendant any legitimate right to real property situated in this state.”⁵

1 Although the Sixth Circuit Court of Appeals has called the Nation of Washitaw fictional, the Washitaw Moors apparently believe that all land in this country outside of the 13 colonies and Texas belongs to its members. See *Bybee v City of Paducah*, 46 Fed Appx 735, 736 (CA 6, 2002); Article 18(2), Proof of Truth Claim: International Declaration of Washitaw Muurs Standing. 2 MCL 750.248(1) 3 MCL 750.2494 MCL 600.2907a(2) 5 *People v. Johnson-El* ____ Mich App ____ (2013).

ALTA Unveils “Title Insurance and Settlement Company Best Practices”



The American Land Title Association (ALTA), the national trade association of the land title insurance industry, announced today a set of “Title Insurance and Settlement Company Best Practices” to help members highlight policies and procedures the industry uses to ensure a positive and compliant real estate settlement experience.

“Providing professional service to consumers and safeguarding the real estate transaction is paramount to the land title insurance industry,” said Michelle Korsmo, ALTA’s chief executive officer. “ALTA is delighted to release our full ‘Title Insurance and Settlement Company Best Practices’ at a time of tremendous growth and change in the industry.”

The seven main best practices urge title and settlement professionals to:

1. Establish and maintain current license(s) as required to conduct the business of title insurance and settlement services.
2. Adopt and maintain appropriate written procedures and controls for Escrow Trust Accounts allowing for electronic verification of reconciliation.
3. Adopt and maintain a written privacy and information security program to protect Non- public Personal Information as required by local, state and federal law.
4. Adopt standard real estate settlement procedures and policies that ensure compliance with Federal and State Consumer Financial Laws as applicable.
5. Adopt and maintain written procedures related to title policy production, delivery, reporting and premium remittance.

6. Maintain appropriate professional liability insurance and fidelity coverage.
7. Adopt and maintain procedures for resolving consumer complaints.

“ALTA is publishing these best practices as a benchmark for the mortgage lending and real estate settlement industry,” Korsmo said. “The best practices are voluntary standards professionals can adopt to protect consumers, promote quality service, provide for ongoing employee training, and meet legal and market requirements. ALTA will continually improve these best practices and seek comments from stakeholders as the Association edits and adapts these standards in the future.”

MARK YOUR CALENDARS

Tuesday, April 16th, 9:00 a.m. until noon

we are very fortunate to be hosting a special presentation by speakers from the ALTA on Best Practices.

You are invited to attend this presentation – at no charge.

Event will be held at the Kellogg Center on the Michigan State University campus in East Lansing.

You may register now for ALTA Best Practices by clicking here:
<http://milta.org/seminarsconventions/altabestpractices.html>

COMMITTEES, CHAIRS AND GOALS

The MLTA encourages involvement and participation of its members. If you'd like to join a committee, please email the chairperson/liaison of the committee.

ABTRACTOR & TITLE AGENTS:

Mary Lou Hartwell – Chair: vbcao@aol.com

Goal: Shall consist of five or more members, all of whom shall be abstractors or title insurance agents and not title underwriters. Shall promote professional standards and provide for the dissemination of information to those members of the Association who are abstractors and title insurance agents. Shall also provide a forum for abstractors and title insurance agents for discussion and examination of matters of particular concern to them.

AUDIT:

Bob Wuerfel – Chair & Liaison

bwuerfel@lighthousegroup.net

Goal: To complete a year-end audit of the finances.

AWARDS:

Cathy LaMont – Chair & Liaison

clamont@lamonttitle.com

Goal: To select those persons to receive awards at the Summer Convention.

BYLAWS:

Cathy LaMont – Chair & Liaison

clamont@lamonttitle.com

Goal: Shall consist of five members who shall consider all proposals to amend, and may on its own motion propose amendments to the Articles of Incorporation and By-Laws of this Association.

COMMUNICATIONS & PUBLIC RELATIONS:

Bob Wuerfel – Co-Chair/Editor/Liaison:

bwuerfel@lighthousegroup.net

Darlene Wilsey – Co-Chair & Writer

darlene.wilsey@fnf.com

Goal: Shall consist of not less than five members. Collect and disseminate useful information to the membership as the Committee deems appropriate.

Shall work with and cooperate with other state professional or trade associations and state government departments and agencies whose actions affect the business of members of the Association. Consider and recommend ways and means of effectively advertising and publicizing the title business, and securing a more wide spread understanding and knowledge of the functions and purposes of title insurance and abstract companies.

CONVENTION:

Bob Wuerfel – Chair & Liaison

bwuerfel@lighthousegroup.net

Sponsorship Sub-Committee:

Steve Frank – sfrank@atattitle.com

Marcy Welburn - mwelburn@transmi.net

Dave Martyn - dmartyn@stewart.com

Goal: Secure locations for upcoming conventions. Review price and policies for spouse attendance. Review whether a "big name" speaker really increases attendance vs. costs. To put together the Mid-Winter Convention in Lansing.

EDUCATION:

Cindy Immonen - Chair

cimmonen@edatatrace.com

Debbie Wiley – Liaison: dwiley@firstam.com

Goal: Shall consist of seven or more members who shall plan, organize, promote and be responsible for the execution of a continually improving program of instruction for the general benefit of members and for the special benefit of beginning and intermediate employees of members, to promote Association seminars and workshops and to conduct such seminars and workshops and to carry out such other duties as may from time to time be assigned by the President and/or the Board of Directors of the Association.

EXECUTIVE:

Allan Dick – Chair & Liaison

adick@besthomestitle.com

Goal: Shall be comprised of the President, who is the Chairperson of this Committee, President-Elect, Secretary-Treasurer and Past President. Meetings of the Executive Committee shall be held on the 2nd Monday of each month with a quorum present. The agenda for each meeting will be distributed to Executive Committee Members prior to each meeting. The Executive Committee shall have no decision making authority, but may, upon its own investigation or evaluation of matters which concern the association, make recommendations to the Board of Directors at its monthly meeting

GRIEVANCE:

Cathy LaMont – Chair & Liaison

clamont@lamonttitle.com

Goal: Shall consist of five members, who shall perform the function set forth in Article III Section 9 of the MLTA Bylaws.

LEGISLATIVE:

Tobias Lipski – Co-Chair: tlipski@ssplegal.com

Meredith Weingarden – Co-Chair

weingardenm@cct.com

Goal: Shall consist of seven or more members who shall review proposed or pending state legislation affecting the land title industry. Review regulations, or attorney general opinions, as directed by the Board of Directors.

LEGISLATIVE STEERING:

Phil Savich, Chair: psavich@oldrepublictitle.com

Goal: Shall make recommendations to the Board of Directors on action it determines should be taken on such proposed or pending legislation or regulations. Also propose to the Board of Directors areas in which it determines the Board of Directors may wish to initiate legislation or seek legislative or regulatory assistance. The Committee in the performance of its duties may attend hearings on proposed legislation, seek the assistance of non-committee members in this regard and advise the Board of Directors when it determines that testimony at a legislative hearing by a member is warranted.

MEMBERSHIP:

Greg Nathanson – Co-Chair

gregg.nathanson@couzens.com

Jilanne Scholtz – Co-Chair

jscholtz@ugtic.com

Goal: Shall consist of five or more members who shall foster and encourage membership of all eligible persons and corporations in the industry. Review all applications and make recommendations to the Board of Directors.

NOMINATIONS:

Cathy LaMont – Chair & Liaison

clamont@lamonttitle.com

Goal: Shall consist of the following: The current President and President-Elect, All Past Presidents in attendance at any duly convened meeting of the Committee. The Chair of the Committee shall be the most recent Past President in attendance at any duly convened meeting of the Committee. The current President will convene the Committee not less than sixty (60) days prior to the annual convention of the Association by serving Committee members with written notice via U.S. mail and email if (available) not less than thirty (30) days prior to the meeting date of said Committee. Present to the Board of Directors its slate of candidates for Officers and Directors not less than thirty (30) days prior to the annual convention. Present to the annual convention of the Association its' recommendation for persons to fill expiring and/or vacant seats of the Board of Directors. Recommend to the annual convention a slate of Officers for election. A quorum for Committee meetings shall be seven (7) or more qualified members.

PAC:

Tim McDonnell – Chair

tmcdonnell@oldrepublictitle.com

Goal: To raise monies for the PAC. To help institute a new program for pledges during the year.

PROFESSIONAL DESIGNATION (BOARD OF REVIEW):

Debra A. Bartlett – Chair & Liaison

dbartlett@visitcss.com

Goal: Shall consist of a Board of Review which shall include no fewer than five members including the Chairperson who shall be appointed by the Board of Directors. Oversee the implementation of the Association's recognition program for awarding professional designations to those persons within the MLTA who, through combinations of education, experience and performance have demonstrated a proficient knowledge of land title insurance and escrow procedures. The designation(s) will represent the highest measure of achievement in the land title insurance profession. Subject to the supervision of the Board of Directors, will administer the designation program in accordance with equitable conditions and stringent procedures described in By Laws approved by the Board of Directors. The Board of Review will establish the criteria, by which the candidates will be judged, will award the appropriate designations and will maintain the integrity of the designations in accordance with the highest standards of the land title insurance profession.

PUBLIC SERVICES (FORMERLY HABITAT FOR HUMANITY) COMMITTEE:

Dave Moldovan - Chair

dmoldovan@attorneys-title.com

Goal: Initially work in concert with Habitat for Humanity of Michigan to create a program wherein any MLTA member can become involved with and support the Habitat for Humanity Chapter in their area. Once the program is established the committee will be responsible for introducing it to the membership and assisting any members that wish to participate on an ongoing basis. Also coordinate the Habitat for Humanity efforts of the board of directors at the annual convention.

SURVEYOR'S VIEW POINT: Traversing the Law: Objective Uncertainty

by Jeffrey N. Lucas, PLS, Esq.



Fundamental to a well-reasoned opinion on the location of property boundaries, also known as a survey of property, is being able to properly interpret a deed. Proper interpretation of a deed requires understanding uncertainty.

A deed that purports to convey real property contains many parts, and the land surveyor should have a working knowledge of all of them. But far and away the most important element of a deed to the formation of a well-reasoned opinion on the factual question of location is the description. In fact, many courts have defined a sufficient description of property as one that a reasonably prudent surveyor can locate on the ground.

It is the established rule that the courts will be liberal in construing descriptions of premises conveyed by deed and that a description of land is sufficiently definite and certain if it is possible for a surveyor to ascertain from the description, aided by extrinsic evidence, what property was intended to be conveyed.¹

As the Oregon court notes, and many other jurisdictions agree, extrinsic evidence is always in play when it comes to the on-the-ground location of property. In addition, and contrary to what many surveyors have told me they believe, the only purpose of a survey of property via the interpretation of the deed description is to determine “what property was intended to be conveyed.” Intent, as I have said in this column and in many other forums, is “king” when it comes to the interpretation of any written document, but the key to the kingdom is ambiguity. Ambiguity is just another way of

saying uncertainty.

The “four corners” doctrine teaches us that the first step in interpreting a deed and what was intended to be conveyed is the document itself. The four corners of the document are to be diligently searched to find intent. The land surveyor focuses primarily, but not exclusively, on the description of the property. Uncertainty plays a crucial role in the proper interpretation of the property description. If the description is clear and unambiguous on its face, then the deed is considered patently unambiguous.

However, as the Oregon court tells us and many jurisdictions agree, a deed may hold latent ambiguities that are only revealed through extrinsic evidence. This happens most often when an attempt is made to apply the deed to the land. If the deed can fit more than one possible location, then true intent can only be ascertained through what the deed says in light of the surrounding circumstances and following the rules of construction.

We consistently have held that what boundaries a deed refers to is a question of law, while the location of those boundaries on the face of the earth is a question of fact. If facts extrinsic to the deed reveal a latent ambiguity, then we determine the intent from contemporaneous circumstances and from standard rules of construction. A basic rule is that boundaries are controlled, in descending priority, by monuments, courses, distances, and quantity, unless this priority produces absurd results. The physical disappearance of a monument does not end its use in defining a boundary if its former location can be ascertained.²

Ambiguities, uncertainty as to location or more than one possible location of the property given the surrounding circumstances, not only hold the key to the proper interpretation of intent, they hold the key to answering the factual question as to location. The boundary establishment doctrines that we have discussed on many occasions depend to a large extent on uncertainty. Boundary by acquiescence and boundary by parol agreement, in particular, require uncertainty as to location in order to settle the location question. The underlying theory of these two doctrines is that the true property line is uncertain or in dispute, and because of the uncertainty or dispute an implied (acquiesced) or parol agreement to settle the location question ends the discussion.

This is a troubling area of practice for many surveyors. One of the evaluation problems for the surveyor is what constitutes uncertainty. As we will discuss, the fact that the boundary may have once been in dispute will resolve itself once the uncertainty question is answered. It appears from case law that there are two kinds of uncertainty—subjective and objective. Understanding the difference between the two is critical to applying these doctrines to a well-reasoned opinion on the location question.

Subjective uncertainty means that the landowners just don't know where the property boundary is located. There was no

attempt to find the true location, such as through the services of a land surveyor; the landowners just decided they didn't know where the property line was located and they agreed to a location, either by implication or parol, usually memorialized by a fence. In many jurisdictions, subjective uncertainty is all that is needed for the implied or parol agreement to apply. In other words, even though a survey of the property could identify the location of the true property boundary through Proper interpretation of the deeds, this is irrelevant. However, in other jurisdictions it is not—more is needed.

This is where objective uncertainty and the land surveyor come into play. When a qualified individual (usually a land surveyor) who is objective (no dog in the fight) finds that the location of the true property line is uncertain (more than one possible location), then the location of the property line is objectively uncertain. This also means that the deed (or deeds) in question contains a latent ambiguity. The usual circumstance will be when two or more surveyors, ostensibly working from the same available evidence, could locate the property line on the ground in more than one location. One of the telltale signs of objective uncertainty is the pincushion corners land surveyors leave behind, although many of these multiple monument corners are established when there are no true ambiguities.

The intent may not be clear from the face of the deed when the deed contains a latent ambiguity which is created when in applying the description to the ground [i.e. surveying], facts extrinsic to the document controvert or in some way render unclear the deed's apparently unambiguous terms.³

In contrast to objective uncertainty, which most surveyors should be able to recognize even without a competing survey to tell them that there is another possible location of the property line, subjective uncertainty exists in the minds of the landowners, or even the predecessors in title to the current landowners. Resolving this type of uncertainty in many cases may require the ability to read minds or communicate with the deceased. Almost the same could be said for a dispute over the boundary line. How does the surveyor today know about a dispute over the boundary that was settled by a fence being erected 60 years ago? If the true property boundary location is objectively uncertain, this is a moot question.

The objective uncertainty test is a higher threshold for uncertainty that will pass muster under every jurisdictional scheme. It is the lowest common denominator, so to speak. If, however, the jurisdiction within Which you practice recognizes subjective uncertainty to settle the location question, then you should know, understand and apply the law that is germane to the practice of land surveying in that jurisdiction, including the appropriate boundary law principles under the circumstances of the particular problem being faced.

I want to caution that the scope of this article is uncertainty relative to the doctrines of acquiescence and parol agreement. Other doctrines of the law and equity can be in play with respect to settling the location question, including practical

location, estoppel and repose. Additionally, when a common grantor is involved and conveyances are made with monuments in place, set contemporaneously or even subsequently, the presumption is that the monuments so placed contain no ambiguity as to location even though the paper documents may describe them to be located different from where they are actually found on the ground.

It is the work on the ground, and not on the diagram returned, which constitutes the survey, the latter being but evidence (and by no means conclusive) of the former. ... That the original lines as found marked on the ground must govern, in determining the location and extent of the survey, is a well-established rule, in general applicable to all cases.⁴

Acquiescence can also settle the location question relative to monuments in the ground, whether set before, during or after the conveyance, when enough time goes by, reliance has set in and the surrounding landowners have acquiesced to their location as marking the true property corners. And finally, acquiescence is not only a boundary settlement doctrine, it is also an evidentiary tool that helps identify where the property lines were originally laid out vis-à-vis long held occupation, fence lines and other such infrastructure.

Uncertainty plays a major role in the proper interpretation of deeds and the descriptions of property that they contain. Therefore, it is ultimately important that the land surveyor develop the ability to recognize when uncertainty exists and the judgment to discern if the uncertainty is the key to the proper interpretation of the location question. This assumes, of course, that land surveyors are in the business of rendering well-reasoned opinions on the location of property lines and are not simply in the expert measurement business.

Jeff Lucas is in private practice in Birmingham, Ala. He is president of Lucas & Co. LLC, and publisher of "The Lucas Letter," a legal newsletter for the surveying and engineering community. He can be contacted through www.LucasAndCompany.com. For a more in-depth study of the legal principles that affect our everyday practice, subscribe to "The Lucas Letter" at www.LucasAndCompany.com.



REFERENCES

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Neither the author nor The Title Examiner intends this column to be a source of legal advice for surveyors or their clients. The law changes and differs in important respects for different jurisdictions. If you have a specific legal problem, the best source of advice is an attorney admitted to the bar in your jurisdiction.

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Strategic People Reminders for the Busy Executive

by Scott Patchin, The trU Group

What I'm hearing

I feel like I'm constantly reacting as a leader and spending most of my time dealing with the daily work instead of looking ahead and planning. I'm tired, and I feel like my people are getting burned out.

What it means

As a leader of a small or growing business, it's pretty normal to be constantly reacting. However, I often see a reluctance to hire, with the result that incremental growth is handled by working everyone harder, including the CEO. The question for you is, "Why change?" Are you feeling the health effects of the cycle? Are you noticing your people waiting for your orders instead of proactively solving problems? Have you lost someone valuable recently? Are you sensing a cynical attitude towards your vacations or a lack of raises?

The leader sets the tone for the organization, so if a change is needed it must start with you, and there must be a compelling "why" for you or it won't happen.

What you should do

Your first step is to assess where you are as a leader and as an organization today. Here are four key actions:

1. Observe: What is your energy level coming to work? Do you see your people taking initiative, or do you have to repeat things many times or

do them yourself? What is your energy level when you leave? Take five minutes to answer these questions three times a week for the next two weeks. What does it tell you?

2. Self-assessment: What are your habits as a leader? I created a free tool called the Talent Scorecard (www.thetrugroup.com/scorecard/) that measures your key habits and gives you feedback. What does it tell you?

3. Ask people: How are your people feeling about things? For an organization with less than 75 people, schedule some breakfasts and start the conversation with questions like: "What's working? What should we start doing? What should we stop doing? What are you wondering about?" Ask and listen. If your organization has multiple locations or more than 100 people, do a simple employee survey. Visit www.thetrugroup.com/resources/talent-management-templates/ for some tips on doing an effective employee survey.

4. Look at the numbers: Is the performance of your business flat? Do you keep losing key people and getting pulled back into the day-to-day tasks? Is the return/reward you're getting from your effort not worth it anymore?

One reason executive coaching has taken off in the last decade is because the pace of business has changed significantly. Making a personal change is a challenge, and now it's even harder because there's so much to do on a day-to-day basis. The key is to ask yourself if things are where they need to be for you and for your business, and find a compelling "why" for making that change. A coach can help clarify what has to happen and provide a partner to help make the changes stick.



Do you need help thinking through your "why"? Are you ready to make a personal shift with the help of a coach? Are you interested in starting a conversation within your organization through an employee survey? Contact Scott@thetrugroup.com ©2013, Scott Patchin

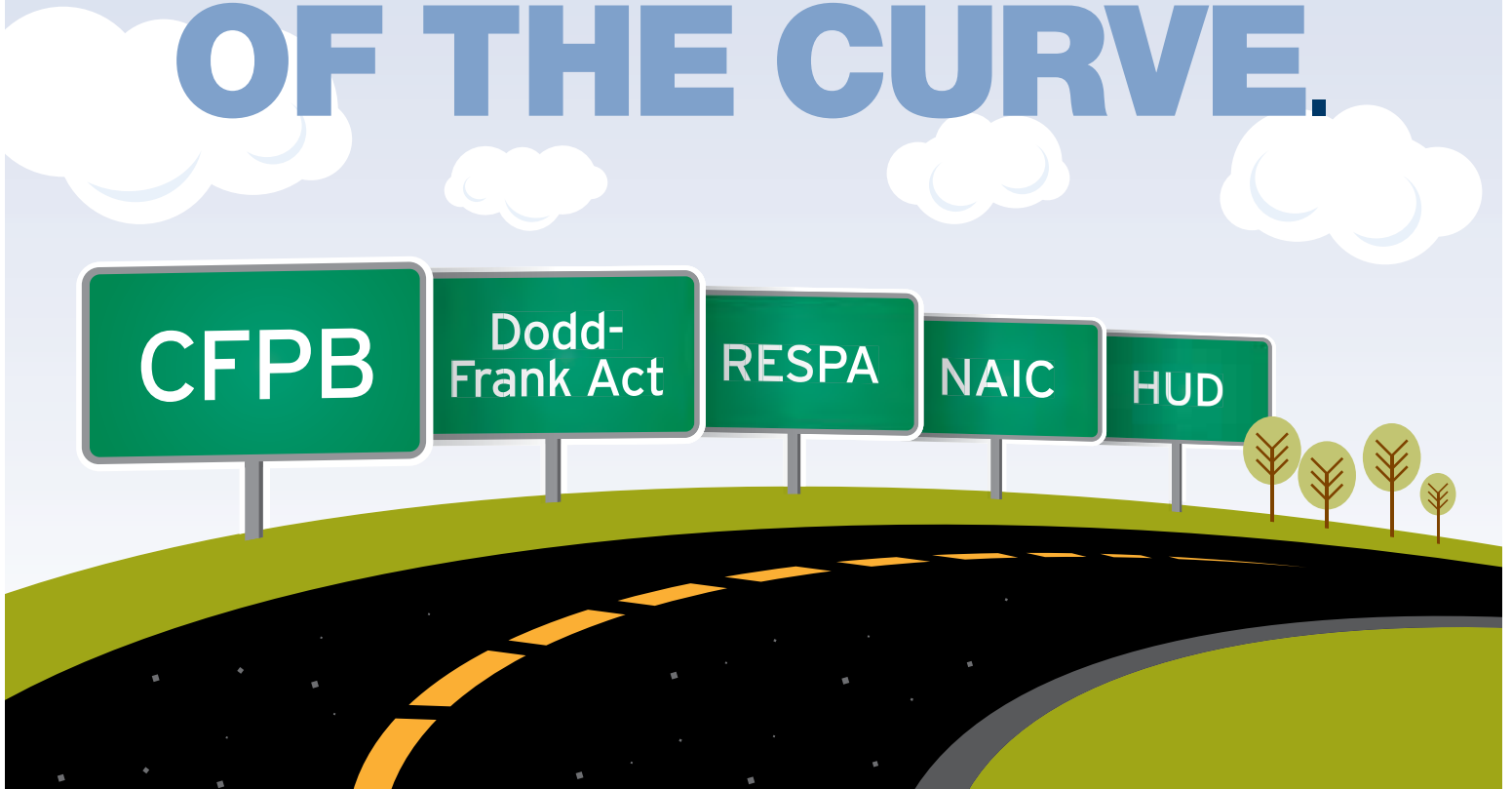


Residential Sales Statistics February 2013

Local Association	2013 YTD # Sales	2012 YTD # Sales	13-12 YTD % Change	2013 YTD Avg Price	2012 YTD Avg Price	13-12 YTD % Change	2013 Feb Sales	2012 Feb Sales	13-12 % Change	2013 Feb Avg Price	2012 Feb Avg Price	13-12 % Change
Ann Arbor Area Board of REALTORS®	331	352	-5.97%	\$217,145	\$170,856	27.09%	148	179	-17.32%	\$207,820	\$173,607	19.71%
Antrim Charlevoix Kalkaska Association of REALTORS®	76	81	-6.17%	\$168,648	\$118,629	42.16%	33	45	-26.67%	\$165,108	\$115,145	43.39%
Battle Creek Area Association of REALTORS®	230	194	18.56%	\$72,255	\$72,996	-1.02%	133	107	24.30%	\$65,200	\$65,762	-0.85%
Bay County REALTOR® Association	168	187	-10.16%	\$58,120	\$71,200	-18.37%	85	97	-12.37%	\$58,369	\$68,556	-14.86%
Branch County Association of REALTORS®	64	68	-5.88%	\$85,793	\$59,308	44.66%	33	29	13.79%	\$87,567	\$57,151	53.22%
Central Michigan Association of REALTORS®	139	107	29.91%	\$79,081	\$88,561	-10.71%	65	55	18.18%	\$76,627	\$94,710	-19.09%
Clare-Gladwin Board of REALTORS®	87	83	4.82%	\$59,685	\$58,115	2.70%	47	46	2.17%	\$54,000	\$52,629	2.61%
Detroit Board of REALTORS®	930	958	-2.92%	\$17,820	\$14,996	18.83%	452	529	-14.56%	\$17,105	\$14,527	17.75%
Down River Association of REALTORS®	146	234	-37.61%	\$88,163	\$69,087	27.61%	74	121	-38.84%	\$90,160	\$76,154	18.39%
Eastern U.P. Board of REALTORS®	51	46	10.87%	\$93,628	\$71,439	31.06%	23	22	4.55%	\$116,989	\$75,766	54.41%
Emmet Association of REALTORS®	80	70	14.29%	\$267,698	\$205,307	30.39%	37	33	12.12%	\$334,927	\$182,202	83.82%
Genesee County	737	896	-17.75%	\$70,124	\$64,625	8.51%	365	465	-21.51%	\$66,137	\$63,530	4.10%
Grand Rapids Association of REALTORS®	1,826	1,701	7.35%	\$137,082	\$120,619	13.65%	923	904	2.10%	\$141,180	\$125,699	12.32%
Greater Kalamazoo Association of REALTORS®	527	419	25.78%	\$134,506	\$129,043	4.23%	281	228	23.25%	\$129,228	\$116,005	11.40%
Greater Lansing Association of REALTORS®	869	810	7.28%	\$104,449	\$89,493	16.71%	368	377	-2.39%	\$94,370	\$83,959	12.40%
Greater Shiawassee Association of REALTORS®	66	97	-31.96%	\$61,395	\$69,282	-11.38%	29	61	-52.46%	\$45,444	\$67,762	-32.94%
Greater Wayne County	2,205	2,201	0.18%	\$100,012	\$76,859	30.12%	1,063	1152	-7.73%	\$98,734	\$76,100	29.90%
Hillsdale County Board of REALTORS®	44	52	-15.38%	\$95,512	\$62,345	53.20%	13	30	-56.67%	\$130,057	\$58,538	122.18%
Huron County	16	16	0.00%	\$100,591	\$75,600	33.06%	10	8	25.00%	\$105,090	\$78,434	33.98%
Jackson Area Association of REALTORS®	249	254	-1.97%	\$86,399	\$77,526	11.45%	134	137	-2.19%	\$83,224	\$77,461	7.44%
Lapeer County	136	137	-0.73%	\$112,964	\$109,418	3.24%	60	72	-16.67%	\$103,827	\$118,751	-12.57%
Lenawee County Association of REALTORS®	140	122	14.75%	\$86,549	\$67,153	28.88%	73	68	7.35%	\$81,883	\$69,338	18.09%
Livingston County	388	320	21.25%	\$178,829	\$160,414	11.48%	185	163	13.50%	\$183,309	\$152,329	20.34%
Oakland County	2,366	2,312	2.34%	\$179,171	\$143,693	24.69%	1,110	1207	-8.04%	\$184,861	\$139,127	32.87%
Macomb County	1,621	1,623	-0.12%	\$107,139	\$89,106	20.24%	786	823	-4.50%	\$109,965	\$85,726	28.28%
Mason-Oceana-Manistee Board of REALTORS®	99	98	1.02%	\$101,920	\$89,624	13.72%	44	54	-18.52%	\$100,134	\$83,719	19.61%
Midland Board of REALTORS®	87	98	-11.22%	\$135,239	\$124,965	8.22%	48	47	2.13%	\$145,138	\$120,258	20.69%
Monroe County Association of REALTORS®	185	131	41.22%	\$115,968	\$113,076	2.56%	93	60	55.00%	\$115,226	\$115,217	0.01%
Northeastern Michigan Board of REALTORS®	67	68	-1.47%	\$60,312	\$63,508	-5.03%	29	35	-17.14%	\$58,055	\$50,189	15.67%
Paul Bunyan Board of REALTORS®	176	198	-11.11%	\$75,009	\$64,547	16.21%	85	107	-20.56%	\$77,233	\$68,961	11.99%
Saginaw Board of REALTORS®	271	293	-7.51%	\$66,450	\$62,485	6.35%	147	148	-0.68%	\$69,561	\$56,115	23.96%
Sanilac County	21	28	-25.00%	\$76,932	\$57,472	33.86%	5	19	-73.68%	\$88,389	\$57,982	52.44%
Southwestern Michigan Association of REALTORS®	332	327	1.53%	\$153,141	\$147,884	3.55%	177	168	5.36%	\$143,600	\$134,023	7.15%
St. Clair County	184	196	-6.12%	\$99,916	\$84,757	17.89%	83	100	-17.00%	\$91,515	\$89,072	2.74%
St. Joseph County Association of REALTORS®	70	68	2.94%	\$87,394	\$68,717	27.18%	33	30	10.00%	\$98,229	\$67,858	44.76%
Traverse Area Association of REALTORS®	301	262	14.89%	\$184,076	\$189,680	-2.95%	142	141	0.71%	\$182,412	\$170,066	7.26%
Tuscola County	37	32	15.63%	\$56,196	\$47,723	17.75%	20	11	81.82%	\$60,138	\$50,909	18.13%
Upper Peninsula Association of REALTORS® *	243	204	19.12%	\$99,409	\$90,628	9.69%	109	92	18.48%	\$101,801	\$90,151	12.92%
Water Wonderland Board of REALTORS®	227	205	10.73%	\$83,483	\$79,296	5.28%	121	110	10.00%	\$76,225	\$79,787	-4.47%
West Central Association of REALTORS®	158	141	12.06%	\$68,185	\$82,971	-17.82%	70	76	-7.89%	\$65,439	\$72,848	-10.17%
West Michigan Lakeshore Association of REALTORS®	462	451	2.44%	\$130,206	\$127,357	2.24%	243	240	1.25%	\$132,325	\$126,374	4.71%
TOTALS	16,412	16,140	1.69%	\$106,258	\$93,423	13.74%	7,979	8,396	-4.97%	\$108,210	\$90,790	19.19%

*Escanaba, Iron Mountain, Keweenaw, Western Upper Peninsula, and North Central Upper Peninsula

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MLTA Events

- April 10: MLTA Spring Education Seminar, *Mt. Pleasant*
- April 16: ALTA Best Practices, MSU, *East Lansing*
- May 1: MLTA Legislative Day, *Lansing*
- May 8: MLTA Spring Education Seminar, *Livonia*
- May 15: Title Basic Boot Camp, *East Lansing*
- July 14-16: MLTA Convention, *Crystal Mountain*
- October 15-16: MLTA Fall Education Seminar, *Mt. Pleasant*
- November 5: MLTA Fall Education Seminar, *Livonia*

ALTA 2013 Events

- May 6-8: *Federal Conference, Washington DC*
- October 9-12: *ALTA Annual Convention, Palm Beach, FL*



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