



NALTEA

The National Association of Land
Title Examiners and Abstractors

Message from the President

In this issue:

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Message from the President *Front Cover*

This month I wanted to share with you a little about the efforts of NALTEA committees and the Board of Directors. Hopefully you will be encouraged to join a committee or offer your time in other ways.

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The NALTEA board has always been composed of independent abstractors, small business owners, and employees of title abstract companies who volunteer their time. Each of these individuals brings their experience, knowledge and passion to the table to do what they can for our industry. Everyone has a special skill, whether its marketing, writing, organizing, or knowledge, that allows the full board to function efficiently to bring visibility to the important work of the abstracting community.

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Please take the opportunity to visit our website at:
www.naltea.org

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you are willing to give. If you have any articles you would like to share, Pat will make sure they are sent to the members through email or in the newsletter. If you have ideas for a membership drive, he's ready to listen.

Jill Kissel is chair of the Ethics Committee. This committee is responsible for answering grievances and developing procedures to address issues that may arise. We would also like to address each section of the Code of Ethics periodically so that our membership and other interested parties understand why we have adopted it.

Doug Gallant chairs the Benefits/Publications Committee. Doug is very diligent in putting together our newsletter each month and scouting out benefits for NALTEA that provide added value to our members. I know that he is always looking for newsletter content and would be very happy to receive articles and information from our members. If you have a letter to the editor, he'll be glad to include it in a future edition. Doug will also follow-up on any benefit ideas that are sent his way.

Jeanne Johnson has taken over as chairperson for the Education/Training Committee. The NALTEA exam is complete and available online. The committee will be working to have access through the NALTEA website this summer. Jeanne will need help verifying qualifications and setting up codes for people to access the exam. Jeanne is also looking for anyone

The board cannot do its work alone. There are several committees that work behind the scenes. Each of these committee members take time throughout the month to meet, take charge of some part of a project, and update the board liaison on their progress. Committees are diverse and include membership, ethics, benefits/ publications, education/training, events, and public relations. There are so many opportunities to participate in an area that interests you.

The Membership Committee is asked to take each new application through an approval process. Recruiting new members is also a task for this committee. Pat Scott is the chairperson and board liaison and he would love any assistance

interesting in teaching workshops for NALTEA. A special workshop is being planned to "Train the Trainer" so let Jeanne know if you are interested in participating.

The Events Committee is responsible for setting up the annual conference and any other special events that may take place during the year. Ed Gunther is the chair and board liaison and he is currently working on the October conference. He will be looking for volunteers to help during the conference for registration, information, and set-up. The conference is a major undertaking, so any help you can provide will be greatly appreciated.

David Pelligrinelli chairs the Public Relations Committee. This committee has the fun job of reaching out to the industry and media to promote our members, our organization, and our industry. Dave is looking for volunteers to help him as he looks for opportunities to broaden our reach.

It's hard to believe that half the year is nearly complete. This year, NALTEA is moving the conference three months ahead to October, and we'll be looking for new board members and additional volunteers. You don't have to wait until then to get involved! Volunteers are welcome anytime, and if you've ever considered a leadership position, joining a committee is a good way to start.

Naltea Conference

David Pelligrinelli

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As has been announced, the 2009 NALTEA Conference has been set for October 9 through 11 in Charlotte, North Carolina. Look at this as more than just another way to spend a weekend. The conference is an opportunity to participate in the professional organization for your industry. Especially in this economic climate, it is more important now to stay involved and advancing your chosen career.

I'll bet that you are asking yourself right now, "Why should I go?". You are thinking that there are dozens of better ways to spend several hundred dollars and an entire weekend. So what's in it for you? Well, if you are serious about being a professional in the abstracting industry, spending time in-person with your industry peers will expand your field of vision about what different things are going on which you may not

be aware of. There will be many NALTEA members who will be there, some you already know, some you don't. Each of them has something to offer to you in the way of insight, ideas, or networking which you can draw from.

In addition, industry experts from within the association, and other speakers will offer informative presentations on the issues which affect the business today. I still remember valuable ideas from a NALTEA conference in Clearwater, more than 5 years ago. One example was a presentation on title claims from a title insurer which gave great examples of obscure title issues which help underscore the importance of reminding searchers to check everything.

More importantly, you will spend time with current colleagues and new acquaintances, put faces with names, and develop relationships which can help in the future. The abstracting profession is not easy right now, and abstractors should welcome every opportunity to make it easier.

I understand that attending the conference represents an expense, something which may not be easy to do. The NALTEA board has spent months and a great deal of thought to select a location and venue which makes it as affordable as possible. Charlotte is an easy city to travel into, and the host hotel is very reasonable.

If you are "on the fence" about coming or not, remember that the area is in the foothills of the Smoky Mountains, which usually hit peak fall foliage about that time. Day trips to the Blue Ridge Parkway, Biltmore House, Asheville, and Lake Norman can be mixed into your itinerary.

This could be a critical year for your business, seriously consider making the NALTEA conference part of your strategy for success through this changed market. If you are not ready to book the trip today, at least take the time go to your computer and check the airfare from your city to see how cheap it is right now. Then take a look at the links I posted below so you can see what else you may be able to do while you are there. Monday, October 12th is going to happen no matter what you do. You might as well wake up that day with the extra experience and foresight of having attended the NALTEA conference the weekend before.

I wish you great success this summer, and hope to see you in person in October.

ExploreAsheville.com

Biltmore.com

CharlottesGotAlot.com

Board of Directors Report

Debi Merrill

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The NALTEA Board of Directors held its regular monthly phone conference on May 18, 2009. All members were present along with Vice President, Debi Merrill and Secretary, Jill Kissell.

The April minutes had not been received by all, so an email vote was to be taken the next day. The Treasurer's report was accepted after an explanation of the expenses was given. Committee Reports were given:

Planning & Events: Ed Gunther informed the Board that he had reviewed all the locations presented to him and thought the best choice was Charlotte. It appeared to be the most economical and easily accessible for most. A vote was taken and passed. Ed will go forward with reserving space and obtaining information to get the conference set up. A discussion followed relating to exhibitors sponsorship, prior years fees and possibility of subsidizing the cost this year.

Ethics: Jill Kissell reported there was nothing new to review.

Education: Debi Merrill asked for additional questions for the test, which Lynn Hammett agreed to forward straight to Jeanne for her to enter onto the test. Draft 2 of the NALTEA National Certified Abstractor Courses was approved after discussion of specific fund advancement and registration of students by NALTEA. The NALTEA Certification Exam Application was presented and will be placed on the web site when Slade returns from vacation. The desire to have contact names added to the Member Directory was accepted and we will work on getting those added in the near future. The idea of having a Test Prep Class at this year's conference was tossed around and discussions will continue on this for future approval.

Membership: Pat Scott reported that 2 new members had joined NALTEA making a total of 88 active members. A discussion of who is actually allowed to take the test was resolved with all agreeing that in order to take the test you must be a NALTEA member and hands on experience is necessary. A question of possibly prorating dues for the second half of the year was discussed with some good ideas coming forth.

Public Relations: Dave Pelligrinelli asked for some suggestions for another webcast to be held in June. Many ideas were given and we can

expect additional information soon regarding the Webcast. The Directory was discussed with ideas pertaining to content and delivery being of great interest. Dave will be sending out an email with some samplings soon.

Publications & Benefits: Vikki Moffitt reminded everyone that articles for the newsletter are appreciated and needed.

New Business included the sign up form for the online test and developing an ongoing list of committee members/chairs for recognition.

Old Business included clarification of fees for advertising and links on the web site. Also changes to the web site were discussed and committee chairs are to brainstorm ideas for their wants and desires on their specific pages of the web site.

The next meeting was scheduled for June 15, 2009 and the meeting was adjourned.

Membership Committee Update

Pat Scott

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NALTEA proudly welcomes our newest member, Kristi Herring of SynEx, LLC. We now have 90 active members.

Church Titles

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Who is the largest landowner in the world? There is some dispute over this, but leaving out governments - the Roman Catholic Church is often cited as the largest landowner in the world. This may or may not be true. Other candidates for "world's largest landowner" include Queen Elizabeth II of Great Britain and King Abdullah of Saudi Arabia who both have vast land holdings. If you include governments - in 1966 the Guinness Book of World Records listed the United States Government as the world's largest landowner with over 765 million acres. But yes, if we take out heads of state (Queen Elizabeth II and King Abdullah) and we take out governments of the world - the Roman Catholic Church is the largest landowner in the world.

While it is true that churches hold vast amounts of title to real estate, church properties are not sold or mortgaged very frequently. However, they can be an interesting area of property law to consider. Real property owned by religious organizations can be divided into three classes; (1) "ecclesiastical" property,

such as church buildings and their appurtenant residences, (2) "benevolent" property, such as schools, hospitals, cemeteries, orphanages and homes of various kinds, and (3) "investment" property, the income of which is used to support such church or charitable activities, including property donated to a church for use in support of church activities.

(1) Ecclesiastical Property. This class of property can again be divided into three classes, according to the three theories of ownership pertaining to different church denominations. (1a) "Catholic" church property, or that of the Roman Catholic Church, which by canon law is vested in the "universal church" as a spiritual "persona" or perpetual entity. (1b) "Episcopal" church property, or that of the Protestant Episcopal and Methodist Episcopal Churches, which is vested in each congregation but subject to the control of a supervisory body presided over by a Bishop ("episcopus" in Latin), or District Superintendent, and (1c) "Congregational" church property, or that of all other denominations, such as Lutheran, Presbyterian, Congregational, Baptist, Christian and Hebrew, which is vested in each congregation free from any control of a bishop or other superior official. In such denominations there may be supervisory bodies or "judicatories," but they have no control over the real estate of the local churches.

(1a) Ecclesiastical Catholic property under the Canon Law. The Codex Iuris Canonici provides for the selling or mortgaging of real property devoted to ecclesiastical uses. The sale or mortgage of such property is primarily, under the canon law, a function of the Pope, who speaks through the office in Rome, known as the Holy See or Papal Office. The consent of the Holy See is definitely necessary in all transactions for the alienation of immovable property of great value* A sale or mortgage without such consent is void and the participants are subject to excommunication. The issue of "Great Value" is a moving target, and as property values increase, the Roman Catholic Church increases the value necessary for the consent of the Holy See. Currently the value requiring consent is in the Millions in US dollars.

The Holy See, however does not act except upon the recommendations of the "Ordinary." This means the Archbishop of a diocese where such an Archbishop resides, or the Bishop of any other diocese. Such Archbishop or Bishop in turn must appoint a board of administrators consisting of himself as president and two or three other men (including even laymen), and this board with the Episcopal chapter or consultors must consent to the Bishop's actions.

The Ordinary is also limited in his discretion by the fact that the Pastor of each parish is administrator of the property in the parish, and his consent to the disposition of such property must be obtained. Some times in the case of devises for church uses a special local board of administrators is appointed each three years by the Ordinary, and its consent must also be obtained.

The general lay membership of a Catholic Church has no voice in the disposition of Church property and it is never necessary to obtain their consent, nor any resolution of any meeting of such membership. However most parishes have created advisory boards and other lay membership groups to advise the Ordinary in disposition of church property, including the building of churches, schools and other buildings.

Ecclesiastical Catholic property under the State Law. In addition to the observance of the above mentioned requirements of the Canon Law, it is, of course, necessary for the Church officials to comply with the requirements of the real property laws of the State where the land lies. As no State recognizes or enforces the Canon Law, the legal title to Catholic ecclesiastical property must be held in the name of some person or legal entity recognized by State law, even though in trust for the spiritual entity of the Church and subject to Canon Law administration.

These holders of the legal title are of four classes, (1) the archbishop or bishop as trustee, (2) a corporation sole, (3) a corporation aggregate, or (4) lay trustees.

(1) The usual method of holding strictly church property in the Catholic denomination is in the name of the Archbishop or Bishop. The decisions of most of the States recognize this ownership as a valid trust (express or implied), with power to sell or mortgage. They also recognize that on the death of the incumbent all title passes to his successor, although usually a will is proven devising all property to such successor. This can be a very confusing way of holding title to those in the title profession as it is common to find title to lands vested in the name of the Archbishop or Bishop with no reference that they ARE the Bishop for the diocese. This vesting is still a valid trust under most State laws.

It is not usual for a sale or mortgage to refer to the compliance with the requirements of Canon Law; however, counsel usually requires evidence of such compliance for the purchaser or investor. It is customary for the Pastor of the parish to sign mortgage notes, which signing, of course, is evidence of his consent. In some States, by statute the Bishop is a mere trustee for the lay congregation (as in Pennsylvania).

(2) A corporation sole, where the Archbishop or Bishop is himself allowed to become a corporation under State law, is recognized in a few States. For example: California, Connecticut, Kentucky, Illinois, Maryland and Massachusetts. In such States this provides a convenient method of holding and conveying Church property.

(3) Corporations aggregate, or corporations in the usual sense, are seldom incorporated to hold title to ecclesiastical Catholic property because of unfavorable State laws. Sometimes incorporation of religious corporations is wholly forbidden, and if permitted they are frequently restricted as to the nature of the property to be held (sometimes excluding investment property), or are limited as to the amount of property permitted to be owned, or the time for which it may be held, or it may be necessary to secure an approval by the Court of purchases, sales and mortgages. State laws differ widely as to the uses of corporations aggregate for Church property.

(4) The use of laymen as trustees was rather common in early American Catholic ecclesiastical titles, but was subsequently discouraged, and finally future creation of lay trusteeships for ecclesiastical property was forbidden by the provincial council in 1911.

(1b) Ecclesiastical Episcopal Property. Property of the Protestant Episcopal Church may be held by lay trustees, with such powers as may have been granted in the deed to them. Or the property may have been conveyed to a corporation, usually called "The Rector, Church Wardens and Vestrymen" of a named Church. According to their canon law, deeds executed by either trustees or corporations must have been authorized by a two-thirds vote of the vestry. The written consent of the Bishop and Standing Committee of the diocese must also be obtained for sale of consecrated churches (but not for rectories or other properties).

The conveyance of property of the Methodist Episcopal Church is similar in that it must be authorized by the Pastor, and by a resolution of the Quarterly Conference of the Church, with the written consent of the District Superintendent (formerly called the Presiding Elder), who performs the duties of a Bishop. Property cannot be mortgaged to pay current expenses, according to their canon law or "Discipline."

In doubtful cases it may be well to have the action of the aforementioned officials ratified by a resolution of a duly called meeting of the whole congregation.

(1c) Ecclesiastical Property of Churches which are Congregational. Conveyances of property by Churches strictly congregational in character need not be approved or authorized by any Bishop, Presbytery, Synod, Assembly, Convention or Conference, or by

any Superior Judiciary or Official, even though the Churches may be governed in spiritual matters by such a superior body or official. Property held by trustees is conveyed by their deed, referencing to their powers, and that held by a corporation is conveyed by it. Sometimes an attempt is made to vest the ownership in an unincorporated church, whereupon a deed should be obtained from the grantor in such a deed, to prevent a contention that no title passed. In such a case, as a corporation, counsel usually require that a general business meeting of the congregation be called, and a resolution passed, authorizing the sale or mortgage and setting forth the amount and terms of the consideration or loan. To this should be added a resolution of the Board of Elders, Deacons or Trustees, by whatever name the governing board is known, and the deed should be signed by the Pastor, all "out of an abundance of caution", and to avoid future attacks on the conveyance.

(2) Benevolent Property. Property used for benevolent, educational or charitable purposes under varying degrees of church control, differs in several respects from strictly ecclesiastical property. The State laws restriction the holding of ecclesiastical property by corporations, for example, usually do not apply to benevolent property. The title (even in the case of Catholic charities), is usually vested directly in lay trustees or corporations and is not subject to the control of a Superior Authority. Conveyances should be by deed from the trustees or corporations holding title to same to which there should be a recital identifying such resolutions of the governing board or general meeting of the members as may be required in the particular case.

(3) Investment Property. Investment property, the income of which is used to contribute to the upkeep of churches and charities, is held in various ways. Sometimes there is an endowment or trust fund corporation, and sometimes the title is in an ecclesiastical or lay individual or individuals as trustees. The laws of some States prohibit or limit the holding of such investment property by corporations and some States prohibit such holding by individuals as trustees. Such prohibitory laws particularly apply to investment property where an attempt is made to take title in a Church corporation.

These are only some of the issues surrounding Church titles, and you should always carefully check State law for the rules surrounding how Churches can hold title to real estate in your State.

* - Codex Iuris Canonici: constitution "Ambitosæ" of Paul II, confirmed by Urban VIII, 7 Sept., 1624, and by Pius IX in the Constitution "Apostolicæ Sedis", 12 Oct., 1869.

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