

# NALTEA

National Association of Land Title Examiners and Abstractors

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Robert A. Franco, Vice President  
Email: vp@naltea.org

It is a privilege to be able to write the president's message this month. Wanda Steudel was busy this month with her son's wedding and I volunteered to help her out, as a good vice president should. As vice president, I am not a board member and do not get to vote on the issues that the board discusses; however, I am present on all of the boards monthly conference calls. Last year, I was a board member, so I have seen the growth of NALTEA from the inside and now I have a chance to do something that Wanda would probably be too modest to do—tell the members what a great job the board is doing!

I realize that progress isn't always evident and many people wonder what NALTEA is doing for them. This board is really dedicated to the members and the industry as a whole. They meet every month and discuss many new ideas and follow up on previous issues that have come up.

The current projects that are being addressed include a membership drive, building relationships with other associations, and, of course, abstractor certification.

Patrick Scott is working on materials for a membership drive that will be coordinated between the public relations committee and the membership committee. They are planning to reach out to the county recorders' offices to help reach more title abstractors.

In addition, Patrick is also writing letters to other associations such as TAVMA, the Title/Appraisal Vendor Management Association, and various state land title associations. The exchange of information can help get our message out to more of the industry and also help keep our members more informed.

Lynn Hammett and the education committee are working with AFN, the American Legal & Financial Network, to coordinate a joint effort with their

attorneys to gather state-specific title standards for the certification guidelines. One of the challenges that have plagued our certification process from the beginning is addressing the various differences between states. This relationship with AFN shows promise towards creating a comprehensive abstractor certification that has not been attempted by any organization in the past.

Rick Martinez has written some educational articles that will be appearing in the newsletters to help keep the membership informed of various title issues.

Tim Lunn has continued this year with his work with the Event/Planning committee. Tim has been working with this committee since the beginning of the association and has helped them create some spectacular events. It is very challenging to put together a weekend conference; coordinating hotel and presentation accommodations, guest speakers, and vendors—and keeping the weekend affordable for our members. NALTEA conferences cost only a fraction of what other organizations charge for their events.

As we reported last month, Wanda Steudel and Patrick Scott attended a Michigan House of Representatives hearing to represent the abstractors in the issue of the bulk sale of public records at discounted prices. Wanda had the opportunity to address the House and meet with the county recorders in Michigan that were affected by the proposed legislation. The board is dedicated to representing the abstractors and they look forward to more opportunities to do so.

Wanda also recently attended an Ohio Land Title Association conference to speak on a panel regarding abstracting issues. Wanda was the only abstractor on the panel, which gave her a chance to really address our concerns.

The board is also working with others to sponsor "local" meetings to give more people a chance to gather and discuss title issues and learn more about NALTEA.

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These local events will be one-day meetings that will present an opportunity for more people to attend and meet others who share similar experiences and concerns in the industry. More information will be available on the first event and, if it goes well, NALTEA hopes to expand it to other locations.

In addition to these projects, the board also addresses routine issues, such as the NALTEA finances, responding to e-mails from members and potential members, and new opportunities that arise to represent the members.

The board has a regular monthly conference call, and occasionally interim conference calls with other associations, the board members also each work closely with one of the committees, and exchange emails frequently in between. It is a lot of work, and it is important to remember that they all 'volunteer' their time to do it. They do this in addition to their 'regular' jobs.

I want to take this opportunity to let the membership know that the board is working hard to represent them and grow NALTEA into a nationally recognized association within the title industry. If you get a chance, please email them your comments, suggestions, and thank them for volunteering their time to represent us all in such a professional manner. You can email [info@naltea.org](mailto:info@naltea.org)—I'm sure they would love to hear from you.

I would also like to encourage you to become more involved in NALTEA. Volunteering to serve on a committee is a great way to give a little back to the industry and improve our association. It is also a good way to become more familiar with NALTEA and perhaps you will decide run for a board position yourself. It is a

## **Native American Lands and the Complexity of Obtaining Loans When Living in a Sovereign Nation**

J. Richard Martinez, Board Member  
Email: [jrmartinez@rprnm.com](mailto:jrmartinez@rprnm.com)

As a native of New Mexico, a state that contains some 21 native American tribes, I have encountered numerous issues regarding individuals attempting to obtain funding such as a refinance or even a first mortgage, whereby funding had always been denied due to the legal aspects of ownership.

One must remember that native American lands do not have the same jurisdictional laws as do state or even federal governments within the United States of America due the fact of their sovereignty status.

Tribal sovereignty, as cited by Wikipedia, states "tribal sovereignty refers to the inherent authority of indigenous tribes to govern themselves."

Americans must also remember that all Indian or Native American lands are held in trust by the United States and that federal law still regulates the political and economic rights of tribal governments.

In 1953, Congress enacted Public Law 280, which gave some states extensive jurisdiction over the civil and criminal controversies that involve Native Americans and Native American lands. Many Native Americans felt that this law, to this day, was unfair from its inception because it imposed a system of laws on tribal nations without their approval.

Tribal and pueblo governments today attempt economic ventures such as casinos, enterprises and adopt codes to govern conduct within their jurisdiction; however, the United States retains total control over the tribal law making process. Laws adopted by Native American governments must also pass a Secretarial Review process from the Department of Interior through the Bureau of Indian Affairs (BIA).

Cochiti pueblo for example, located in northern New Mexico, allows non-Native Americans to lease a property for 99 years without ever having the chance of owning the property. Interesting as it may be, after 99 years one has the option to lease the land and improvements again, for another 99 year term.

Conducting title searches on property (s) located within a pueblo or reservation causes concern for documents reflecting ownership such as deeds, mortgages and/or real estate contracts are not found in the public records of said county.

As an ex-surveyor, conducting surveys on Native American lands, this usually meant our service was to stake out a one acre (208.71 feet by 208.71 feet) "allotment" tract within the reservation usually close to their existing housing structure and 90% of the time without any utilities or plumbing available.

On the Navajo Indian reservation, the largest in the country, every citizen was allotted a one-acre home site which they choose; however, the site had to be surveyed by a licensed surveyor and the plat was not recorded for public record, but was held at the office of said tribes records department.

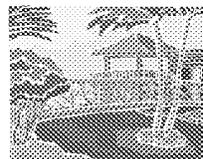
For the most part, resources are very limited on many pueblos and reservations due to the lack of jobs, infrastructure and economics other than art, jewelry and agriculture; however, there are some Native American tribes that share the luxury of living on gas and oil reserves, nearby casinos with extensive traffic and/or close enough to suburbia that jobs are plentiful.

Many pueblos and reservations allow free housing for tribal members if they reside on the reservation for said tribe will not give free housing if tribal members chose to live outside the boundaries of native tribe.

Every order I have attempted to conduct on an Indian reservation or pueblo, in the last 10 years, usually gets cancelled because information on the property has not been established by the assessor's office due to it being and lying within a reservation or pueblo.

The federal government and Bureau of Indian Affairs will have to figure out how to allow native and non-Native Americans, residing on tribal lands, to contribute to the mortgage market for there is an untapped market just waiting to be opened; however, there are many legal hurdles that still need to be addressed especially laws generated during the inception of the United States of America which still affect the process.

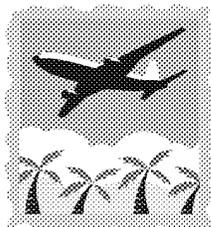
# ***NALTEA CONFERENCE - 2007***



## ***ACCOMODATIONS***

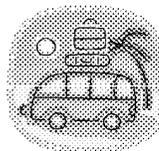
This year the NALTEA Conference will be held at the Bahia Resort Hotel in beautiful  
MISSION BAY, CALIFORNIA  
Conference dates are January 12<sup>th</sup> – 14<sup>th</sup>. We have a limited block of rooms available at the  
discounted rate so book early. Go to our weblink for the Resort at  
<https://shop.evanshotels.com/nal0111.html>

You may book either on the weblink or by calling the Bahia direct at 1-800-576-4229.



## ***AIR***

We have secured a domestic contract with American Airlines to offer participants traveling to and from the Conference (San Diego Int'l Airport) a 5% discount. This offer is not valid with any other discount but applies to wherever American Airlines, American Eagle, or AmericanConnection Service originates. For reservations, go to <http://www.aa.com> and enter the Authorization Number A3217A1 where prompted AA.com Discount code +. Lower rates apply on the website.



## ***TRANSPORTATION***

Avis will also be offering a group discounted rate on any type of vehicle during your stay. For reservations online go to <http://www.avis.com> and use AWD discount code J995212. Phone reservations may be made by calling 888-754-8878.

Shuttle service is available by Cloud 9. Online reservations may be made at [reservations@cloud9shuttle.com](mailto:reservations@cloud9shuttle.com). Phone reservations are taken at 800-974-8885. Approximate one way fare to the Bahia/San Diego Int'l Airport is \$12.00.

## **REMEMBER TO BOOK EARLY!!!!!!**

The Events Committee looks forward to seeing YOU in January in  
Breathtaking Mission Bay, CA

# A Life Estate

Reprinted with permission from First American's *Claims Chronicles*, by Bert Rush.

Toano, VA -- This home on 37 acres is just north of Colonial Williamsburg.

The owners of record were Bruce and Gracie, who borrowed \$60,000 secured by a deed of trust against the property.

In researching the title, our agent learned that Bruce and Gracie acquired the property six years earlier by Gift Deed from a Mrs. Graves. There was a first deed of trust for \$7,956 recorded six months earlier, and now the \$60,000 deed of trust would be insured as a second by First American.

More than a year later, the insured deed of trust was in default and the lender hired a local attorney to do a foreclosure. But the attorney reported the property was still occupied by Mrs. Graves, who claimed to own a "life estate." A what?

Many different estates (or interests) in land were recognized by English common law, which is the main origin of American law. Among these, the most commonly seen today are the fee estate (absolute ownership by a person and his heirs and assigns forever), the leasehold estate (a tenancy with the owner of the fee as landlord), and the life estate (an interest akin to ownership for the duration of the life of the holder, or of some other person).

The insured lender made a claim and First American investigated. Sure enough, there in the Gift Deed from Mrs. Graves to Bruce and Gracie, on page two following all the boilerplate "less and except," "together with" and "subject to" language, there was this:

"There is specifically reserved by the grantor herein the right to reside on, use and occupy the property herein conveyed for the rest of her natural life...."

So there it was. Because of this, the lender can presently foreclose only the remainder interest of Bruce and Gracie. They can't disturb Mrs. Graves' use of the property as long as she lives.

We won't reveal her age, but Mrs. Graves reports excellent health and a family history of longevity truly to be envied.

First American paid \$60,664 to purchase the insured deed of trust.

**MORAL:** Interests created by "reservation" (buried within a document--and not disclosed by its title) are more frequently missed by title searchers and examiners than are interests created by direct grant.

This is another spin on the old game of knowing what to look at, and what to look for, in a chain of title.

## NALTEA Membership Update

NALTEA welcomes the following new members.

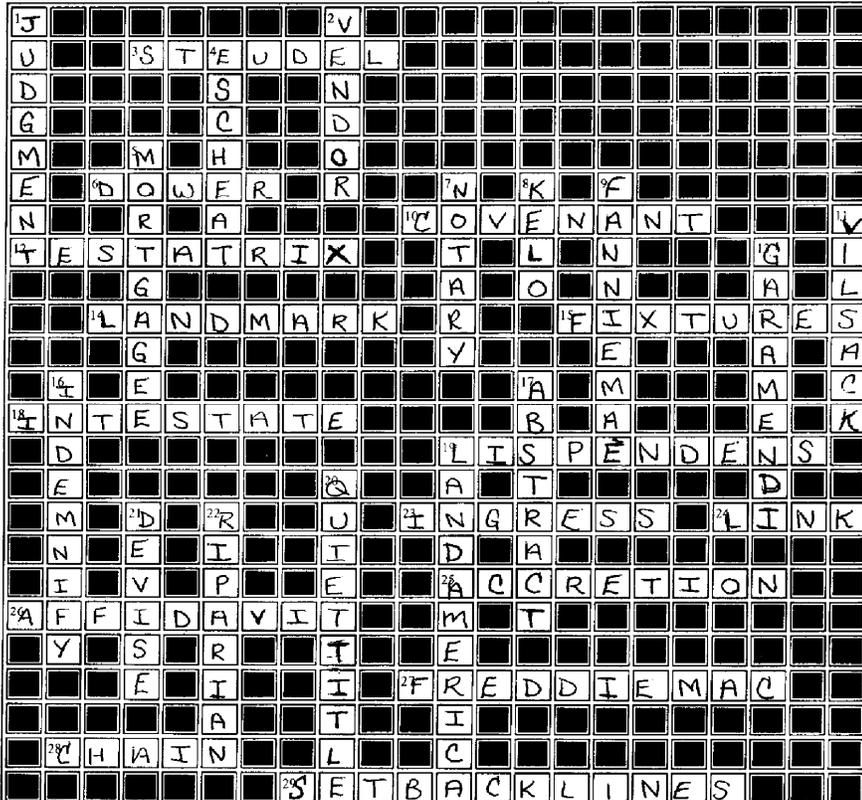
North Fork Title Agency

Riverhead, NY

Darlene C. Langhorne

This brings the total membership to 121 members. If you know anyone else who may be interested in joining NALTEA, please email [info@naltea.org](mailto:info@naltea.org). Someone will contact them with a membership application.

NALTEA's goal is to double its membership this year. You can help by spreading the word among your peers. Share your newsletter with them and let them know that they can find more information at [www.naltea.org](http://www.naltea.org).



## NALTEA CROSSWORD PUZZLE Answer Key

Here are the answers to last month's NALTEA crossword puzzle. How did you do? We hope you enjoyed this little brain-teaser. We may do it again from time to time.

**NALTEA Members can use their membership number as a coupon code for 50% off of Subscriptions to *Source of Title*, and 10% off of enhanced listings.**