

# NALTEA

National Association of Land Title Examiners and Abstractors

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Wanda Steudel, President  
Email: president@naltea.org

I don't know if you are asking the same question, but "Where did the year go?" At this time of year, amongst all the holiday preparations, I usually find myself reflecting on the past year. This year I find myself thinking about what NALTEA has accomplished.

A very successful conference was held in Clearwater Florida last January. This conference was promoted as an educational conference. The comments that we received were very positive. Most stated that they did gain knowledge that they didn't already possess regarding the title industry. At this conference, 3 new members were elected to the Board of Directors: Pat Scott, Lynn Hammett, and Tim Lunn.

We started out very strong with people volunteering for committees, and working very diligently on those committees. As the year went along, some of those volunteers had to step back. There were some vacancies that were filled, and, some that were not. Regardless of how many people were on the committees the work did not stop. I commend all of you that have worked so hard this year. You have accomplished a lot under sometimes trying circumstances.

I would like to take this opportunity to personally acknowledge and thank some of those hardworking people. It has been a difficult year for me personally. The Board of Directors could not have been more supportive and hard working. All that has been accomplished has been a result of their hard work. I know that I will probably forget some people that I need to thank, so I will apologize now. It is not that your efforts are not valuable and appreciated, but more of a case of my faulty memory under the self-imposed pressure of overcoming my procrastination and getting this in on time.

As soon as one conference is over, the Planning and Events Committee starts working on the next year's conference.

There is so much more that goes into a conference than getting the hotel; that is the easy part. Lining up people to speak is much harder. You want to be able to promote your conference, but you need to be able to tell people, what type of conference & who the speakers are. No one wants to commit to a speaking engagement a year from now. Joanie Ripley, along with her Board advisor, Tim Lunn, and her committee, Kristi Duncan and Jan Vogler, have worked many hours putting the January conference together.

Lynn Hammett, the Board Advisor to the Education Committee, Mary Mitchel, Jeanne Johnson and Rochelle Eckhardt have worked very hard this, putting together a certification program. Lynn also worked with Jan Forster and Wendi See, putting together a successful NALTEA sponsored "Title Camp" in Myrtle Beach, South Carolina this year.

Nikki Eisenhuth has managed to keep up with the duties of the Membership Committee, practically single handedly. She has worked with Rick Martinez, Board Advisor to the Membership Committee, and Pat Scott, Board Advisor to the Public Relations Committee, on advertising and membership campaigns this year. Others that have worked on the PR committee are Ximena Vargas, Vince Meden, Quanah Rhodes and Vikki Moffitt. Although, we did not reach our goal of doubling the membership, we did sign up 34 new members this year. Pat, along with Jarrod Clabaugh and myself, took a trip to Lansing, Michigan to speak against the bulk sale of land records, in front of the state legislature. I would like to thank Jarrod and Robert for the wonderful articles and the support given to NALTEA on Source of Title this year.

Robert Franco and Doug Gallant have been the Publications and Benefits Committee from the inception of NALTEA 2 1/2 years ago. Doug has been working to try to get E & O and health insurance benefits for our members. Unfortunately, we have been told that until we have more members, they will not be able to give us

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(President's Message... continued from front cover)

any significant savings. Robert single-handedly puts together this newsletter every month. This is no easy task, especially since he has to rely on those of us who are always pushing the deadline. (I am a constant offender). And, if our articles aren't long enough, Robert always produces something to fill in the space for us.

Jay Duncan is our Treasurer this year. Along with his normal duties, Jay worked with Nikki Eisenhuth, keeping track of the membership, developing a budget, receiving all the monies, and paying all the bills. He also put together a proposal for the purchase of a laptop and printer to be used for NALTEA business, which the Board approved. We also purchased our own projector that will be used at the conferences and hopefully additional Title Camps.

Mary Mitchel has been our secretary from the very beginning of NALTEA. Not only does she take excellent notes of our conference calls. She helps to keep me on track with all the business that would probably fall out of my head, if it weren't for her.

Last but not least, I would like to express a special "thank you" to Robert Franco, my vice president this year. He has been a wonderful vice president, stepping in when I was unavailable, conducting meetings and writing articles. He has also tried very hard to keep me informed with what is going on in the industry and, along with Mary, helped keep me on track - especially with those gentle nudges regarding newsletter deadlines. He has not only been invaluable as my vice president, but has also been a good friend. I could not have done without him this year.

I hope that the future presidents of this organization are fortunate enough to have the help and support that I have had this year. It has been an enormous privilege to serve on this board and as your president this year. I thank you all for the opportunity. I wish all of you a successful 2007

## Inside the Board of Directors

Pat Scott, Board Member  
Email: publicrelations@naltea.org

The NALTEA board of directors kicked off its November meeting with guest Jim Hernandez (Strategic Business Communications, San Diego, CA). Mr. Hernandez, as of the meeting date, was one of three candidates under consideration to present a "Marketing" segment at NALTEA's upcoming conference in San Diego.

Hernandez was prepared with questions intended to assist him in assembling a presentation that would be most useful to NALTEA members. He also indicated that he would send a short survey to his potential audience should he be chosen to present. Mr. Hernandez will be speaking to our conference attendees on Sunday, January 14, at 11:15 AM.

With the conference quickly approaching, much of the meeting was dedicated to wrapping up the final details. Tim Lunn and Jan Vogler will arrive in San Diego early for on-site preparation.

The Education Committee has been working tirelessly on the eagerly awaited NALTEA certification process. Work is nearly complete on study material for abstractors seeking certification. The committee proposed certification requirements for consideration and has made strides in construction of certification tests.

In other activity, the board approved a procedure to implement its new membership promotion, dubbed "Bring In Three, Get Yours Free". The promotion offers a dues-free membership to any abstractor who recruits three new, paying members by March 31, 2007. The dues-free membership will remain active through August 31, 2007, the end of NALTEA's fiscal year. Aspiring NALTEA members may download the promotional form, along with an application, from NALTEA's home page ([www.naltea.org](http://www.naltea.org)).

## Event/Planning Committee Update

Joanie Ripley, Chairperson  
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January 12, 2007 is fast approaching. Have you booked your room and sent in your registration to attend the NALTEA 2007 Conference in sunny San Diego, California? Better hurry if you have not already signed up for the conference. The dates are January 12th thru January 14th. The conference is being held at the Bahia Resort Hotel. Please see [www.naltea.org](http://www.naltea.org) for details and a registration form. If you have any questions, please call Joanie Ripley at 216-771-7667.

We have booked dynamic speakers that you won't want to miss. Enclosed is a copy of our agenda. See you in San Diego.

The Planning/Event Committee wishes you all a Happy and Safe Holiday Season.

## New Jersey Supreme Court Expands Eminent Domain Power

Jarrod Clabaugh, Editor, *Source of Title*  
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The New Jersey Supreme Court ruled in a 6-1 decision on December 7, 2006 to allow townships the right to use eminent domain to seize developers' properties in order to offer the land as open space for public use in the case of *Mount Laurel v. MiPro Homes, L.L.C.* This decision will allow Mount Laurel to stop the development of farmland in an attempt to preserve open space for public use.

The court's ruling seems to indicate the courts willingness to expand "public use" to include "no use" at all. Recently, the Supreme Court has held that it would be proper to seize property from one private owner to give it to another for development that would improve the city's economy. This case differs because the Mount Laurel plans no development to take place on the land, but to maintain the "open space".

The issue first arose when MiPro Homes announced its intention to build twenty-three single family homes on the 16.3-acre parcel of land. The company received final subdivision approval for the development in May 2002. However, Mount Laurel Township attempted to obtain the property as part of its open space acquisition program.

Upon determining that the property would not be acquired voluntarily, the township brought a condemnation action and filed a declaration of taking in May 2002. The trial court that heard the case initially dismissed Mount Laurel's action and concluded that while the use of eminent domain would have permitted an open space acquisition, the application of eminent domain could not strictly be exercised to restrict additional residential development in an area facing severe development pressures. The township appealed the trial court's decision and an Appellate Division heard the case.

The Appellate Division reversed the lower court's finding and remanded the case for an order appointing condemnation commissioners. This panel found that a municipality retains the statutory authority to condemn a property for open space. Additionally, it determined that the selection of properties for open space acquisition on which residential development is planned does not constitute an improper exercise of eminent domain.

The panel also expressed that MiPro had not presented sufficient evidence that could support a finding that the township's decision to condemn the property constituted any abuse of eminent domain. MiPro appealed this decision and the case was placed before the New Jersey Supreme Court.

The court affirmed the Appellate Division's ruling and referenced several factors that assisted it in ruling in favor of the township.

First and foremost, the court agreed that a municipality has the statutory authority to condemn property for open space and that its selection of properties on which residential development is planned is a proper application of eminent domain.

Secondly, the court noted that numerous statutes have been enacted by the people of New Jersey over the years that reflect a strong and sustained public interest in the acquisition and preservation of open spaces. According to the court's decision, some of those statutes provide municipalities with the power of eminent domain to acquire land for recreation and conservation purposes.

These statutes are strengthened by the state's citizens' decisions to vote in favor of state and local bonds that provide funding for open space acquisition. The court believes that a township's intent to limit development is in response to limiting overcrowded schools, to reducing traffic congestion and cutting back on the amount of pollution that occurs in a residential neighborhood. These issues, which are most often of great public interest, strengthen the court's finding in favor of the township's actions to preserve open space.

Finally, the court required that any property seized by eminent domain must be purchased at its fair market value and noted that the value should be reflective of the value associated with the landowner's final subdivision approval.

"We affirm the holding of the Appellate Division... we recognize... that the citizens of New Jersey have expressed a strong and sustained public interest in the acquisition and preservation of open space," wrote Chief Justice Deborah Poritz in the assenting opinion. "That Mount Laurel Township sought to limit development, thereby to limit the overcrowded schools, traffic congestion and pollution that accompanies development, does not alter our disposition of this case. The town's motive is not inconsistent with the motive driving the public interest in open space acquisition."

However, Justice Roberto Rivera-Soto dissented from the court's opinion. He disagreed with the court's decision based on two respects.

"First, I conclude, much as the trial court did, that this case presents an improper exercise of the power of eminent domain," he wrote in his dissenting opinion. "Second, although the majority attempts to lighten the effect of its ruling by adding to the quantum of damages to which MiPro Homes, L.L.C. is entitled as a result of the condemnation proceedings instituted by Mount Laurel Township, the majority simply does not go far enough."

Rivera-Soto added that the case presented a unique and egregious circumstance in which the real purpose of the township's condemnation was to prevent yet another residential development in a township already under severe development pressure. He sided with the trial court in believing that the township should only be able to purchase property for open space from property owners who are willing to sell their land. By using condemnation techniques to gain ownership of properties from private owners unwilling to give up their land and vested approvals, Rivera-Soto believes that the township acted unfairly.

## New Year's Resolutions

With the new year upon us, many of us will be making New Year's resolutions. Some of them will not last 'til February, like the diet I promise myself to start several times each year. Others will fare better, but may be just as difficult to keep. So... what are some good resolutions?

### **1. I resolve not to lower my prices in 2007.**

The past several years, abstractors across the country have been asked to lower their prices. Some clients have been asking for prices not seen since 1993. The pressure to lower prices again may become even more compelling as work slows down and many of the large vendor management companies attempt to maintain steady profit margins in the face of declining volume. It used to be that the request for lower prices was paired with a promise of more volume, but as interest rates rise, that is unlikely to continue.

As the industry continues to slow down, independent examiners must be able to survive the downturn. Many may not make it through and as quickly as they appeared on the scene, they will find other jobs and the field will once again shrink. We can only hope that the established professionals will once again predominate, returning quality and integrity to the industry.

**2. I resolve to continue to educate myself.**

The title industry is constantly changing. New laws, new policies, and new technology will continue to challenge the independent title examiners and it is important to keep tabs on these changes. Ohio has recently seen some major changes with Senate Bill 185, a new law requiring abstractors to carry errors and omissions insurance. The standard title policies and endorsements have also been redesigned for 2007, something we should all learn a bit more about.

I also plan to read *Baldwin's Ohio Practice: Ohio Real Estate Law*, and become more familiar with the *Principals of Ohio Real Estate Titles*. Other states have similar publications. It is in the best interest of the abstractors to be as familiar as possible with the real estate laws of their state. Finding a good publication is the first step. Though it can be tough to find the time to read them while keeping up with the rigors of daily work, it is a very worth while resolution.

**3. I resolve to become more involved with NALTEA.** As the only professional association for title abstractors and examiners, NALTEA needs to grow and become powerful enough to gain a voice in the title industry. Many of the hardships that abstractors face today are due to the lack of regulation over them. Every other professional involved in the real estate settlement process is required to hold a license; i.e. title agents, mortgage brokers, real estate agents, appraisers, etc. Licensing serves as a barrier to ensure that only truly qualified individuals are allowed to participate in the industry. Licensing will help keep out inexperienced fly-by-night abstractors which will mean that professionals are able to earn a decent living providing title evidence and the consumer will be protected by ensuring that their title search was prepared according to well established title standards.

NALTEA is still working diligently on its certification for title abstractors and examiners. Hopefully, one day, NALTEA certification will provide a basis for meaningful licensing in each state.

Whatever your New Year's resolutions are, may you have a prosperous year in 2007.

## A Big Thank You!

NALTEA wishes to thank all of the officers, committee chairpersons, and volunteers who have helped the organization through another successful year. At times, volunteering to help out NALTEA seems like a thankless job, but on the contrary—you have all helped a great deal and your efforts have been appreciated.

This January NALTEA will have a change of the board of directors and possibly a new president. We sincerely hope that all of you who have worked so hard will help carry on the mission of those who will be vacating their positions.

## NALTEA Membership Update

Niky Eisenhuth, Committee Chairperson  
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NALTEA currently has 90 active members. To help get new members the Public Relations Committee has launched a membership drive Bring Three, Get Yours Free! So help spread the word by passing this newsletter along to your colleagues and encouraging them to join.

As always if you know someone that may be interested in becoming a member please e-mail [membership@naltea.org](mailto:membership@naltea.org) and someone will contact them with a membership application.

**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.**

\*\*\*\*\* **GET REGISTERED TODAY!** \*\*\*\*\*

**NALTEA 2007 Annual Conference**  
*Challenges Facing Abstractors Today*  
*January 12 –14, 2007*  
*Bahia Resort Hotel • San Diego, CA*

See [www.naltea.org](http://www.naltea.org) for details and a registration form.