

NALTEA

National Association of Land Title Examiners and Abstractors

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Wanda Steudel, NALTEA President
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Our industry has been undergoing tremendous changes for the past several years. One person's change is another person's threat. Our clients have learned that they have several choices as to where they send their business. Unfortunately, some clients feel that they should be in control of **our** business. We are constantly being asked to provide searches cheaper and faster. Gone are the days of just doing a full title search under the marketable title guides of your specific state. Although we are sometimes still asked to do this type of search, we have been introduced to several hybrid types of searches. Not only do we have several types of searches, they are also called by different names and each client has specific requests for each search. They want a Present Owner search, searched back out of family, must have at least a 24 month chain, list easements and restrictions, only need copies of open ended mortgages and they need it back in 6 hours. The list could go on and on. Of course we know that this is not a simple present owner search, and the client has you down for doing a present owner search for "X" amount and that is what they want to pay you.

Which brings us to fees. The fee is already too low for what they are asking us to do, and now we get a call asking us to lower our fees. Some of us would politely tell them "No, thank you", but unfortunately there are some who will try to do all that the client is asking and do it for \$5 less than your true present owner fee. Fellow abstractors in our industry continue to devalue our service and our importance in the land title process.

We haven't even mentioned online searching using less than adequate online information performed by inexperienced people. There is also the practice of outsourcing to other countries, and the myriad of problems that can arise not only for the independent abstractor, but also to the privacy and safety to all citizens.

What are the solutions to these problems we are facing? I certainly don't have all the answers. If I did, I would be wealthy and spending my winters in the Caribbean. I do believe that we members of NALTEA have taken steps in the right direction just by forming, attending the conferences, and exchanging ideas. As I have mentioned before, we also have some very dedicated volunteers working on committees. Will we be successful in making a difference in the industry? Only time will tell. We certainly will accomplish more than if we sit back and do nothing.

I will close with another plea for all of you to get involved. Join a committee, write an article for the newsletter, or send a letter to the editor. Let your voice be heard. We need your input. Be aware of what is happening in your own county and state. If you don't want to involve yourself personally then let someone else know what is happening, so that we can get the word out. The biggest detriment to our profession is our own apathy. That coupled with the fact the majority of the population have no idea what we do, makes it very difficult to get any support to effectively make changes. We need to have our name and what we stand for out in front of people constantly. I believe we can make a difference if we continue to work together.

Lost Doc

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

Orinda, CA--Before anyone ever heard of the Year 2000 Problem, we encountered the Year 1992 Problem. Here's what happened.

This home near San Francisco was previously owned by Tom and Toni.

In 1990 Tom and Toni took out a home equity credit line and gave a deed of trust to a major bank. When the couple split up, Toni got the house and Tom was released from liability for the credit line.

In 1992, Toni listed the home for sale. Thanh and Kim made an offer to buy that was accepted.

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Prior to close of escrow, a First American agent searched the local computerized title plant and found only one deed of trust against the property, which was not the credit line deed of trust.

The deal closed, with the one deed of trust being paid off and replaced by a new purchase money deed of trust given by Thanh and Kim. The agent issued new owners' and lender's policies without exception for Toni's credit line deed of trust.

Toni continued making payments for about eighteen months, then she lost her job and filed bankruptcy, and the payments stopped.

When the credit line lender threatened to foreclose, Thanh and Kim notified our agent.

It turned out the credit line deed of trust was properly recorded and indexed in the Alameda County land records, but for reasons unexplained it cannot be found in the local computerized title plant. It may be in there, but it isn't indexed under Toni's name or the property's identifying number, so it can't be found.

The computerized title plant is operated by a private company, which title companies contract with for title information. Under their contract the plant operator undertakes to be reasonably careful, but disclaims responsibility for glitches such as inaccurate or missing information. So there you are.

First American paid \$52,030 for release of the credit line deed of trust. Toni's personal obligation for the loan was released in bankruptcy.

MORAL: Important data can be misplaced in any system or environment--think of lost socks.

Title insurance is excellent protection, so that what can't be found doesn't cost you your property.

Ethics Committee Update

Robert Breakell, Chairperson

Email: ethics@naltea.org

After a long year, it is good to be back at NALTEA! The ethics committee needs members. If you may be interested, please get in touch with us.

Over the next several months the committee plans on highlighting and discussing the NALTEA Code of Ethics. The committee will also be suggesting a grievance procedure to the Board.

Some articles that we will be working on this year will be: *The Benefits of Ethical Practice, Ethics and Affiliated Business Arrangements and Ethics in a Competitive Business Environment.*

As NALTEA is the first land title association dedicated to improving the quality of title services, I believe we should be just as concerned and focused on meeting and exceeding ethical standards. The combination of meeting the highest of industry quality and ethical standards should allow the NALTEA membership to become known as "the best the industry has to offer."

I look forward to working with the membership on these issues over the course of the year. In the meantime, we need to hear from you! Please send me your questions, comments and suggestions to ethics@naltea.org.

Board of Directors Update

Wanda Steudel, President

Email: president@naltea.org

In addition to the NALTEA Committee Updates published in the newsletter, the board thought that it would be a good idea to inform the membership of what we have been working on as well.

Since our last conference in January, we have addressed several issues. A portion of the board's monthly business is to hear updates from the various committees. It is very important to our growth, as an organization, not only to maintain focus on the progression toward future goals, it also will insure that all of the committee work is in line with the overall vision for NALTEA. This process gives the board the opportunity to offer assistance and/or support whenever needed and to give the committees the necessary tools to achieve its specific goals.

Some of our more lengthy discussions have revolved around the possible alliances with other organizations. The board feels, very strongly, that it is imperative to familiarize other organizations with NALTEA and what our mission is. NALTEA has already been invited to participate in, and/or attend several functions provided by various groups within the industry. We hope to take part in more of these meetings and conferences across the country. You will see summaries published in the newsletter following any conferences or meetings we attend in the future.

Discussions have been underway to make final approvals for the 2006 Budget. The board has discussed expenditures for equipment, to making our board more "mobile" and to save money when putting on future conferences, as well as monies to support a membership drive, public relations/marketing campaign, testing, Website enhancements, etc. All of which will help us achieve our goals for the upcoming year.

As a Board of Directors, we are here to serve the membership. We welcome any input, ideas, suggestions and, especially, news you may have that concerns you in your part of the country. Often times, a small article of interest in a local publication eventually becomes a main concern throughout the industry. We would love to hear from you.

Legal Descriptions

Rick Martinez, Board Member

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Legal descriptions come in various forms, throughout the country, and should be closely studied, reviewed and examined in the area a search is conducted in.

Boundaries and legal descriptions have been created as early as the seventh and sixth centuries B.C. with clay boundary markers, tree stumps and rocks, whereby describing property was basically calling out the outline areas of certain distinguishable topographic features in the earth's landscape such as waterways, mountainsides or valleys.

Legal descriptions can be described as a "Metes and Bounds", derived from the words describing measurements and boundaries. These descriptions are utilized and preferred by many in the real estate industry primarily because the description describes all boundary lines with a bearing, sometimes derived from an azimuth, and the distance of that boundary line.

Units of measurement also vary throughout the country and throughout the world, however most surveyors throughout the United States have adopted a unit of measurement that can be understood throughout the community and that is easily understood.

The unit of measurements referred to is a decimal system where the foot is broken up into 100 parts unlike the American unit of measurement. Example: Half a foot in the American System is 6 inches wherein the decimal system half a foot is .50 inches.

The decimal system allows for a more finite unit of measurement and establishes a unity among surveyors throughout the United States.

The United States Geological Survey (USGS) is an organization available to surveyors, organizations and associations that can utilize their resources including but not limited to, biological, topographical and geological issue including boundaries.

Another form of legal descriptions is the "Lot and Block" description, whereby the Lot and Block of a particular subdivision is cited along with the plat information including book, page and when the subdivision plat was filed for record.

Lot and Block descriptions are one of the simplest forms of describing a parcel and are widely utilized tools of describing a property throughout the United States.

"Aliquot parts" legal descriptions are descriptions that describe property in the U.S. Rectangular Survey System describing land by portions of a Section of land.

Examples of this are as such:

- 1) NE1/4,SE1/4 of Section 24, Township 23 South, Range 6 East

The description reads as such: The Northeast quarter of the Southeast quarter of Section 24, so please refer to the attached map to obtain the "theoretical" acreage.

Theoretically, a Section of land is one-mile square (1 mile by 1 mile) containing 640 acres, whereby a quarter acre is 160 acres. Please refer to the enclosed map for future reference.

That said please remember that the earth is not flat, so there are irregularities to be aware of in the "exact" measurement of any given Section of land, mainly the northern portion is somewhat shorter than the southern portion and it also varies east to west depending on the Township and Range.

It is an asset to every abstractor and examiner to understand legal descriptions because they can determine "out sales" or "lot splits" by being able to plot out the metes and bounds with confidence and report them to their client with 100 percent assurance.

Title insurance companies over the years

have realized the importance of a viable and marketable legal description and many have invested in computer aided software that enables a title examiner to plot out legal descriptions and determine if there are any title or surveying issues that need to be addressed before a policy is written.

I will continue next month on plotting out legal descriptions and the tools available to the industry.

Planning/Events Committee Update

Joanie Ripley, Chairperson
Email: events@naltea.org

The Planning-Event Committee will have their first conference call on April 18th to start planning the NALTEA 2007 Winter Conference which will be held January 13th-14th. We are pleased to announce that Jan Vogeler from Abstract Title in Illinois has joined our committee. She has experience in event planning and will be a great asset. We have had requests to host the NALTEA Conference on the West Coast and are presently looking into hotel rates and activities in San Diego. Other cities we are looking into are San Antonio, Texas and Phoenix, Arizona. We will keep you posted. Please feel free to email us with any suggestions you may have.

Public Relations Committee Update

Patrick Scott, Board Member
Email: pr@naltea.org

Pardon Our Dust! The Public Relations and Membership committees are making progress in construction of the spreadsheet/database of all recording officials in the US of A. The database building is an ongoing project. While we have several states completed, we still have a long way to go. We applaud those who have contributed their time and effort to date, as well as those who are now poised to pitch in. Both committees remain open for business during construction.

The committees are set to begin sending our recruitment flyer via email (where email addresses are available) and hand-delivery, by NALTEA members, in the course of visits to the counties we serve. We could use a few good modern-day minutemen and minutewomen (you know, like Paul Revere?) to help spread the word. Those who are interested in helping to make the world safe for independent abstractors may send an email to publicrelations@naltea.org for more information.

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.

More Questions Than Answers In Learning About Casualty/Title Insurance Blend

Patrick Scott, Board Member
Email: pscott@oconnortitle.com

Gee whiz! It's getting to the point where you have to put your waders on to go to work in the title business anymore. It looks like we're knee-deep these days in folks who seem to think that the local, independent abstractor is an unnecessary bother and expense.

The issue of "mortgage impairment" insurance, otherwise known as "lien protection insurance", is not a new one. The title industry made much of the issue earlier in this decade when a mortgage guaranty company, Radian Inc., attempted to enter the title market with a blend of mortgage guaranty and title insurance. In effect, it would protect the lender against borrower default (as in Private Mortgage Insurance) as well as against unreported liens. In effect, it would insure lien position without a search of liens in the public records.

Both mortgage guaranty insurance and title insurance are (were?) subject, in the majority of states, to monoline restrictions. This means that a company that produces either of the lines is prohibited from issuing any other line. Thus the title industry argued that a casualty insurer, such as Radian, should not be allowed to offer an "alternative" to title insurance, especially absent the same restrictions and regulations affecting the title insurers. This would drive the title insurers out of business, as the only transactions left to be insured by title companies would be the most risky. The casualty/title insurance would cover the HELOCs and refinances on residential properties where the borrowers had an acceptably high credit score. Furthermore, the title companies fix title defects. If they are not detected during the course of the loan process, the borrowers may wind up having to clear up cloudy titles when they attempt to sell the property.

The issue came to our company's front door recently. A local customer, a regional lender of significant value to us, informed us of their intent to try out a product that would insure their liens against borrower default. It would also insure lien position, although there would be no examination of the public record to determine lien position. The application, credit report, and a borrowers' affidavit, along with a sufficient FICO score would determine the insurability of the loan. They will now be able to close far more quickly, with increased protection from risk, for about the cost of a tract search.

We expressed surprise that the casualty insurers were offering the product in Illinois. We had thought it was still a monoline state. To our surprise and disbelief, the company offering the product was not a casualty insurance company but a title insurance company. We were informed that, over the past couple of years, several title insurance companies had visited their offices to offer the product. I was later able to verify (thank you Google) that similar products have been launched by at least two

of the major title underwriters. So much for all that cage rattling by the title insurers back when they saw the casualty insurers as a threat. And, as for preserving the integrity of the public records? Forget it. It looks like most of these products omit any kind of traditional title search.

This whole flap caused me to look into Illinois' status as a monoline insurance state. Could it be that they amended the Title Insurance Act while we were not looking? Well, yes, they did. Illinois Senate Bill 2718, amending the Title Insurance Act, passed both houses of the general assembly as of March 23, 2006. The bill, however, appears to clarify and bolster Illinois' monoline status. The bill, if signed by the governor, will add, among other changes, the following language to the act: "Title insurance is a single line form of insurance, also known as monoline" (from Ch. 73, par. 1403) and "A title insurance company must maintain its reserves for losses independent of any form of insurance and therefore may not issue any other lines of insurance" (from Ch. 73, par. 1410).

It kind of makes one wonder just how dedicated the major underwriters are to the integrity of the public records and the survival of their agents. I wonder how either the title agents or the independent abstractors will compete with this product if it really catches on. It could have a somewhat monopolistic effect if enough are driven from business. Less competition could lead to higher prices in many states, an unintended consequence affecting both lenders and borrowers. That is, if claims caused by a catastrophic event, or a drastic reduction in property values, does not wipe out the title underwriters themselves.

It seems as though the more I learn about this boondoggle, the more questions are raised. I wonder just how serious the ALTA is about fighting against this product now that the underwriters seem to have reversed their stripes. Perhaps it's now up to NALTEA to stand up for the independent abstractor. What's happening in your state? Who, if anybody, is attempting to skirt, or change, the rules? I would really like to know.

Membership Committee Update

Nikky Eisenhuth, Chairperson
Email: membership@naltea.org

NALTEA welcomes the following new members.

Stallings Search Services Shaun O. Stallings	Antioch, TN
Zook Search, Inc. Dan Zook	Brooklyn, NY
Maudlin & Associates, Inc. Marsha Maudlin	Newnan, GA

Total active membership is 110 members. If you know anyone that you think may be interested in joining NALTEA, please e-mail info@naltea.org and someone will contact them with a membership application.