

NALTEA

National Association of Land Title Examiners and Abstractors

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Wanda Steudel, NALTEA President
Email: president@naltea.org

I was very pleased to have several people e-mail and or call me to comment on last month's "Message from the President". First of all, it shows that people are actually reading the newsletter, and it also shows that people care about what is happening with our industry. Thank you to all those that took time to contact me and to comment.

I was speaking with an attorney a week or so ago. He was asking for an "abstractor assessment " on a case he is working on. In this scenario, an abstractor received an order for a current owner search. The property was searched by the abstractor from the time that the last owner of record acquired the property forward, and returned to the client. Evidently the "current owner" had been in title less then 10 years. The client insisted that a current owner search is defined as a search from the current deed forward, and also includes information on any judgment

liens that already affect the property.

I gave my opinion to the attorney. I would be very interested to hear from all of you as to what your answer would be. Do we, as abstractors, have different views on this and other types of search requests? If you are asked to complete an "Ownership Search", do you send the last deed of record only? What do you do if the property came from a family member? Do you search back to see if there is any partial ownership with another family member? Do you check to see if there are leases? I have had a client ask for a lease check as part of an ownership report. I know what I do with this type of order. I want to know what you would do.

My attorney friend thought that it would be wonderful if NALTEA could come up with a guide for the industry, which would be a glossary of type of searches. His opinion was that it could become an industry standard since no one else has done this. An interesting thought. I would be interested in what all of you think.

Public Relations Committee Update

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

The NALTEA membership drive is now in full swing. Thanks to the many volunteers who have gone to bat for NALTEA to date, we are able to reach an ever-increasing number of independent abstractors.

The membership drive, a joint effort of the public relations committee and the membership committee, is an ongoing project. We are simultaneously building a database of recording officials' e-mail and post office addresses, and hand-delivering and e-mailing flyers to county offices for posting in view of abstractors. While we are off to a good start, much remains to be done. There are thousands of recording officials to contact and thousands more abstractors to reach. The project will really only be complete when every independent

abstractor in the good old US of A has heard about NALTEA.

Once again, the call goes out to those who would like to get involved, to give something back to our industry, but never quite made the leap from silent, frustrated observer to activist. You know who you are. You are the man or woman who can identify the problems in the industry and who may even have strong opinions on curative action. But, for some reason or another, you have never made your voice heard. Maybe you believe the small change you might effect is not worth the required effort. Or, maybe you are a little bit fearful that your ideas will be rejected. Maybe you just have never decided that today is the right day to jump in and help change your industry for the better, or to help prevent erosion of the ideals that drew you to the field in the first place.

Contact:

NALTEA
10024 Office Center Avenue
Suite 100
St. Louis, MO 63128

E-mail: info@NALTEA.org

If you are the person described above, not to worry. You don't have to jump in all at once. You may prefer to wade in over a period of time. If we may suggest a couple of good ways to get started: volunteer to gather e-mail and post office addresses of recording officials; or, volunteer to hand-deliver our membership drive flyers to the counties that you visit on a regular basis. Either way, you will be helping to increase NALTEA's numbers. That, in turn, will help to amplify the voice of the independent abstractor as an important part of the title industry. If you are inclined to get involved in this way, please send an e-mail to publicrelations@naltea.org.

If the membership drive is not your bag of chips, you might take a look at the NALTEA website to find out which NALTEA committees are in need of members. Take your pick from among those committees, and you are on your way to making a difference!

Planning/Events Committee Update

Joanie Ripley, Chairperson
Email: events@naltea.org

The Planning-Event Committee is going forward with the selection of San Diego, California for our NALTEA 2007 Conference. We are presently in negotiations with a resort on Mission Bay Peninsula, which would be a great place to hold the conference. We are also looking into some fun entertainment for Saturday night. We will keep you posted. Once we have secured the location for the conference, the committee will start working on the agenda. We are open to any ideas or suggestions you may have.

Board of Directors Update

Tim Lunn
Email: timlunn@aol.com

This is a new segment to our monthly newsletter to keep the membership informed as to what is discussed at our monthly board meetings. Each month the board members will take turns writing a synopsis of the board meeting. We hope this will facilitate in getting you the members involved in our discussions and having you send us feedback on what we discussed and what you would like to see discussed.

The board discussed focusing on membership committee and promotional events. To that end Patrick Scott has made up flyers that are being dispersed to clerks offices and Robert Franco has offered to send them out via e-mail to all abstractors listed with Source of Title.

Also discussed was a request from David Bloys regarding a press release NALTEA released last year regarding online public records, which a copy can be found on NALTEA's Web site, to re-release that article in a coordinated effort to call officials attention to the dangers of having sensitive information on the Internet. The board agreed to his request and Lynn Hammett agreed to update the article and be the contact.

Finally , we are beginning our plans for our 2007 NALTEA conference and we were throwing around ideas for topics and speakers. Lynn suggested having a lobbyist as speaker to give us tools as to how to get our issues and concerns to local, state and national officials. She has attended other such conferences and found this very effective. We would appreciate any suggestions you, the members, have as to topics or possible speaker you may want to hear, please let us know.

Education Committee Update

Rochelle Eckhardt, Chairperson
Email: education@naltea.org

We at the educational committee would like to ask for your help. We have developed an outline for the NALTEA MANUAL [See page 3]. Please take a moment and review what we have put together. NALTEA is blessed to have members from every area of the country. We would like to utilize this by asking the members to pick a subject and write a basic guide that would include what, why, etc. for that subject. We would appreciate everyone's input in this project.

We thank you in advance for your help.

Defining the Problem

Lynn Hammett, Board Member
Email: education@naltea.org

Title searches are requested for many reasons, and those reasons may affect how you report the records that are searched. Typically, a full search is requested for a sale and/or a mortgage. All the pertinent records will be searched and we will report any discrepancies or defects found.

Suppose you are searching property for a different purpose? Does the search process change? If you are searching real property to determine road rights-of-way and access, you may not typically search for mortgages, but you should search each owner in your chain for judgments. You may not find your road conveyance in deeds out of owners, but a judgment search could yield some judicial action that could assist you with your solving your problem.

If your client is trying to foreclose property, you obviously need to do your typical full search with everything checked across the board. Is there any other information you need to find? In some states, you will need to be particularly diligent in disclosing mobile home information. Attorneys foreclosing property with mobile homes require serial numbers, size, model and manufacturer. If your property is on a private road or drive, the foreclosing attorney needs to be aware of any access issues.

If you are searching waterfront property, particularly on a manmade lake, what problem may you be trying to solve? If you are searching for new construction, you need to disclose flood easements in particular. Flood easements allow for the lake to be flooded to a mean level on your subject property. The flood easement will affect

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NALTEA STUDY GUIDE DRAFT

Updated 3/15/2006

I. Land Titles In America

History

What Constitutes Real Property vs. Personal Property

- Mobile Homes as Real or Personal Property
- Chattels

Land Grants, Patents and Enabling Acts of Congress

Government Rights

- Eminent Domain
- Escheat
- Zoning
- Property Taxes

Role of the Abstractor and Title Examiner

- Chain of Title
- Marketable Title

II. Surveying of Land and Legal Descriptions

- Public Land Survey
- Acreage
- Metes and Bounds Descriptions
 - Deflection Angles
 - Calls to Right and Left
 - “Good Legal Descriptions” “vs. un-locatable, don’t close, etc.
 - Plats
 - Replats
 - Surveys
 - Encroachments
 - Common Interest Communities
 - Condos
 - Townhouses
 - PUD’s
 - Cemeteries

III. Transfer of Real Property

- Voluntary
 - 7 Types of Deeds—WD, QCD, etc.
 - Parts of a Deed
 - Grantor/ee
 - Habendum
 - Recitals
 - Dated Date
 - Recorded Date
 - Notary
 - Involuntary
 - Foreclosures
 - Death/Probate
 - Descent/Devise
 - Testate/Intestate
 - Intestate Succession
 - Important Document Types
 - Judgment and Decrees
 - Quiet Title Suits

IV. Estates in Land

- Joint Tenancy
- Tenancy in Common
- Tenants by the Entirety
- Leasehold

- Land Leases
- Sale and Leaseback
- Fee Simple
- Defeasible
- Life Estates
- Life Estates Per Autre Vie
- Time Shares

V. Encumbrances of Real Property

- Mortgages/Deeds of Trust
- UCC’s/Financing Statements
- Home Equity Lines of Credit
- State Tax Liens
- Federal Tax Liens
- Judgments
- Abstracts of Judgment
- Mechanics Liens
- Federal and Other District Court Judgments
- Home Owners Association
- Utility
- Airplane
- Various Local Liens and Encumbrances
- Notices of Lis Pendens
- Types of Easements and Rights-of-way
- Covenants, Conditions and Restrictions

VI. Waterfront Property

- Riparian and Littoral Rights
- Flood Plains

VII. Types of Notice

- Constructive Notice (priority of recording)
- Actual Notice (visible signs and what is known)
 - Adverse Possession
 - Encroachments
 - Projections
 - Joint Driveway Agreements
 - Party Walls
- Presumptive Notice

VIII. Abstracting

- Role of the Abstractor
 - Ethics
 - Professional Responsibility
- Public Recording Offices (federal, state, county, and local)
 - Documents within each location (probate, courts, etc.)
 - Treasurer
 - Auditor
 - Assessor
 - Surveyor
 - Recorder
 - Circuit Courts
 - District Courts
 - Indices (Grantor/ee, tract index, probate records, divorce, chattels, misc. records)

- Go through parts of an abstract
 - Certificate
 - Entries
 - Name Searches
 - Notary
 - Recording Information
 - Etc...
- Abstracting Torrens Land
 - What is torrens and how it works
- Terminology (etal, et seq, etc.)

GLOSSARY
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the location of any construction on the lot. You may also be concerned with covenants and restrictions defining use, dock permits and setbacks.

With the problem defined, you may choose to report your findings in a particular manner, but are you really changing how and what you search? Maybe; maybe not. In the first scenario, in trying to determine road rights-of-way, you will develop your chain and check out conveyances. You may want to check deeds into each owner as well (always a good idea anyway) to see if there are any access rights conveyed separately from the warranty deeds. If your client has specifically told you that liens and mortgages are not being requested, your work is done.

In the second and third scenarios, you will search your property in the usual method. You will acquire mobile home information, as always. You always disclose covenants and restrictions and flood easements. By being aware of the problem, you aren't searching the records any differently than normal. You may report your findings differently only in that you may take care to highlight matters of record in such a way as to assist your clients in accessing specific information they need as provided in your title notes.

Membership Committee Update

Nikky Eisenhuth, Chairperson
Email: membership@naltea.org

NALTEA welcomes the following new members.

Lowcountry Title Examinations Wendi Lawson See	Walterboro, SC
Arrow Abstract of New York Craig J. Rice	Brooklyn, NY
Jill Epperson, Inc. Jill Epperson	Pleasant Lake, MI
DST Title Search Donna S. Fugate	Fayetteville, OH

This brings the total membership to 114 active members. NALTEA's goal is to double its membership this year from last years total of 106.

The Latest E&O Scam And What It Means To You

We all know that E&O insurance is expensive and some people feel that it is a necessary evil. After all, most people will tell you that they have been paying thousands of dollars each year and have never had to file a claim (knock-on-wood). Without debating the value of the protection that E&O provides, or the peace of mind that comes with it, the sad fact is that the latest trend involves scamming the E&O provider and the clients who rely on the policy.

Professional abstractors carry E&O insurance because they want to protect their assets and the future of their business from the devastation that a claim can bring. The fact that the client requires it is merely secondary. However, there are those out there that only get a policy because a client required it before they would send them work. These people have found a new way to work the system.

It has been reported that there has been an increase in new policies issued to first-time buyers of E&O insurance. Conceivably because a client has required it. Often times, these abstractors need to get their certificate of insurance to fax to a new client and due to the high cost of coverage these policies are usually financed. The problem comes after the certificate of insurance is issued and the abstractor fails to make any payments on the policy. It is, of course, cancelled. However, who knows how many clients have been faxed a copy of the certificate. Those clients rely on that certificate to send work to the "insured" abstractor never really knowing that there is no coverage.

The E&O provider doesn't know who has seen a copy of it, and they have no way to notify those clients that they have been a victim of fraud.

For the professional abstractors, they are forced to compete with abstractors who claim to have E&O coverage. Many of the new abstractors who are providing low-cost abstracts are doing so under the guise that they have E&O insurance. Yet, they never have to build the cost of the coverage into their fees because they aren't actually paying it.

What can clients do to protect themselves against this type of fraud? Using a professional abstractor with a solid reputation and many of years of continuous coverage would be a good start. When an abstractor cannot demonstrate continuous coverage, and their fees seem below the market price, be skeptical. Insist on a paid receipt for the policy if the abstractor cannot show continuous coverage for a period of two-years or more.

With the high cost of coverage, premium financing is the only way some abstractors can afford the policy; however, if this trend continues, there may be changes in the way companies offer financing. The option may not be offered in the future. This could potentially hurt many of the smaller abstractors who need the coverage, but cannot afford the large upfront costs.