

The Title Examiner

A QUARTERLY PUBLICATION OF THE



FALL 2011

2011
Summer
Convention
Articles
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CATHY LAMONT, 2011-12 MLTA PRESIDENT

Darlene Wilsey, Fidelity National Title Group

As has been our custom every year, at this time, we take the opportunity to discuss and share the newly installed MLTA President's perspective and plans for our organization. Below, Cathy LaMont shares her priorities, as President of the Michigan Land Title Association.

Darlene: What initiatives do you hope to initiate and/or advance, during your term as MLTA President?

Cathy: Over the years, MLTA has been increasing its role in the legislative arena and I want to continue that. We are frequently sought for support of laws that can further sound real estate activity on both state and federal levels.

I would also like to continue our liaisons with sister organizations such as the Michigan Association of Realtors, Michigan Association of Registers of Deeds and County Treasurers to name a few. Collaboration with leadership of these organizations and others with whom our members work on a daily basis can enable healthy relationships and facilitate easier management of our daily tasks.

Darlene: How do you plan to further the MLTA's vision of becoming a leading voice of the real estate industry and an effective advocate in the legislative, political and legal arenas?

Cathy: The title industry has been hit hard by the economic stresses that our country and Michigan, in particular, has confronted and yet we have endured. I think it's significant that the Michigan title industry may have contracted by as much as 50% during the last three years but membership in MLTA has increased. Our membership is clearly doing something right



and we should get that news out to the public.

Increased relationships with media and government should help us to further that goal. We need to continue our efforts in the judicial and legislative arenas to promote laws that shield us from bearing the brunt of economically challenging times. MLTA can be a resource to help the courts and the legislature navigate sound legal policy in fairly allocating losses resulting from foreclosures and bankruptcies.

Darlene: In her opening remarks, during ALTA's 2011 Business Strategies Conference, ALTA President Anne Anastasi encouraged ALTA members to "explain the difference between

a search and exam to all who will listen and share the value of the industry's efforts to fix errors in the public record." Educating the general public on the importance of MLTA member services has been a long-standing priority for the MLTA, what more can the MLTA do to assist its members in "showcasing the important role title agents play in a real estate transaction"?

Cathy: MLTA has developed a strong reputation as an advocate for clear title and honest real estate transactions. We need to reinforce our brand so that at every opportunity, consumers and our customers realize that we are the glue to every real estate transaction, allowing them to transact business safely and with confidence that their title is intact. As members, we need to make every effort to convey that message and MLTA needs to support that effort wherever possible.

Continued on Page 2

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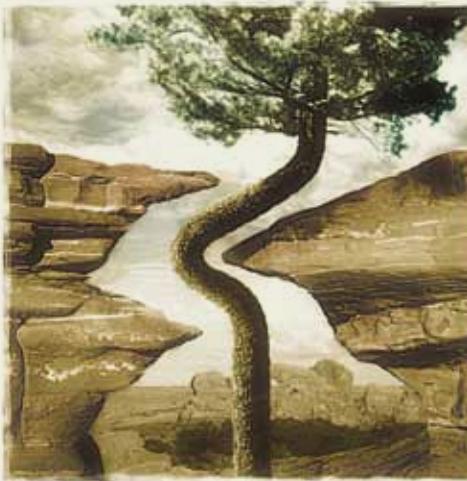
Continued from Page 1

MLTA does a wonderful job of educating our members and increasing the quality of our services but we need to support our members in educating our customers about that quality. We can do this through our new Professional Designations, our increased focus on media, and continuing refining of our brand. I would like to see every agent and title office bear the MLTA logo on its door. I would like to see our educational seminars provide some support in selling what we do to the consumer. I would like to see every one of us reinforce the message to the public that we are an integral part of protecting the American dream: home ownership!

Darlene: What did you learn from Past-Presidents Doug McFarlane and Tim McDonnell that will help you to be a more effective leader of the MLTA?

Cathy: One of the best parts of moving up the chairs in MLTA is the opportunity to see the best of leadership in action. It's wonderful to be able to rest on the shoulders of such great leaders. I am so fortunate to become President following these two gentlemen: the organization is healthy, vital, and strong. The groundwork has been laid by Doug and Tim to allow MLTA to succeed for many years to come. The daunting part is to try to live up to the standards they have set: they both worked tirelessly on behalf of all of our members and the organization, they ran great meetings, and they had vision for our continued viability in the future. They accomplished all of this with intelligence, integrity and a sense of humor. The bar is high!

Yes, the bar is high, Cathy, but our organization is in excellent hands! Congratulations and best wishes for a successful year!



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with any questions, comments, or if you would like to contribute.



MLTA Member Spotlight

Ray DeBates

Position: President

Company: Colonial Title Company, St. Claire Shores, MI

MLTA Involvement: Member since 1995 and have attended most of the spring and fall education seminars.

Interests: I just sold my 1964 VW Micro Bus and I am going to buy a 14' aluminum fishing boat.

About Ray: I got my first job as a title examiner in 1984, the day our first child was born. I opened Colonial Title Company in 1993. I now work with my wife Dorothy and 2 sons, Raymond and Stephen. I always like working with people, and on most days nothing can be better than working in the title business. When we do our job correctly everybody is happy. The seller, Realtors®, broker, lender and attorney get paid and the buyer gets the house! And since we handle the money, we get paid too! I truly appreciate the MLTA, its officers and volunteers for all the benefits they provide for us as members. I look forward to being Chairperson of the Abstractor and Agents committee and invite all agents to join us for a lunch at the fall seminar.



Dave Martyn

Position: Vice President, Associate Senior Underwriter, Manager - National Title Services

Company: Stewart Title Guaranty Company, Southfield, Michigan



MLTA Involvement: Legislative Committee, presented on real estate matters, Real Property Section of the State Bar of Michigan, and the Oakland County Bar Association.

Interests: Music – but you probably know that from my participation in “Unreal Property,” the MLTA band.

About Dave: I was a country music disc jockey in Dothan, Alabama (“WAGF – The Voice of the Wiregrass”). And I’m not a drummer, I play guitar and keyboard in my other bands.

Debbie Wiley

Position: Michigan Agency Account Manager

Company: First American Title Insurance Co.



Office: My official office is at the First American Regional Agency office in Grand Rapids, Michigan. However, I feel that technically my car is more my office as I travel across the state for my role with the Company. Sometimes I even get to land at my home office in Howell, Michigan.

MLTA Involvement: I have happily been involved with the MLTA for almost 20 years. I continue to be a member of the Education committee, which I had chaired for a few years. I am also a current member of the Professional Designation committee, Membership committee and recently agreed to help with the Convention committee. I have helped to present some educational seminars over the years as well. I’m proud to add that I was just sworn in as a new Board of Director for the MLTA at the Summer Convention in July.

Interests: Running has become my newest passion and stress reliever. I am running my first half marathon in October. I also love spending time with my husband John and my daughter Becky. Gardening, reading and cooking also make the list of favorite things to do.

About Debbie: I can honestly say that I have truly enjoyed every MLTA event I have ever attended. I always walk away with not only new knowledge but new and renewed friendships. Our industry, here in the State of Michigan, is certainly full of an amazing group of people that come together at these events for one goal in mind and that is to help our industry in whatever way we can. I feel it is a privilege and an honor to be associated with this fine group of individuals.

Welcome New Members

Fraser Trebilcock Davis & Dunlap, P.C.,
Lansing, MI

Continental Title Agency, Troy, MI

North American Title Insurance Company,
Contra Costa, CA



ABSTRACTIONS

by Allan Dick, Best Homes Title Agency, LLC

As we see the summer coming to a close and the pigskin season just ahead, political footballs are also in the air, perhaps most notably the issue of the Obama administration's declared efforts to help struggling homeowners reduce the principal they owe on their homes. The contemplated write-downs have proven to be quite controversial with the question of whether Fannie Mae and Freddie Mac are supporting the administration's program. This was the subject of a recent series of articles in the Detroit Free Press. As with so many of these complicated issues, what is often presented as a simple set of facts, is anything but. Questions of fairness (to those diligently making their payments) and the practical administration of any such program with all the nuances, make resolution and effective execution of such well-intended programs an uphill battle.

Statistics – can be interesting, but often misleading. Or at least they may not tell the entire story. For example, Bloomberg reports in the Washington Post that July's foreclosure filings in the US dropped 35% to the lowest level in 4 years. But, as RealtyTrac CEO, James Saccacio, noted, "Unfortunately, the falloff in foreclosures is not based on a robust recovery in the housing market, but on short-term interventions and delays that will extend the current housing market woes into 2012 and beyond". Indeed, Zillow reports that US home values fell 6.2% in the second quarter from a year earlier. And, JP Morgan Chase predicts home prices will dip another 4% to 5% before bottoming out in early 2012. Even President Obama recently commented that it will likely be another year to 18 months before home prices start rising again and sales start to pick up.

Had enough good news yet? How about that stock market? Actually, despite all the negativity, there is a bit of upbeat news to report. US mortgage rates have reached all-time lows! The rate for 30-year mortgages fell to 4.15%, according to Freddie Mac. The last time rates were lower was in the 1950s, when 30-year mortgages were not widely available (mostly 20 or 25 year loans). And those low mortgage rates, coupled with the lowered home values, have created an interesting phenomenon. According to CNN Money, through much of the US (74% of the 50 largest cities), it is actually cheaper to buy a house than to rent one! The list was led by Las Vegas, where the median sale price of a 2-bedroom condo is about \$60,000 – a ratio of only 6 times the cost to rent a similar apartment for a year. Also high on that list is Detroit with a 7 to 1 ratio (purchase price to one year's rent). Eventually that should translate into increased home sales.

Okay, enough economic rhetoric, how about that summer convention – how about a salute to the "I'm Just a Singer in a Rock 'n Roll Band" candidates, raising funds for the MLTA-PAC, led by the winning vote/donation fundraiser Meredith Weingarden – who rocked on as sort of a cross between Lita Ford and Peter Frampton (she sang a Frampton song with the band). Not to be outdone, many of the candidates gave it their all, including Phil Savich, Connie Curio, Cy Tope and Mick Jagger wannabe, Jim Dondero! What a party and what a hoot! Even some of the MLTA board members got into the act, most notably incoming President, Cathy LaMont. And the Band – John Bommarito, Adam Kutinsky, Tobias Lipski, David Martyn and Tony Viviani – Unreal Property

put on a great show – one of the most entertaining evenings in summer convention memory! Oh yes, and we raised several

thousand dollars in the process. See the PAC article in this issue for more details.

Odds & ends – don't forget to sign up for the MLTA Fall Education Seminars – October 12 in Mt. Pleasant and November 2 in Livonia. Sad to see our good friend Lester Sam Hill sign off with his Views from the Top. But, we welcome his younger sister, Sam (as in Samantha) Hill as his replacement – big shoes (smiles) to fill. And finally, hats off to our out-going MLTA President, Tim McDonnell, who led us well this past year, thanks Tim!



On the Move

MLTA's Habitat for Humanity Initiative at Work

Transnation Title Agency of Michigan held a silent auction to raise

money for the MLTA Habitat for Humanity Initiative. With 17 offices

throughout Michigan you might wonder how this was accomplished. With the use of the internet, sharepoint, a camera and email we auctioned 1 unique item each week over the course of an 8

week period. Employees were given the opportunity to bid on the item beginning on Monday morning and the auction would close at the end of the week. It was a fun way to welcome in the spring weather while showing our support for Habitat. Over the 8 weeks we provided interesting facts about Habitat which grew our employees' awareness about all the good things the organization does to help eliminate poverty housing and homelessness. Transnation raised over \$600 for Habitat. If your company is interested in supporting Habitat for Humanity please contact *Darlene Wilsey* (Darlene.Wilsey@fnf.com) or *Cy Tope* (hlope@corporatetitle.com) or *Marcy Welburn* (mwelburn@transmi.net)



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VIEWS FROM THE SHORE

By Sam Hill

Very funny, brother – “Son of Sam”. Ya know, Lester, you really ARE the Son of Sam, not me. But, nice effort to throw off the scent. (Although, let’s face it, I have enough trouble keeping my stories straight without bringing transgender into the mix.) For you confused readers, welcome – to the DAUGHTER of Sam’s feeble attempt to follow in my retiring brother’s footsteps. I am Lester’s younger sister Sam, short for Samantha. Yah, it’s a long-standing family joke. Lester always called me Sam, and it pretty much stuck. Anyway, I’ve enjoyed his Views from the Top these past six years, and he asked me if I’d like to try and carry on in his place. I said I’d give it a try. But, I gotta tell ya, he is lots funnier than me. I’ll do my best.

Actually, while we have some decided differences – other than which restroom we use – we also have a lot in common. We both have an affection for the practice of law and for land title folks. And we both prefer smaller towns, although it took me a while to settle on that – thought I might do the Mary Tyler Moore thing in the big city for a while. But, that wasn’t my cup of tea. So, like my big brother, I became something of a country lawyer and title abstractor.

We both love the old style humor of Will Rogers and Mark Twain. But, I might also toss in a little Erma Bombeck or Red Green from time to time. We both like a good laugh. But, my little practice isn’t on or near a mountain top. I was more attracted to the sparkling waters of this picturesque state. Hence the name change of the column to Views from the Shore.

I considered calling this Views from the Sunny Side, remembering poet Edgar Guest’s old radio show, The Sunny Side of the Street, when I was attending school in Detroit many years ago. Like my sibling, I will try to bring you a little sunshine from time to time. Of course, some days that will be a challenge – like watching the stock market play Cedar Point with my IRA. But, I will hold back my political commentary for now. I gotta get ready for a Fly Girls get together. So, I will close, as my brother did, with – that’s the way I see it and this is the view from the shore, so you can see from the country what it looks like from here to there from time to time.



Regards,

Samantha Hill

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Autumn (Not Spring)... A New Beginning!

*Dar's
Dabbles*



by Darlene Wilsey,
Fidelity National Title Group

Autumn has long been one of my favorite times of the year! Taking in the breathtaking red, yellow and orange foliage landscape, indulging in gooey caramel apples, warm cinnamon donuts and hot apple cider, watching NFL Football, and the start of a new school year, all give me reason to eagerly anticipate autumn's arrival! Yes, I said the start of the school year! Going back to school, each fall, was a highly anticipated and welcomed event for me! Among other things, it represented a new beginning - a fresh start! Although I've been out of school for quite some time now, I still eagerly await the start of a new school year and use it as motivation to help me refine my performance at work! I prepare for the start of the final quarter of the calendar year similarly to how I prepared for the start of a new school year!

Fresh Start – Regardless of whether you're lagging behind or exceeding your annual goal, at this point, put it out of your mind! Both scenarios can serve as an excuse for giving up or slacking off in the 4th quarter! Stay focused on consistently displaying the behaviors that are appealing to your diverse customer base and set you apart from your competitors!

Take Stock – What resources do you need to ensure that your customers perceive you as an invaluable



resource? What resources do you need to afford your customers more time to prospect new business opportunities? What resources do you need to make it more convenient for your customers to work with you? What resources do you need to give your customers the opportunity to generate more income because of their relationship with you (and I'm not talking about revenue sharing opportunities!)? These resources may be provided by a third party or facilitated by YOU! They might be products or individual attributes. Either way, take stock in what you have and use it to your advantage!

If you never created or were given an action plan detailing what behaviors/actions you should exhibit to help ensure personal and/or organizational goals are achieved, do it NOW! It doesn't have to be formal or complex, but it does have to be behavior (performance) focused. Grab a sticky note

and jot down three behaviors/actions that are vital in ensuring your customers perceive you as an invaluable resource! Keep it simple, in sight, and focus on consistency!

While we typically don't associate autumn with new beginnings, we can all benefit from viewing it as such – a fresh start, a time to renew our focus and boost our performance!

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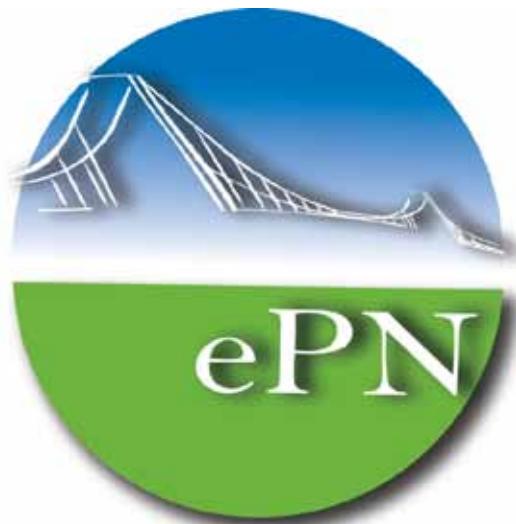
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Legislative Update

by Cami Pendell,
Michigan Legislative
Consultants

RECALLING POLITICS

The number of recall petitions filed against state legislators and executive officials has been growing at an exponential rate. While Republicans have been the primary targets, a few Democrats have also experienced having petitions filed against them. At the beginning of August, language in a total of 10 recall petitions was approved against House members and 13 have been approved against Senators. Once recall language has been approved, petitioners must then collect the necessary number of signatures in order to get the legislators on the ballot for recall. The recall initiative against Governor Snyder announced that they would not have the required 807,000 signatures for the November ballot, but they are now focusing their efforts on the February ballot. Additionally, the recall petition language filed against Attorney General Bill Schuette also failed. Although, it is expected that another petition will once again be filed against the Attorney General.

Not all recall petition language has been approved by a Board of County Election Commissioners. The total number of recalls filed against House members (as of August 2011) is 20, and 32 have been filed against Senators. Some recall petitions have been filed multiple times against a single official because they have not been able to pass language clarity hearings on their first or second attempts.

The number of filed recall petitions is sure to increase through the end of summer. At this point, it is anticipated that recall efforts will result in at least 3 to 5 legislators being placed on the November ballot.

MERS UPDATE

MLTA has been proactively working to educate state leaders in both the legislative and executive branches of government on the impact of the Court of Appeals decision in the Saurman and Messner cases. This has been commonly referred to as the MERS case. The holding in the Court of Appeals decision was that Mortgage Electronic Registration Systems, Inc. (MERS) cannot foreclose by advertisement and that any foreclosures they initiated are void ab initio. This case has been appealed to the state Supreme Court where a decision as to whether or not the case will be heard is yet to be made.

While receiving clarity from the state Supreme Court in an expedited manner on this issue is the most desired outcome, MLTA is taking advantage of this time to work with state legislators and Administration officials on this issue. By educating these key leaders, MLTA is strategically positioning itself should a different course of action be needed. Additionally, MLTA

is working with other organizations such as the Michigan Association of Realtors, Michigan Bankers Association, Real Property Section of the State Bar, MERS, Michigan Mortgage Lenders Association and home owner assistance groups. While each group has varying interests, we all agree an expedited resolution is needed to ensure protection of the innocent home purchasers that are now in possession of these previously foreclosed properties.

GUBERNATORIAL APPOINTMENTS

During MLTA's summer conference, there was discussion regarding increasing member participation and involvement on state boards. With over 200 state boards and commissions covering a wide variety of subject matters from Accountancy to Workers Compensation, there is considerable opportunity to become active in state government. For instance, in June 2011, Tom Richardson (CEO and General Counsel for Liberty Title) was appointed by Governor Snyder to the Electronic Recording Commission. This commission was created in 2010 to establish standards and practices to keep county registers of deeds in Michigan in harmony with the standards and practices of offices in other jurisdictions.

Governor Snyder has a webpage solely dedicated to his Appointments Division. It can be accessed at the following address: <http://www.michigan.gov/snyder/0,1607,7-277-57738---,00.html>. On this site, there are links to view all of the existing boards and commissions so you can determine which ones interest you the most. Additionally, there is an appointment application that must be completed in order to be considered for a gubernatorial appointment.

Please consider applying for an appointment to a state board or commission. It is a great opportunity to further the land title industry and to utilize your experience to help reinvent Michigan.

MEMBER SPOTLIGHT

Legislation impacting the land title industry can be referred to a number of different committees in the state House and Senate. While most of the bills are referred to a "local government" type of committee, land title bills are often also referred to Judiciary, Commerce or Banking/Insurance Committees. With a

number of MLTA's priority issues stemming from court decisions (such as *In re Neal*), this quarter's spotlight is on Representative John Walsh, Chairman of the House Judiciary Committee.

Speaker Pro Tempore John Walsh was elected to his first term in the Michigan House of Representatives in November 2008 to serve the residents of the 19th District in Livonia. Rep. Walsh was elected by his colleagues to serve as Speaker Pro Tempore following his re-election in 2010. He was also appointed chair of the Judiciary Committee and vice chair of the Tax Policy Committee. He had previously served as the minority vice chair of the House Government Operations Committee and was a member of the Commerce, Education and Tax Policy committees. Walsh also remains co-finance chair of the House Republican Campaign Committee, a position he served in during his first term.

Prior to his service in the Michigan House, Rep. Walsh served as an executive at Schoolcraft College. His responsibilities included administration of the Schoolcraft College Foundation, government relations, and economic development through the college's Business Development Center. He was also responsible for the operation of the Schoolcraft's nationally ranked Culinary Arts Department and Food Service Department.

Prior to joining Schoolcraft College, Rep. Walsh was a founder and principal with the law firm of Raymond, Walsh & Enwright, PC, specializing in corporate law, mergers and acquisitions, and finance. Rep. Walsh previously served as a partner with the law firm of Lewis & Munday, PC, and as senior counsel with Unisys Corporation.

Rep. Walsh received his Juris Doctorate from Wayne State University College of Law in the spring of 1987, and his B.A. in political science from James Madison College of Michigan State University in 1984, majoring in International Relations and Public Policy Analysis.

Rep. Walsh also served as chairman of the Livonia Planning Commission and as vice president of the Livonia City Council. He is past chairman of the Plymouth Road Development Authority, and past chairman of the Board of Directors of the Livonia Chamber of Commerce. He was one of the principal founders of the Livonia Economic Development Partnership, and was an elected member of the Schoolcraft College Board of Trustees.



To UnCap, or Not to UnCap, That is the Question



by Gregg Nathanson,
Couszens, Lansky Fealk,
Ellis, Roeder & Lazar, P.C.



For further information, contact Gregg A. Nathanson, Esq., an attorney at the law firm of Couszens, Lansky, 39395 W. 12 Mile Road, Farmington Hills, Michigan 48331, telephone 248-489-8600 or gregg.nathanson@couzens.com

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Michigan Supreme Court Addresses “Uncapping” Issues in Real Property Tax Case

What is the best way to own real estate? The answer depends on your situation. Many businesses utilize corporations or limited liability companies, to limit their liability. Often individuals will own property with friends or family members as tenants in common, joint tenants or joint tenants with full rights of survivorship. Some people choose to use a life estate, life lease, or “ladybird deed” for estate planning purposes. Still others will utilize a Qualified Personal Residence Trust, or QPRT, in order to transfer appreciation of their principal residence to their heirs, while minimizing estate taxes.

The Michigan Supreme Court recently handed down a landmark decision that may impact how you and your customers decide to own and transfer real estate. The case, Klooster v. City of Charlevoix, was decided on March 10, 2011. This case addresses important issues relating to joint ownership, death and real estate taxes, particularly when a transfer of ownership can result in an uncapping of value for property tax assessment purposes.

The Michigan Supreme Court decision in Klooster v. City of Charlevoix should be carefully considered when determining how to own or transfer real estate. Unless careful planning is done, a statutory transfer of ownership might occur unintentionally, resulting in increased property tax assessments.

As background, in 1994, Michigan voters amended the State Constitution by passing Proposal A. Proposal A limits property tax increases, as long as the property remains owned by the same party, even though the actual market value of the property may increase dramatically. The Michigan legislature amended the General Property Tax Act to implement Proposal A. The new law capped annual assessment increases at the lesser 5% or the rate of inflation. This is called the ‘capped’ or taxable value, which is multiplied by the applicable millage rate to determine the amount of taxes. After a “transfer of ownership” occurs, the property’s taxable value becomes “uncapped” and subject to reassessment based on the property’s fair market value, for the following year. The taxable value is then recapped, until there is another transfer of ownership.

Michigan law defines a “transfer of ownership” to include most conveyances of title. However, the law also includes important exemptions. Even when title transfers, these exempt transactions are not classified as a “transfer of ownership” for purposes of uncapping taxable value.

In Klooster, the Supreme Court considered the uncapping exceptions involving death and joint tenancies. Husband and Wife purchased the property in 1959, jointly. In 2004, Wife conveyed her interest to Husband. Husband immediately conveyed the property to himself and his Son, as joint tenants with rights of survivorship. In January 2005, Husband died, leaving Son as the sole owner. Son then conveyed the property to himself and his Brother, as joint tenants with rights of survivorship.

Did the taxable value uncapped? If so, when?

Taxable value would have uncapped when Husband and Wife purchased the property in 1959, but their purchase predated Proposal A.

Taxable value did not uncapped when Wife conveyed her interest to Husband in 2004.

Taxable value did not uncapped when Husband conveyed his interest to Husband and Son, also in 2004.

Taxable value did not uncapped when Husband died in 2005.

Taxable value did uncapped when Son transferred the property to himself and his Brother.

Clear as mud?

Klooster found that death of a joint tenant is a conveyance; a written instrument is not required. Klooster further noted that MCL 211.27a(7)(h) establishes requirements for an exception from the definition of a “transfer of ownership” in three separate distinct types of conveyances: (a) termination of a joint tenancy, (b) creation of a joint tenancy where the property was not previously held in joint tenancy and (c) creation of a successor joint tenancy.” The Court’s opinion underlies the importance of proper real estate and estate planning in connection with avoiding an unintended uncapping of taxable value. The good news is that a related party transfer might be structured so as to avoid uncapping taxable value. However, careful planning must be done.

Less than two weeks after the Supreme Court issued its opinion, the Michigan Department of Treasury (Treasury) issued a memorandum indicating how the rules established in Klooster should be applied. In June 2011, Treasury rescinded its initial memo and replaced it with a new memo (“Memo”). The Treasury Memo discusses the Supreme Court decision and provides certain definitions and hypothetical examples. The Memo defines joint tenancy, initial joint tenancy and original owner. The first step is to determine if the “conveyance at issue” creates an initial joint tenancy, a successor joint tenancy or terminates a joint tenancy. The determination of whether a “conveyance at issue” is a transfer of ownership that uncaps taxable value can be separately determined only after identification of the conveyance at issue.

The Memo contains several hypothetical fact patterns. These examples walk through various scenarios involving creation, modification and termination of joint tenancies, including death. These can be instructive in how to properly structure a transaction in order to avoid an uncapping of taxable value.

Perhaps the best news in the Treasury Memo relates not to uncapping of taxable value, but rather, claiming a principal residence exemption. If you own and occupy your home as a principal residence and file a Principal Residence Exemption Affidavit, then you are exempt from payment of certain real property taxes. You pay taxes at the lower homestead rate. However, the statute and prior Treasury guidelines do not specify what minimum percentage of ownership interest is required in order to claim a principal residence exemption. The final Memo example involves a conveyance of a 1% percent interest in a property from father to daughter for the purpose of allowing her to claim the principal residence exemption. While this fact is not germane to the uncapping analysis, its publication suggests that Treasury might accept a 1% percent ownership interest as sufficient for a Principal Residence Exemption claim.

THE COURT OF APPEALS CHIPS AWAY AT THE FUTURE ADVANCE MORTGAGE CONUNDRUM

By Adam Kutinsky,
Kitch Drutkas Wagner Valitutti & Sherbrook

Usually, a Future Advance Mortgage (FAM) is meant to be second in line in priority to first mortgages of record. However, a common title claim relates to the refusal of a FAM lender to discharge the FAM following closing and payment in full. The facts are all too common: A borrower closes on a refinancing transaction, part of which includes payment of an existing FAM of record. The title company obtains a full pay off letter from the FAM lender in addition to the primary first mortgage loan and properly identifies the pay off amounts on the HUD-1. Following the closing, upon disbursement, the title company sends out the checks to each lender in the amounts reflected in the pay off letters.

However, if the title company does not include an authorization to close out the underlying line of credit along with the check to the FAM lender, the lender cashes the check, but leaves the line of credit open and the FAM undischarged. The practice of the FAM lender not discharging its mortgage is arguably contrary to Michigan law. Specifically, MCL 565.41(1) states that "after a mortgage has been paid or otherwise satisfied, the mortgagee... shall prepare a discharge of the mortgage, file the discharge with the register of deeds for the county where the mortgaged property is located, and pay the fee for recording the discharge."

Thus, according to the plain language of the applicable statute, upon payment in full, the FAM lender is obligated to discharge its FAM - whether or not it received an authorization to close out the line of credit along with the check. However, FAM lenders usually refuse to discharge the FAM unless they can also close out the corresponding line of credit, which cannot be done without borrower authorization. So, absent the authorization, the mortgage stays in place and the borrowers are free to re-draw on their credit line at the expense of the title insurance carriers.

Up until this year, the Court of Appeals had only addressed this phenomenon in a single case - *Deutsche Bank v Spot Realty*, 269 Mich App 607 (2005). In *Spot Realty*, the Court of Appeals included a

short discussion of MCL 565.41(1), stating that, notwithstanding its plain language, a mortgage is not paid or otherwise satisfied unless the underlying line of credit is closed. This statement tended to support the practice of FAM lenders who refuse to discharge their FAM without borrower authorization to close out the line of credit. Recently, however, two additional cases concerning MCL 565.41(1) were reported by the Court of Appeals that may serve to chip away at this practice.

In *JPMorgan Chase Bank v Founders Bank & Trust*, unpublished per curiam, June 23, 2011, the Plaintiff lender sought a pay off letter concerning a FAM from the Defendant,



which provided pay off information related to the underlying line of credit, but failed to disclose an additional business line of credit open to the borrowers that was secured by the same FAM, but not identified in the public records.

The Plaintiff lender properly provided payment to the FAM lender, along with a demand for discharge under MCL 565.41(1), and authorization to close out the line of credit. However, since the pay off did not include payment for the undisclosed business loan, the Defendant left the credit lines open, refused to discharge its FAM, and asserted priority ahead of the Plaintiff. The trial Court found the FAM lender's conduct to be in bad faith and the Court of Appeals agreed. In its opinion, the Court of Appeals not only cited the plain language of MCL 565.41(1) as requiring discharge, but also reiterated the requirement of a mortgagee to provide a good faith answer to a pay off inquiry at closing, stating:

"When one seeks the best authority to ascertain the truth of rumors, and is there misled, the person misleading him can hardly be allowed to support rights by insisting that he should still be chargeable with the

reports which he had endeavored in vain to verify. The law of constructive notice can never be so applied as to relieve a party from responsibility for actual misstatements and frauds."

Although, these facts are somewhat distinct from a typical claim involving a prior undischarged FAM - namely, because the title company included an authorization to close out the line of credit with the pay off amount - the citation to the plain language of MCL 565.41(1) is an encouraging development.

In a separate case, *Horizon Bank National Association v Chemical Bank Shoreline, et al.*, Michigan Court of Appeals, unpublished per curiam, July 19, 2011, the plaintiff lender approached the refusal of the defendant to discharge its FAM upon payment differently than arguing the plain language of MCL 565.41(1) (which is good, because the Court relied upon *Spot Realty* in finding that the mortgage was not paid off or otherwise satisfied unless the line of credit is closed out).

Although not all of the salient facts are referenced in the opinion, the plaintiff lender essentially argued that the act of making payment to the defendant in exchange for the pay off information constituted an agreement between parties that the FAM would be discharged - whether or not the defendant was provided authorization to close out the line of credit.

The Court of Appeals found that, although MCL 565.41(1) did not require discharge in and of itself, to the extent that the parties had a meeting of the minds that a discharge would be recorded in exchange for the payment, a jury could feasibly find that the FAM had to be discharged upon the defendant's acceptance of payment.

Although neither of these recent cases may be perfect, both are a step in the right direction for title insurance companies. The MLTA will continue to monitor the developments in this area for its membership.

Adam Kutinsky is an attorney and a member of the MLTA. He may be reached at 313.965.6731 or adam.kutinsky@kitch.com.



Reviewing Proposed Legislative Solutions to Foreclosure Issues



by John C. Bommarito,
Corporate Counsel Attorneys
Title Agency

As we work our way through the current economic challenges, the foreclosure process and foreclosure related issues continue to garner attention. The local and national news is riddled with stories about how many households are in default, how many foreclosures have occurred, and how many properties are sitting vacant and tied up in the inventories of the foreclosing entities. Many states have seen court decisions where various aspects of the foreclosure process have been contested.

One result of all this attention has been an increase in the number of legislative proposals that attempt to provide some type of relief to borrowers facing foreclosure. In this brief article, we will examine what primary questions should be asked when reviewing legislative proposals. This article will highlight different Michigan legislative proposals which are likely similar to proposals in many other states.

Generally, the proposals attempt to assist people who are either in default or just recently have been foreclosed upon. The more substantive debate centers around how various proposals attempt to help this group of people. If legislation or a proposal cannot assist the borrower, the question becomes, is there a process or mechanism in place to efficiently move the distressed property through the foreclosure process so as to return it to a more "productive" use as quickly as possible?

On the one end, there are proposals that are essentially moratoriums on foreclosure. For example, one bill introduced in the State of Michigan Legislature proposes to require that, on a motion brought by the borrower, the foreclosure action shall be stayed (postponed) for one year. The borrower would not have to satisfy any conditions, provide any proofs, nor take any action other than to file a request for a stay of foreclosure. Further, use of the word "shall" arguably takes away

any discretion a court may utilize when considering whether to grant this type of relief. In fact, it seems to obligate the court to grant the relief at the request of the distressed borrower.

Supporters of this type of proposal advocate that it provides relief by enabling the defaulting borrower to continue to stay in the house. This obviously benefits and provides short term relief to the distressed borrower. But arguably we must also ask: Beyond the benefits to this individual borrower, does this proposal benefit society or the surrounding neighborhood? Does it further our economic recovery? There is a strong argument that it does not.

First, if the borrower is not making the mortgage payments (thereby creating the default situation

in the first place) then it logically follows that the borrower is also not likely paying the property taxes, assessments, association dues (if any), utilities, etc. By allowing the borrower to live in a property for which he/she is not meeting his/her payment obligation, the borrower is also consuming government, municipal and related services free of charge. The burden to then pay for these services is passed on to property owners that are paying their bills. The potential is then present that, if this type of scenario becomes wide spread, the burden or cost born by people who are paying their taxes, dues etc. will become so great that the increased cost of living will lead to an increase in defaults and foreclosures.

Second, it then follows that the borrower in default, who under this type of proposal would be living in the subject property for free, is also not performing regular maintenance or improvements. The failure to maintain the property certainly contributes to the decline in property values for the whole area. This failure to maintain or stabilize property values can contribute to a homeowner, who is not presently in default, being unable to qualify for a loan (or sell their property) because the neighborhood values are now depressed further and possibly considered "undesirable" as collateral for banks. Moreover, put yourself in the shoes of the neighbors around that

distressed property. If no one is maintaining it, blight sets in and the property becomes the "eye-sore" for the neighborhood that no one wants to live near. This, of course, will contribute to difficulties in selling properties in that area.

Third, broadly and unconditionally prohibiting foreclosure will affect our overall economic recovery and the recovery of the housing industry. The longer the property sits in this "unproductive" state, the longer the current economic downturn will last

and the longer the housing market and property values will stay depressed. This situation can then exacerbate current issues with the availability of credit. If values continue to decline, homeowners and businesses may lose access to

credit and financing because they can no longer qualify based on depressed values. Alternatively, the bank assets are now tied up with "unproductive", or non-income producing, assets that drain away resources that banks might otherwise use for mortgage loans, credit lines, etc. For example, if homeowners cannot get access to credit to refinance their current adjustable rate mortgage, foreclosure could be inevitable for them because they cannot maintain the payments. If businesses cannot get access to credit, then people become unemployed, which increases the number of people in default and foreclosure and causes the tax revenue to shrink.

So, if a blanket moratorium is not a good solution to assist borrowers in default, what is an example of a better idea? Michigan currently has a statute, set to expire July 5, 2012 which, as a preliminary step to the foreclosure by advertisement process, requires that the bank provide the borrower a list of approved housing credit counselors. It further gives the borrower the opportunity to request a meeting with the lender to attempt to negotiate a mortgage modification. There are proposals

Continued on Next Page



the mortgage modification negotiations with the bank, an analysis of the borrower's finances is completed to determine: How much can the borrower afford to pay each month? Can the borrower afford the amount of the mortgage that was originated? What changes to the mortgage terms, if any, would give the borrower the opportunity to stay in the house while simultaneously working to fulfill his/her loan obligations? All of these questions are answered as part of the negotiation process. In some cases, lowering the interest rate or extending the maturity term of the loan can bring the monthly payments into an affordable amount for the borrower.

Second, if modification is achieved and the borrower is able to afford the mortgage payment, chances are much more likely that they are also able to afford taxes, assessments, utilities, association dues, etc. thereby contributing to the overall health of property values in the specific area. Neighbors are not saddled with increased tax or other assessment burdens, and the area has a better chance of maintaining its taxpayer base. Moreover, the property is likely being maintained and not likely to become a blight problem. Furthermore, a successful modification may increase the availability of credit for homeowners

(or potential qualified home buyers or borrowers) and businesses thus avoiding the concerns expressed above when a



moratorium is suggested as the solution. All in all, successful modifications can contribute to keeping the property in the "productive" use.

Third, if the modification is not successful, then in Michigan's case, the property can immediately proceed through the foreclosure process. Enabling default properties to efficiently move through the foreclosure process increases the likelihood that the property will end up with an owner who is able to afford all the costs of home ownership. Doing so transforms an otherwise burdensome property to a property that will positively contribute to

the neighborhood and economy as a whole. The unfortunate fact is that there are some people whose present situation simply precludes them from being able to afford to own his/her home. In some cases, foreclosure may be inevitable. Whether they have too many debts or not enough income or some combination of a number of reasons, there will be some borrowers who will not qualify for a mortgage modification. This is a very difficult truth to hear and admit. However, how we as a collective society handle these truths will determine how quickly we are able to recover from this economic downturn.

When weighing legislative options to address foreclosure concerns in an attempt to assist borrowers in default, solutions that simply delay the inevitable are more detrimental to the overall health of the housing industry and our economy as a whole. Instead, parties involved in addressing these issues should look for solutions that get borrowers and lenders into healthy discussions and, if prudent and practical assistance is not available to borrowers in default, then a process that allows affected properties to efficiently move through foreclosure and get back to the market are in our best economic and societal interests in the long run.

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Summer Convention



July 17-19, 2011 • Crystal Mountain Resort

by Bob Wuerfel, Lighthouse Title

Nearly 140 MLTA members and guests enjoyed beautiful mountain-top views in a picture perfect setting for the MLTA Summer convention at the Crystal Mountain Resort in Thompsonville, July 17th - 19th, 2011.

The convention kicked off on Sunday evening with the Icebreaker Reception and Welcome Dinner under tents at the base of the mountains. PAC men, Steve Frank and Tim McDonnell, were drumming up contributions to support each of the six possible contestant singers that could join "Unreal Property" on stage after the reception dinner. See Article on page 14 for complete story.

Tim McDonnell kicked off the Monday Business Session with opening remarks and a welcome to all of the members. Tim thanked Marcy Welburn, MLTA Sponsorship Committee Chair, as well as the many sponsors and several vendors that also saw value in supporting the MLTA. See sponsor ads at the end of this newsletter. Various committee chairs gave updates on what is happening in their area. Of particular note, Habitat for Humanity Co-Chairs Darlene Wilsey and Cy Tope indicated that various MLTA members have raised over \$5,000 for Habitat this year. They presented a \$1,250 check on behalf of the MLTA to Deb Maxey, Executive Director of Wexford County Habitat for Humanity.

Allan Dick, Secretary/Treasurer, reported that the MLTA Audit Committee found our Association's fiscal books to be in order and we are financially sound. Election of officers took place: Catherine Lamont was elected President; Allan Dick to President-Elect; Bob Wuerfel to Secretary/Treasurer and Tim McDonnell to Past-President. Debbie Wiley (First American) and David Martyn (Stewart) joined as the two new board members while Diana Parker's term (First American) wrapped up. Thank you Diana for your service to the board and to Tim... thank you for a great year presiding over our Association! Doug McFarlane spent countless hours fine tuning our by-laws, and the business session wrapped up with the approval of these changes.

Rob Chapman, Executive VP and CIO for Old Republic, ALTA Representative and Governing Board Member, was our first speaker. ALTA has a great relationship with the MLTA and attending our convention is something ALTA values. As CIO, Rob stated that while technology is an enabler in our industry, success still lives and breathes on relationships. He indicated four points that the title industry provides: protecting the dream of homeownership; historically helping people create wealth; helping drive the nation's economy; and providing

an essential service for real estate protection that no one else provides. Rob also touched on ALTA Fed Conference as a great opportunity to see the political world in action.

Following Rob was John Gallagher, reporter for the Detroit Free Press looked at "Re-imagining Our Cities". As vacant land is on the rise (from removed blighted homes and factories), John stated that there are opportunities to redefine areas. What to do with vacant property is being discussed everywhere with ideas such as: urban farming, day lighting urban streams, urban parks, rainwater gardens and land for solar panels. Even commercial farming is being considered in urban areas. Re-imagine cities where they can grow 75% of their own vegetables in these urban farm plots and also harvest solar energy from panel grids to support a portion of their own energy needs. It could happen if politicians and city leaders can agree on a "re-imagining" vision.

MLTA members and guests enjoyed Monday afternoon with just under 30 participating in the MLTA Habitat Golf Scramble, and others enjoying time at the Resort Spa or shopping at nearby resort towns.

Monday evening began with the President's Reception located at the top of the mountain. Riding the chairlifts offered great views of the Crystal Mountain area. Weather was hot and humid but the reception, conversations and views overshadowed the heat.

After the reception, we returned to the air conditioned resort for our Annual Banquet. The new officers and board members were sworn in by Rob Chapman. Cathy LaMont became our newest MLTA President after thanking Tim McDonnell for the work he did over the past year. Cathy is looking forward to continuing the mission and leading the MLTA over this next year. We are confident that Cathy will succeed!

In addition to the swearing in of the board, Steve Frank and Tim McDonnell recognized several members for their 2010 contributions to the PAC. PAC donor information appears on page 15. Sarah Maddox Sutton and Mary Lou Hartwell were the first two MLTA recipients of the CLTP (Certified Land Title Professional) designation award, which is one of the highest honors and certifications that a land title professional can receive. Debra Bartlett, the Committee Chairperson, presented these awards. (the complete story can be found on page 16).

The last award of the night was the Robert J. Jay award, given annually to a member in sincere appreciation for Outstanding Leadership and Contributions to the MLTA. This year's

winner was John Bommarito of Attorney's Title. John has been a guest speaker at several MLTA seminars, a contributor to the MLTA Title Examiner, currently chairs the Legislative Committee and participates in the Unreal Property Band. Congrats John... well deserved!

Tuesday morning's closing business session began with MLTA President Cathy LaMont introducing our Lobbyists Tim Ward and Cami Pendell to provide us with a Legislative Update. In Lansing, the state budget was completed in May, the earliest in nearly 30 years. Kevin Clinton was appointed as new OFIR Commissioner, while Tom Richardson of Liberty Title was appointed by the governor to a three year term on the Electronic Recording Commission Panel. The Private Transfer Covenants issue was defeated as MLTA members contacted 92% of the Legislative offices in Lansing to make sure our concerns were known. This was great participation and the MLTA is becoming more well known in Lansing.

Tuesday wrapped up with a Guest Panel of Editors entitled "East meets West" - Carole Valade, Assoc. Editor of Gemini Publications (such as: GR Business Journal, West Michigan Commercial among others) and Nolan Finley, Editorial Page Editor of the Detroit News. The panel was moderated by Mary Cramer, publisher of Crain's Detroit Business. Business leaders on the West side are seen as entrepreneurs and philanthropists, yet government attention and spending is primarily on the East side. Immigration is a hot topic on both sides of the state. While this is an issue, it is the quickest way to grow Michigan and stimulate the economy.

Tim McDonnell announced the golf scramble and PAC silent auction winners. There were 28 golfers who braved the weather and golfed 9 holes on the Betsie River Course raising money for the PAC. Low Net Men's Team at -7 for a score of 29: Nicholas Dupre'; John Voso; Steve Frank and Dave Moldovan. Low Net Mixed Team at -1 for a score of 35: Kevin McCumiskey; Phil Savich; Cy Tope and Darlene Wilsey. Most Honest Team at +4 for a score of 40: Connie Curio; Lou Curio; Thomas Fiegl and Amber VerBurg. Longest Drive Women - Jeanne Kivi; Longest Drive Men - Nick Dupre'; Closest to the Pin Women - Connie Curio; Closest to the Pin Men - Jim Romano

Special thanks go out to the MLTA Convention Committee for organizing the event, Marcy Lay our Executive Director and to our convention photographers Tom Fiegl and Jacquie Brink. Mark your calendars for the 2012 summer convention scheduled to be in Traverse City!

Thank You Sponsors & Exhibitors

You're The Best

The Michigan Land Title Association Board of Directors and the Sponsorship Committee would like to personally thank all of our sponsors and exhibitors for their participation in the 2011 Summer Convention.

We are appreciative of these firms interest in our association and we are very grateful for their support. The MLTA 2011 Summer Convention at Crystal Mountain Resort was a great success, the support of the companies listed below played a key role in that success.

Our Sponsors and exhibitors bring a variety of services to our industry and would love the opportunity to work with you. They have dedicated both their time and their financial support to the MLTA. We encourage you to utilize their services whenever possible.

Again thank you 2011 Sponsors and exhibitors for making the 2011 Summer Convention a sensational hit!

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I'm Just A Singer in a Rock & Roll Band

MLTA-PAC Fundraiser A tremendous Success



by Tim McDonnell, Old Republic National Title Insurance Company

The many Summer Convention MLTA-PAC fundraisers were a tremendous success for the PAC. Thanks to the hard work and creative ideas of Steve Frank, Tim McDonnell, Allan Dick and Tobias Lipski with the assistance of many more people and a lot of generous donors, the MLTA-PAC was able to generate over \$12,600 in contributions!!! This was the most successful combination of PAC fundraisers in the history of the MLTA-PAC.

The major fundraiser for the MLTA-PAC at the Summer Convention involved the MLTA Band "Unreal Property" and a handful of contestants. The contestants were Connie Curio, Jim Dondero, Jennifer Lawrence-Latcha, Phil Savich, Cy Tope and Meredith Weingarden. The rules were simple—the contestant who raised the most money for the PAC would sing a song with the band in front of the entire MLTA Convention Crowd. The band members: John Bommarito, Adam Kutinsky, Tobias Lipski, Dave Martyn and Tony Viviani did a great job of entertaining the crowd while the MLTA-PAC Committee was tabulating the final totals.

Just before the numbers were announced, Bill Robinson and Bob Wuerfel made the suggestion that every candidate that had raised over \$1,000 should sing a song. The candidates agreed so Bill and Bob wrote some nice checks to bring a couple more of the candidates to \$1,000. All totaled, the event raised almost \$10,000 and beyond that it was incredibly entertaining. The candidate totals were as follows:

Meredith Weingarden: \$3,090
Campaign Manager—Darlene Wilsey

Jim Dondero: \$2,070
Campaign Manager—Diana Parker

Phil Savich: \$2,150
Campaign Manager—Lisa Cincinelli

Connie Curio: \$1,000
Campaign Manager—Bob Wuerfel

Cy Tope: \$1,000
Campaign Manager—Debbie Bartlett

Jennifer Lawrence-Latcha: \$375
Campaign Manager—Colleen Devlin

The singing with the band was kicked off by Cy Tope who sang "Gimme Some Lovin'", a song written by Steve Winwood, Spencer Davis and Muff Winwood, and originally performed by The Spencer Davis Group and released in 1966. Cy had on some interesting attire and a great wig to top off the act but I don't think he will be replacing Steve Winwood anytime soon. Great job Cy!

Next up to the microphone was Phil Savich. Phil chose the R & B hit "Money (that's what I want)" a classic tune written by Berry Gordy in 1959. Phil's version was more like Captain Kirk rather than the original artist, Barrett Strong. Phil got a big round of applause from the crowd. He is back to his day job now and that is probably a good thing.

At this point in the show there was a surprise appearance on stage by President Elect Allan Dick, President Cathy LaMont and Immediate Past President Tim McDonnell. While a Peter, Paul and Mary selection might have seemed appropriate, they decided to join the band in singing "The Weight", a song originally released in 1968 by The Band on the album Music from the Big Pink. It was obvious that these Board Members were not practicing singing during the monthly board meetings but everyone had a great time!

Next on stage was Connie "Don't call me Rita Marley" Curio singing "I Shot the Sheriff", a song that a lot of people associate with Eric Clapton but was actually written and first performed by Bob Marley in 1973. Connie did a great job with this classic hit. For the record, she has a good relationship with all of the employees of St. Joseph County—including the sheriff and his deputies.

The crowd was ready for just about anything when Jim "aka Mick Jagger" Dondero took the stage to sing the Rolling Stones standard "Jumpin' Jack Flash". It was nice to see Jim come at least a little way out of his shell for this performance. Jim's performance complete

with an interesting wig was outstanding! He brought the crowd to their feet once again and I think I even saw a few lighters being held up as he left the stage.



The final contestant to take the stage was Meredith Weingarden. For her performance, Meredith chose the Peter Frampton hit, "Show Me the Way" written and released in 1975 by Peter Frampton but made popular by the live performance on the 1976 album, Frampton Comes Alive!—back when Peter Frampton had hair! Meredith sported a silver sequined dress and had the crowd on their feet and singing along. We never knew you had it in you Meredith!

Soon there after, Tim McDonnell announced last call at the bar and that prompted the finale for the singing. Meredith was joined on stage by Allan Dick, Cathy LaMont, Doug Smith and Bob Wuerfel and the group sang a rousing version of the Lynard Skynard hit from 1974, "Sweet Home Alabama". This brought the crowd to their feet once again and everyone danced and sang along. All in all, a very entertaining and successful evening for the MLTA-PAC!

The MLTA-PAC Committee would like to thank all of the participants in the fundraiser and their campaign managers for doing such a great job raising money for the PAC and for getting up on stage in front of the entire convention group. We would also like to thank the members of Unreal Property for the time spent putting the show together and the many hours spent rehearsing the songs. They put on a show that lasted almost two hours and provided a lot of entertainment for the convention at no cost to the Association. Thank you, guys!

MLTA - PAC SPONSORSHIP

Each year the MLTA-PAC recognizes members who have made contributions during the prior year that exceed designated giving levels. There are five different award levels and they are:

| | |
|------------------|----------------------|
| LIFE | \$1000+ |
| PRESIDENT | \$500 - \$999 |
| GOLD | \$350 - \$499 |
| SILVER | \$250 - \$349 |
| BRONZE | \$150 - \$249 |

The following members were recognized at the Summer Convention, but, you can never say "Thank You!" enough. We would like to thank the following members and recognize them for their support of the MLTA-PAC in 2009! Awards were presented to these members at the 2010 Summer Convention. If you were not present at the convention, your award will be forwarded to you by the MLTA office.

LIFE
Brian Coon
Bill Robinson
Doug McFarlane

SILVER
Marcie Powers
Marcy Welburn
Debbie Wiley
Lisa Cincinelli
John Bommarito

PRESIDENT
Tim McDonnell
Sarah Sutton
Bob Wuerfel

GOLD
Tim Ward
Diana Parker
Jennifer Lawrence

BRONZE
Diane Forro
Dan Lievois
Neal Sherman
Allan Dick
Sharron Ardanowski
William Kandler
Cathy LaMont
Brian Potestivo

MLTA-PAC Auction A Big Hit!

The MLTA-PAC Silent Auction was a big hit with those in attendance at the Summer Convention. In total, the auction raised \$2,310 for the PAC. There were a lot of great items and we would like to thank the people who donated those items:

Debbie Wiley, First American Title Insurance Company
Neal Sherman, Schneiderman & Sherman, PC
Lisa Cincinelli, Old Republic National Title Insurance
Jan Frank, Attorneys Title Agency
Diana Parker, Sharron Ardanowski, Jilanne Scholtz & Kim O'Connor, First American Title Insurance Company
Terri Voss, Trott & Trott, PC
Allan Dick, Best Homes Title Agency
Tom Richardson, Liberty Title Agency
Meredith Weingarden, Fidelity National Title Insurance Company
Rob Wineman, Fidelity National Title Insurance Company
Timothy McDonnell, Old Republic National Title Insurance Company
Mike Dietz, Dietz/Trott Sports Entertainment
Colleen Devlin, Stewart Title Guaranty Company
Cindy Immonen, Data Trace
Gregg Nathanson, Couzens, Lansky, Fealk, Ellis, Roeder & Lazar, PC
Bob Wuerfel, Lighthosue Title Agency
Phil Neuman, Taubman, Nadis & Neuman, PC
Bill Robinson, Attorneys Title Agency

We would also like to thank the successful bidders on those items:



Kevin McCumiskey, RamQuest
Cathy LaMont, LaMont Title Corporation
Cindy Immonen, Data Trace
Darlene Wilsey, Fidelity National Title Insurance Company
Debbie Wiley, First American Title Insurance Company
Diana Parker, First American Title Insurance Company
Eileen LaPlante, CFC Title Services, Inc.
Jacquie Brink, Best Homes Title
Jamie Scheet, Century Title Services Agency
Jeff Hana, Flex Closing
John Voso, Old Republic National Title Insurance Company
Marcy Welburn, Transnation Title Agency
Timothy McDonnell, Old Republic National Title Insurance Company
Tim Ward, Michigan Legislative Consultants

The MLTA-PAC is still in need of funds for our legislative initiatives. Please contribute to the MLTA-PAC to help with these important efforts.

CLTP (CERTIFIED LAND TITLE PROFESSIONAL) DESIGNATION

by Debbie Bartlett, Corporate Title Agency

This year's MLTA summer convention saw the presentation of the first CLTP (Certified Land Title Professional) designation awards offered through the MLTA. Two recipients received this prestigious award designation, which is one of the highest honors and certifications that a land title professional can receive. This designation demonstrates a proficient knowledge of all facets of the title insurance industry and a personal determination to succeed in one's career. Debra Bartlett, the Committee Chairperson, presented these awards.

Sarah Maddox Sutton was the first recipient. She is a State Agency Manager in Michigan for the Fidelity National Title Group. Sarah started her career more than 30 years ago as a licensed real estate agent and previously owned her own title company prior to working

for Fidelity National Title Group (Fidelity, Chicago, & Commonwealth). She was a state-approved real estate continuing education instructor, served on the Board of Review for the content of the real estate broker state exam for licensing, served on a Board of Realtors education committee for 9 years, and served on the Board of Review for content of the title insurance state exam for licensing. Sarah continues to serve as Co-Chair of the Education Committee for the MLTA, has previously served as Chair for the Board of Review for the new MLTA Education Designation Program, and currently serves on that board as a committee member. Sarah has a passion for education in our industry and often speaks at MLTA Education Seminars and also provides educational seminars throughout the year for the Fidelity title agents in the Great Lakes Region.

Mary Lou Hartwell was the second recipient. She has worked in the title business since 1979 and started her career typing abstracts in the Van Buren County Abstract office. She worked her way through many jobs in that office and eventually became



office manager in 1989. Mary Lou has been active in the MLTA for many years, serving on numerous committees, and was elected to the Board of Directors in 2002. She served as President for the MLTA during 2007-2008. Mary Lou is very active in her community and serves on the Downtown Development Authority Board, the Facade and Restoration Committee for the Village of Paw Paw and the Economic Council for Van Buren County. She also served on the Village Council and as President for that Council for 12 years. Mary Lou is married to her wonderful husband, David, has three grown children and eight precious grandchildren. When she has any free time, she spends it reading, playing with those eight precious grandchildren, and even finds time to take her mother to the casino.

Sarah Maddox Sutton and Mary Lou Hartwell may now use the designation of "CLTP" following their names. They achieved these designations through completion of an application, earning 1250 points through education, experience, and professional participation in the title industry (which then qualified them to sit for an exam that tested their knowledge in every aspect of the title insurance industry), and passing the examination with a score of 80% or better. They will be able to maintain their designations by completing an annual 100 point requirement for continuing education during the balance of their career.

The Professional Designation Committee encourages the members of MLTA to participate in this program to expand their education and abilities, to achieve excellence in the performance of their duties and responsibilities in the title industry and to be recognized by their peers and customers as a knowledgeable title insurance professional. To start the process, one must complete the application for candidacy provided for on the MLTA website under Professional Designation. Among other requirements, applicants must maintain a current individual title insurance producer license in Michigan. Following approval of the application, the MLTA will maintain an Official Record of Progress to track the earning of points by the applicant for up to a five (5) year period. Points are earned through a combination of education, experience, and professional participation. 900 points are required to sit for the Associate Land Title Professional examination and 1250 points are required to sit for the Certified Land Title Professional examination. An applicant may upgrade from the ALTP designation to the CLTP designation once the proper amount of points are earned. Please visit the website, www.mlta.org and start the application process today!

by Scott Patchin, The trU Group

What I'm hearing

We are not satisfied with our performance evaluation.

What it means

There are three mistakes I see most around evaluations:

1. Stop doing them because there is no money for wage increases.

Also included in this is saying *I am too busy to do it*. There is lots of research to refute the idea that money motivates people. LOTS!

2. Blame the form.

This is another way of putting the burden on HR to fix something. If leaders and followers understand the process, the form might be a burden but it is not a barrier.

3. Not training leaders and followers.

Few organizations train both parties in the performance conversation. By training, I mean going beyond *Here is how you use the software*.

The most important questions that people need answered are: I know what is expected of me at work and I have the tools to do my job. Performance conversation(s) address these questions.

A second key point is that people have to get by the what is my increase? question, trust enough to share what they need, be willing to listen to the feedback, and own the action plan.

What you should do

First of all, change the name to Performance Conversation. Evaluations are things we give to people, conversations are something we have with people.

Second of all, I have put a solution on my website (www.thetrugroup.com) that shows you examples of:

- Directions for the leader and reviewee
- Feedback form for follower
- A basic form for the conversation

Compare the conversation framework I provide to your solution. Ask yourself: How much talking is happening in your form? Who owns the action plan?

Finally, this conversation is a key habit for making the most of the talent on your team. **See the scorecard (right)** I share with leaders to help them step back and self evaluate whether they are doing the right things to keep their people focused and engaged. (ie: talent management) Notice this is Key Habit #1.

SCORECARD

Time goes by quickly when you're running a business. Below is a three-minute exercise you can use to assess how well you're doing with key habits for managing your people (a.k.a. "talent"). Fill in the circle next to each item that you're doing or that you know for sure are happening. If there's an item you're accomplishing some of the time, give yourself partial credit by filling in the bottom half of the circle.

1. Key Habits for Managing Talent

- I delivered all of the evaluations on time.
- I have one-on-one discussions with each member of my staff at least once a month.
- I have reviewed all the evaluations of my team's staff.
- Each person on my team has a development plan.

2. Key Habits for Managing Most Valuable People and Roles

- I have a list of key people whom we cannot afford to lose and:
 - I have checked in with them within the last month to see how they're doing.
 - I have written development plans for them.
- I have a list of the key roles in my company and:
 - I have a performance/potential chart for people currently in each role.
 - I have a list of candidates in case of openings in these roles.
- I have a list of high potentials for promotion and we have spoken with each person on the list within the last six months about his/her future.

3. Key Actions for Providing Focus for the Team

- My team has a plan for 2011 and everyone can name the top three to five priorities.
- The whole team reviews the progress of yearly goals each month.
- We hit our 2010 goals.

EXTRA Questions

(Rate from 1, "strongly disagree," to 5, "strongly agree.")

- I have been very satisfied with the quality of the people we hired and promoted this past year.
- I see my team leading and resolving conflicts without my help.
- I am confident that we will hit our key goals for the coming year.
- I have someone on my team that should not be there because they are not contributing at an acceptable level.

What you should do

So how do you think you're doing? As a rule, if you've checked everything above the line in each of the first three sections above, you're at least doing the basics. The items below each line are for organizations looking to excel in this area because of their concern for business growth and culture.

Concerned about your results and want to explore what you need to do differently? I know what to do. Contact me. scott@thetrugroup.com



Looking for help to have a great performance conversation with everyone on your team? Did the talent scorecard reveal a gap for you or your team? scott@thetrugroup.com ©2011, Scott Patchin

COUNTY SPOTLIGHT

OTTAWA COUNTY

REGISTER OF DEEDS

Gary Scholten was appointed the 29th Register of Deeds for Ottawa County in 1997. Prior to that, he served his country (1968-70), with distinction, as an Army Platoon Sergeant in the U.S. Army Infantry. He's a decorated, disabled Vietnam veteran. Gary was awarded the Bronze Star, Purple Heart, Company Infantry Badge, Vietnam Service and Campaign Medals.



*Gary Scholten,
Register of Deeds*

Gary graduated from Michigan State with a BA in Business Administration and U of M with a MA in Occupational Education.

He's presently involved in Zeeland Ambucs Service Club, West Michigan Lakeshore Certified Development Company Lakeshore 504, Republican Party, Travelers Protective Association, Michigan Association of Register of Deeds, United County Officers Association and Property Records Industry Association. He's a previous member of IACREOT, Holland Township and Ottawa County Planning Commission, Past President of the Zeeland School Board and the Michigan Association of School Boards.

- 1972-73 Director of Veteran Affairs for Ottawa County
- 1973 CETA Team Leader for Dept. of Social Services
- 1974 Manpower Planner, Program Supervisor
- 1975-97 Director for the Department of Employment & Training
- 10-31-97 Appointed Ottawa County Register of Deeds

Gary's been a member of the Michigan Association of Register of Deeds since his appointment. He has served as District Chair and has been involved in numerous committees including Legislative, Education, Conference, and most notably, as the Chair of the Associate Member Committee.

Gary is the United County Officers Association (UCOA) Education Chair and past member of the Vendor Committee. After receiving the required credit hours, he earned the designations of Certified County Officers and Master Certified County Officers Certificates from UCOA.

A Little Ottawa County History...

Recording laws were established before governments were formed because protecting property was important to the pilgrims and other pioneers. Many colonists left England objecting to the feudal system of land owners. They wanted ownership of land and a system to protect their valuable asset.

Under French and English rule all deeds were recorded, by a notary, in a book kept for the purpose. By law of the Northwest Territory, on June 18, 1795, the office of register was created. The first act provided that deeds might be recorded with the clerk of any court. An Act, passed on January 19, 1811, authorized the register of probate to record deeds; and by Act of November 4, 1815, deeds were required to be recorded in his office.

On April 12, 1827, the register was directed to provide a book

for the recording of mortgages. On January 29, 1835 the office of county register was created, and the register of probate ceased to have the recording of deeds or mortgages.

In 1839, the Michigan legislature appointed three Ottawa county commissioners and charged them with the task of selecting a location for the county seat. The population at that time was 208. Along with the three commissioners, Ottawa County government also included a clerk, a register of deeds and several other officials as the legislature required. Today, we have more than 268,634 residents, eleven county commissioners, one register of deeds, one clerk and other officials as legislated. In 2010 the Board of Commissioners voted to combine the office of Register of Deeds and County Clerk to be effective in 2013.

The Ottawa County Register of Deeds office is the keeper of the records for land documents back to 1835. From 1835-1904 deeds were hand written into the books. The landowner would bring the deed to the Register of Deeds, the Register would copy it into the deed book and the landowner would return to pick up the original. Times change and since then deeds have been copied, microfilmed and, as technology advanced, imaged.

A Little Office History...

When Gary Scholten took office 14 years ago, there were 11 staff and the recording process was 6-8 weeks behind. Three different software packages were used to record each document. The same information had to be repeated into each software package for the same document.

In 2003, Automation Fund legislation was passed allowing the Register of Deeds to purchase technology. The office recorded over 100,000 documents that year and had 12 full time staff and 4 temporary staff all working on the daily documents.

Gary has used the fund to purchase software/hardware allowing his office to:

- Reduce full time staff to 9 through natural attrition and job sharing.
 - Record or reject documents within 24 hours.
 - Return documents within 3 working days.
 - Image all documents for the public record and maintain a microfilmed copy for posterity.
 - Redact all social security numbers. Computerized index, with electronic document images, currently back to 1920's.
 - Integrated services with the local unit of government Assessors and Equalization Department to reduce redundancy. They have access to the database to make their own copies (the office used to make them) and are working on reducing keystrokes by sharing data.
- Electronically record documents, including Warranty Deeds.
- Electronically send the daily deposit to the Treasurer's office.
- Offer internet access to the Register of Deeds database through 2 providers.
- Offer Property Fraud Alert to homeowners. A free sign up service that alerts homeowners whenever a document is recorded that bears their name.



Last year they recorded 49,423 documents and 108 different document types. Gary believes to best serve the citizens of Ottawa County, the Register of Deeds has had to be a visionary for the office. He's been able to take the office operations to a high level of automation and competency resulting in achieving top ten status in the state of Michigan.

A Little Help...

The Register of Deeds office is now able to offer Rejection Reports to interested companies to aid in tracking what type of errors documents are being returned for. Gary's supervisory staff has found this report a valuable tool in training their staff and hope the title companies will feel the same.

What To Watch...

In 2013, the office will be a combined Clerk/Register's Office. The use of the Automation Fund will need to be monitored for compliance with the statute. Check out the website www.miottawa.com/CoGov/ROD/ for:

- Document Statistics
- Mortgage Foreclosure Statistics and Information
- E-Recording Updates
- Property Fraud Alert Sign Up & Information
- And much more...



Residential Sales Statistics

July 2011

| Local Association | 2011 Jul Sales | 2010 Jul Sales | 11-10 % Change | 2011 Jul Avg Price | 2010 Jul Avg Price | 11-10 % Change | 2011 Jul # Sales | 2010 Jul # Sales | 11-10 YTD % Change | 2011 Jul Avg Price | 2010 Jul Avg Price | 11-10 YTD % Change |
|---|----------------------|----------------------|----------------------|--------------------------|--------------------------|----------------------|------------------------|------------------------|-----------------------------|--------------------------|--------------------------|-----------------------------|
| Ann Arbor Area Board of REALTORS® | 331 | 256 | 29.30% | \$212,663 | \$196,673 | 8.13% | 1,776 | 1,849 | -3.95% | \$189,668 | \$184,977 | 2.54% |
| Antrim Charlevoix Kalkaska Association of REALTORS® | 46 | 47 | -2.13% | \$146,206 | \$183,493 | -20.32% | 280 | 308 | -9.09% | \$150,739 | \$166,508 | -9.47% |
| Battle Creek Area Association of REALTORS® | 92 | 83 | 10.84% | \$89,338 | \$79,183 | 12.82% | 714 | 712 | 0.28% | \$82,593 | \$90,175 | -8.41% |
| Bay County REALTOR® Association | 97 | 95 | 2.11% | \$71,678 | \$67,691 | 5.89% | 801 | 793 | 1.01% | \$67,745 | \$68,976 | -1.78% |
| Branch County Association of REALTORS® | 41 | 37 | 10.81% | \$73,032 | \$60,298 | 21.12% | 221 | 233 | -5.15% | \$79,134 | \$72,221 | 9.57% |
| Central Michigan Association of REALTORS® | 76 | 79 | -3.80% | \$79,104 | \$84,879 | -6.80% | 425 | 568 | -25.18% | \$83,309 | \$79,262 | 5.11% |
| Clare-Gladwin Board of REALTORS® | 50 | 49 | 2.04% | \$54,213 | \$85,788 | -36.81% | 337 | 369 | -8.67% | \$71,176 | \$67,653 | 5.21% |
| Dearborn Board of REALTORS® | 228 | 238 | -4.20% | \$61,538 | \$68,739 | -10.48% | 1,623 | 1,694 | -4.19% | \$60,360 | \$66,053 | -8.62% |
| Detroit Board of REALTORS® | 453 | 540 | -16.11% | \$18,468 | \$16,080 | 14.85% | 4,016 | 4,510 | -10.95% | \$14,998 | \$15,576 | -3.71% |
| Down River Association of REALTORS® | 109 | 89 | 22.47% | \$91,171 | \$82,547 | 10.45% | 735 | 829 | -11.34% | \$69,810 | \$78,784 | -11.39% |
| Eastern Thumb Association of REALTORS® | 179 | 134 | 33.58% | \$99,998 | \$117,020 | -14.55% | 910 | 930 | -2.15% | \$89,501 | \$89,600 | -0.11% |
| Eastern U.P. Board of REALTORS® | 34 | 40 | -15.00% | \$91,465 | \$85,586 | 6.87% | 200 | 191 | 4.71% | \$90,080 | \$84,151 | 7.05% |
| Emmet Association of REALTORS® | 41 | 43 | -4.65% | \$279,310 | \$195,172 | 43.11% | 258 | 292 | -11.64% | \$253,815 | \$195,404 | 29.89% |
| Flint Area Association of REALTORS® | 461 | 474 | -2.74% | \$76,926 | \$83,260 | -7.61% | 3,183 | 3,821 | -16.70% | \$69,483 | \$74,950 | -7.29% |
| Grand Rapids Association of REALTORS® | 769 | 608 | 26.48% | \$136,183 | \$116,259 | 17.14% | 6,453 | 6,195 | 4.16% | \$118,817 | \$117,708 | 0.94% |
| Greater Kalamazoo Association of REALTORS® | 325 | 241 | 34.85% | \$143,875 | \$146,412 | -1.73% | 1,746 | 2,022 | -13.65% | \$135,648 | \$130,411 | 4.02% |
| Greater Lansing Association of REALTORS® | 482 | 432 | 11.57% | \$101,193 | \$110,815 | -8.68% | 2,825 | 3,273 | -13.69% | \$103,162 | \$104,274 | -1.07% |
| Hillsdale County Board of REALTORS® | 27 | 26 | 3.85% | \$79,819 | \$71,927 | 10.97% | 161 | 238 | -32.35% | \$72,407 | \$76,415 | -5.25% |
| Jackson Area Association of REALTORS® | 163 | 131 | 24.43% | \$95,251 | \$90,809 | 4.89% | 1,029 | 1,114 | -7.63% | \$78,196 | \$79,367 | -1.48% |
| Lapeer & Upper Thumb Association of REALTORS® | 115 | 121 | -4.96% | \$97,919 | \$106,982 | -8.47% | 755 | 842 | -10.33% | \$91,321 | \$92,283 | -1.04% |
| Lenawee County Association of REALTORS® | 86 | 78 | 10.26% | \$95,510 | \$79,621 | 19.96% | 529 | 650 | -18.62% | \$84,664 | \$80,062 | 5.75% |
| Livingston County Association of REALTORS® | 238 | 222 | 7.21% | \$165,690 | \$170,812 | -3.00% | 1,430 | 1,532 | -6.66% | \$153,345 | \$149,937 | 2.27% |
| Oakland | 723 | 639 | 13.15% | \$168,913 | \$144,902 | 16.57% | 4,297 | 4,513 | -4.79% | \$144,732 | \$138,536 | 4.47% |
| Macomb | 793 | 679 | 16.79% | \$128,093 | \$97,721 | 31.08% | 4,872 | 5,185 | -6.04% | \$106,908 | \$93,305 | 14.58% |
| Mason-Oceana-Manistee Board of REALTORS® | 72 | 62 | 16.13% | \$126,207 | \$107,593 | 17.30% | 384 | 473 | -18.82% | \$111,751 | \$97,207 | 14.96% |
| Midland Board of REALTORS® | 88 | 63 | 39.68% | \$139,895 | \$132,695 | 5.43% | 473 | 577 | -18.02% | \$144,556 | \$138,595 | 4.30% |
| Monroe County Association of REALTORS® | 110 | 70 | 57.14% | \$121,218 | \$101,200 | 19.78% | 654 | 688 | -4.94% | \$111,841 | \$111,206 | 0.57% |
| North Oakland County Board of REALTORS® | 428 | 390 | 9.74% | \$154,454 | \$152,998 | 0.95% | 2,688 | 2,804 | -4.14% | \$142,636 | \$135,738 | 5.08% |
| Northeastern Michigan Board of REALTORS® | 54 | 48 | 12.50% | \$80,112 | \$79,427 | 0.86% | 334 | 320 | 4.38% | \$74,073 | \$73,706 | 0.50% |
| Paul Bunyan Board of REALTORS® | 133 | 107 | 24.30% | \$93,425 | \$88,071 | 6.08% | 671 | 709 | -5.36% | \$81,390 | \$81,868 | -0.58% |
| Saginaw Board of REALTORS® | 146 | 128 | 14.06% | \$84,277 | \$80,673 | 4.47% | 1,074 | 1,108 | -3.07% | \$76,117 | \$79,879 | -4.71% |
| Shiawassee Regional Board of REALTORS® | 35 | 61 | -42.62% | \$72,685 | \$63,377 | 14.69% | 422 | 486 | -13.17% | \$68,293 | \$66,843 | 2.17% |
| Southwestern Michigan Association of REALTORS® | 218 | 170 | 28.24% | \$155,087 | \$208,183 | -25.50% | 1,306 | 1,310 | -0.31% | \$154,511 | \$150,377 | 2.75% |
| St. Joseph County Association of REALTORS® | 48 | 50 | -4.00% | \$91,361 | \$115,182 | -20.68% | 335 | 396 | -15.40% | \$89,821 | \$90,853 | -1.14% |
| Traverse Area Association of REALTORS® | 199 | 171 | 16.37% | \$192,696 | \$185,249 | 4.02% | 1,131 | 1,157 | -2.25% | \$174,902 | \$172,217 | 1.56% |
| Upper Peninsula Association of REALTORS® | 162 | 156 | 3.85% | \$106,346 | \$103,525 | 2.73% | 944 | 1,002 | -5.79% | \$98,220 | \$95,582 | 2.76% |
| Water Wonderland Board of REALTORS® | 137 | 112 | 22.32% | \$101,577 | \$111,444 | -8.85% | 818 | 840 | -2.62% | \$91,861 | \$94,279 | -2.56% |
| West Central Association of REALTORS® | 105 | 83 | 26.51% | \$83,645 | \$79,462 | 5.26% | 536 | 502 | 6.77% | \$74,406 | \$78,442 | -5.14% |
| West Michigan Lakeshore Association of REALTORS® | 293 | 271 | 8.12% | \$132,025 | \$121,379 | 8.77% | 1,820 | 2,339 | -22.19% | \$124,495 | \$125,361 | -0.69% |
| Western Wayne Oakland County Association of REALTORS® | 1,127 | 943 | 19.51% | \$143,521 | \$132,322 | 8.46% | 6,755 | 6,746 | 0.13% | \$130,744 | \$133,581 | -2.12% |
| TOTALS | 9,314 | 8,266 | 12.68% | \$113,402 | \$110,136 | 2.97% | 59,921 | 64,120 | -6.55% | \$105,281 | \$103,058 | 2.16% |

*Escanaba, Iron Mountain, Keweenaw, Western Upper Peninsula, and North Central Upper Peninsula

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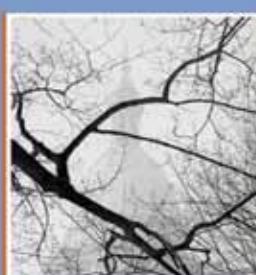
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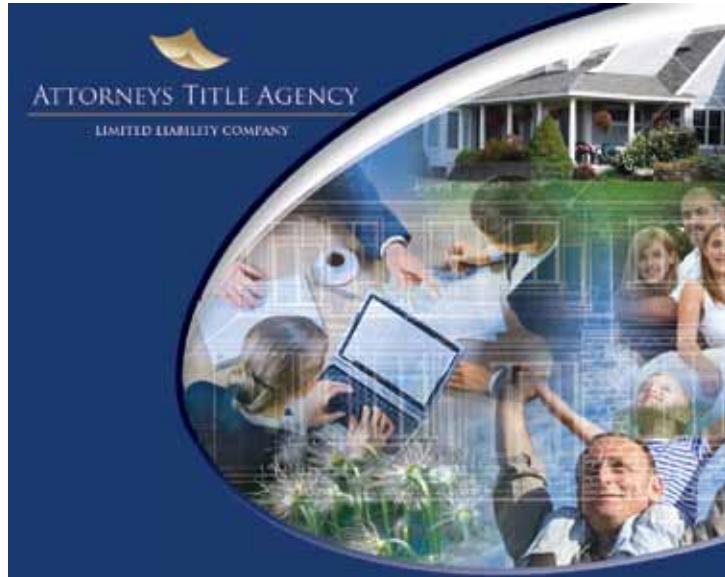
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