THE TITLE EXAMINER

A PUBLICATION OF THE MICHIGAN LAND TITLE ASSOCIATION SUMMER 2009

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To Keep Our MLTA Members Informed, See Insert For Legislative Tracking Report

WHAT'S INSIDE

A Recipe for Effective Leadership

by Darryl Turner, President, Title Solutions Group

Your company is a living thing. It needs the same things that other living things need to continue to survive. It has additional items it needs to actually flourish.

When it comes to growing a company we need to remember a few things. Some of these things are that it will not grow without nourishment, attention and protection. Let's start with nourishment.

What is business nourishment? Simple, it is ideas. A successful company is a group of people who have the ability to constantly develop and successfully implement new ideas. When it comes to ideas, we must understand that every idea does have a life cycle, ie: BetaMax, LazerDisk, 8-Tracks, and that's right, even cassette tapes. Each of these products started as an idea. Each played a role in generating revenue, and each eventually died, just like every other idea that has ever been developed.

When it comes to ideas, think of police radar. The minute police cars became equipped with radar equipment, others began selling radar detectors. Every good idea has a reflector idea. The difference in reflector ideas is whether or not it replaces the old idea, or copies it. Most industries have reflector ideas that simply copy or emulate the idea they are trying to compete against. That simply won't work. A healthy reflector idea always takes a company to the next level. It actually separates the company that developed the reflector idea from the company that had the original idea.

The second thing a living company needs is attention. Attention is nothing more than focus. Of course we all know that we should focus on, or pay attention to, that which we want to insure the survival of. Well, if attention is needed for survival, it most certainly is needed for growth. How do we pay attention to the needed areas of our company? That answer is simple. So simple if we just stop long enough to start again.

Here are some things we should start: Setting goals for each department. Not just a goal of what you want to see accomplished, but more importantly goals to identify and remove present obstacles. Why set goals to remove obstacles? Obstacles are single handedly responsible for the lack of accomplishment within any company. Once the obstacles are removed, things take off. Focus on setting goals to remove the obstacles first, and then set your goals on what you want to accomplish.

Inspect what you expect! If you are "driven" by nature, you are probably not good at

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(Recipe for Effective Leadership - continued from front page)

getting back with your teams and inspecting their progress on a regular basis. You are most likely frustrated by wondering why you released a plan of what you want to see happen and it's like your people never even attended that particular meeting.

Your "driver" traits cause you to get an idea, lay out a plan and then move onto the next idea. That is where the discipline is required. Make sure you regularly meet with your teams and discuss progress on goals and projects. Start changing seats where needed. I have always said that the greatest reason a company does not make the progress it should, is because of the seating arrangements. Either you have the wrong people in the right seats or the right people in the wrong seats. Both of these are equally dangerous.

Each person on your team has a set of gifts. These are traits they have that allow them to be extremely good at some things, while not so good at other things. The thing we tend to do, in error, is to have them focus on their weaknesses. This is like throwing gasoline on a fire. It only makes the problem worse. You must make sure you have your people doing the jobs that seem to come easy for them. Having them do these jobs will increase production while decreasing effort. Thus, you will receive a higher return on investment of every labor dollar, your single greatest expense you have.

The last thing your living company needs is protection. It must be protected against outside influences (or inside in some cases) that are working against what you are trying to accomplish. Here is an example; what do you do if one of your better producers begins to talk against you, or any other leader, to other people? The first thought you might be having right now is, how much revenue does this person bring into the company? Think on this; no sickness can be left inside of a body if the doctor is to accomplish a complete recovery. The real question in a company is, "do I want my company to have a complete recovery?" Protection is sometimes nothing more than removing a problem employee who has an ill spirit about them. Sometimes it is guarding it by watching the competition closer. Just like a parent would protect their young, a leader should protect their team. Your company is a living thing. If you will always treat your company as a living thing that needs nourishment, attention and protection you will continue to remain strong in down years and grow in average and better years.

Do you want a healthy company? The choice is yours, you can do it!

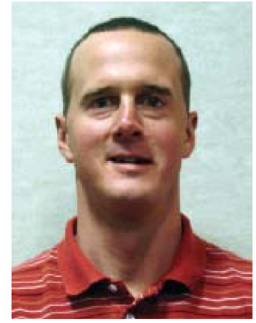
THE TITLE EXAMINER STAFF

Editor & Board Representative: Bob Wuerfel - Lighthouse Title Group
Publishers: Lynn Stuk & Laura Veldhof - Lighthouse Title Group
Communications: Darlene Wilsey - Commonwealth/Lawyers Title
Public Relations: Marcy Welburn - Transnation Title Agency
Photographer: Jill Smalldon, Lighthouse Title Group

CONTACT

Jill Smalldon 616-820-7282 - jsmalldon@lighthousegroup.net
or MLTA 517-374-2728
with any questions, comments, or if you would like to contribute.

Mike DeVine



Vice President
Peninsula Title & Abstract Corp.
Crystal Falls, Iron County

MLTA Involvement: Numbers of seminars since 2002

Personal Interests: Fishing and Hunting with my children.

Something About You: I have a degree in and worked in Land Surveying for years but found I have been a part of resolving just as many, if not more, boundary lines questions and disputes since entering the title industry.

Tom Lico

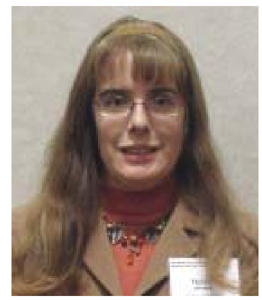
President / C.E.O.
Capital Title Insurance Agency
Main office in Southfield

MLTA Involvement: Member of MLTA since 2004. Just recently joined the Convention Committee.

Personal Interests: I enjoy golf, bike riding, hitting the sand dunes on the quads and traveling. Oh yeah, did I mention 'golf'? Occasionally work on refining my juggling skills . . when I'm not golfing.

Something About You: I've been in the banking/mortgage business for 15+ years prior to joining the title industry in 2004. I've been involved with the MMLA and The Realty Alliance (a national group for real estate affiliated mortgage and title companies) for over 10 years. I live in Clinton Township with my 9 year old daughter Elizabeth.

Eileen K. LaPlante



Vice President - Agency Manager
CFC Title Service, Inc. / Chemical Bank
Midland and Big Rapids

MLTA Involvement: Currently I participate on the Education committee and the professional Designation Committee; I have also previously volunteered on the communications committee.

Personal Interests: Gardening, camping and boating, spending time with family; being involved with my nieces' activities and sports. My husband's mother kept a saying on her wall for all the years of her life, it said "One hundred years from now it will not matter how big a house you lived in or what kind of car you drive, but the world could be a better place because you were important in the life of a child.

Something About You: I vividly remember my first MLTA Education Seminar back in the early 90's. I was the only person from my office attending and feeling a little awkward as I didn't know anyone. Mary Feindt came up and introduced herself then chatted with me for a few minutes. At the time I was appreciative, but it wasn't until several seminars later that I realized her history and significance to the organization. That was just standard operating procedure for Mary, and in my opinion, a life lesson that even the small things we do every day are significant.

Welcome New Members

American Servicing Corporation *(Farmington Hills)*

Transnation Title Agency of Michigan - Northern Division *(Servicing Northern Michigan)*

Hertz Schram PC *(Bloomfield Hills)*

Title Connect *(Bingham Farms)*

Hassett Title Company *(Monroe)*

Parks Title Company *(Royal Oak)*

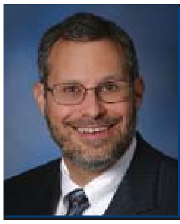
Northern Title Agency *(Traverse City)*

ON THE MOVE...

Bob Meredith *and* **Marcy Welburn**
began working for Transnation Title Agency of Michigan

Lighthouse Title Group
adds a Grand Blanc office:
8341 Office Park Drive, Suite D
Grand Blanc, MI 48439
Phone: 810-606-0050

If your firm would like to share information in this section, email jsmalldon@lighthousegroup.net



New Michigan Real Estate Transfer Tax: Closing a Loophole?

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

I. The Michigan State Real Estate Transfer Tax Act (AAct@) imposes a tax on the value of property being transferred. (MCL '205.521, et seq.)

A. The amount of the tax is $3.75 for each $500 (or fraction thereof) of the value of the property being transferred.
B. This usually equates to $7.50 per $1,000 of value - or 3/4 of 1% of the sale price.
C. The tax is imposed upon deeds or instruments of conveyance of property, or any interest in property, for consideration, as well as contracts for the sale or exchange of property or any interest in property, or the assignment or transfer of property or any interest in property.
D. The Seller or Grantor of the property is liable for the tax.
E. The change discussed below was not incorporated into Michigan=s County Real Estate Transfer Tax Act, which imposes a tax of roughly $1.10 per $1,000 of the value of the property being transferred.
The county transfer tax is in addition to the state transfer tax.

II. New amendment imposes a transfer tax upon the Atransfer@ of a Acontrolling interest@ in certain entities. Act No. 473 of Public Acts of 2008; MCL '207.522.

A. AControlling Interest@ means more than 80% of:
1. Total value of all classes of stock of a corporation;
2. Total interest in capital and profits of partnership, association, limited liability company, or other unincorporated form of doing business; or
3. Beneficial interest in a trust.

B. ATransfer@ means the conveyance of title to or other transfer of a present interest, beneficial interest or any other interest in real property by any method, including the interest in real property acquired through the acquisition of controlling interest in any entity with an interest in the property.

III. How to treat transfers of controlling interests over time is unclear.

Assume 40% of the membership interests of an LLC that owns real estate are transferred in year 1; 30% are transferred in year 2; and the final 30% are transferred in year 3. Is a transfer tax due? If so, when? Is the tax due only if the transfer involves more than 80% of the entity's ownership interests at one time (no aggregation)? Or, are transfers aggregated? If aggregated, when 80% threshold is transferred, is tax due on all prior transferred interests too? The law is not clear on this issue.

IV. Transfer tax is based on Avalue@ of real property transferred.

A. AValue@ means the current or fair market worth in terms of legal monetary exchange at the time of transfer.
B. In the case of a controlling interest in any entity that owns real property, value means the value of the real property or interest in the real property, apportioned based on percentage of ownership interest transferred or acquired in the entity.

V. A transfer tax is imposed upon the following written instruments executed within Michigan when the instrument is recorded. Contracts for the transfer or acquisition of a controlling interest in any entity, but only if the real property owned by that entity comprises 90% or more of the fair-market value of the assets of the entity, determined in accordance with generally accepted accounting principals.

A. What if:
1. 95% of the assets of an entity (AEntity@) in which a controlling interest is about to be transferred, constitute real estate;
2. The Entity receives additional assets shortly before the transfer;
3. Immediately before the transfer 85% of the Entity=s assets constitute real estate; and then
4. A controlling interest on the entity is transferred? The law is not clear on how to treat this situation.

B. What shall be recorded? The entire contract? Can you record a memorandum or assignment? The law is not clear on this issue, either.

VI. Tax imposed under this Act shall be paid to the county treasurer where the real property is located not later than 15 days after the delivery of the instrument effecting the conveyance by the seller or grantor to the buyer or grantee, or not later than 15 days after the transfer of a controlling interest in any entity with an interest in the real property. For purposes of this section, the date of the instrument effecting the transfer is presumed to be the date of delivery of the instrument.

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B. Section 3(3) of the Act [MCLA '207.523(3)] says the tax shall be paid not later than 15 days after the transfer of a controlling interest in any entity with an interest in real property.

C. Which is it? Is the tax due within 15 days of the transfer of the controlling interest regardless of when (or whether?) an instrument is recorded?
The law is not clear on this issue, either.

VIII. The following written instruments and transfers are exempt from the tax imposed by this Act:

A. Transfer between any corporation and its stockholders or creditors, between any LLC and its members or creditors, between any partnership and its partners or creditors, or between a trust and its beneficiaries or creditors, when the transfer is to effectuate a dissolution of the corporation, LLC, partnership, or trust, and it is necessary to transfer the title of real property from the entity to the stockholders, members, partners, beneficiaries, or creditors;

B. Transfer between any LLC and its members if the membership interests in the LLC are held by the same persons and in the same proportion as in the LLC prior to the transfer;

C. Transfer between any partnership and its partners if partnership interests in the partnership are held by same persons and in same proportion as in the partnership prior to the transfer;

D. Transfer of a controlling interest in an entity with an interest in real property if transfer of real property would qualify for exemption had the transfer been accomplished by deed of the real property between the parties to the transfer of the controlling interest; or

E. Transfer in connection with the reorganization of an entity and the entity=s beneficial ownership is not changed.

F. There is no parallel exemption for transfers between any corporation and its stockholders.

IX. Effective date: January 1, 2007. (No, this is not a typo.)

The American Recovery & Reinve$tment Act of 2009

by Bruce Bos, Financial Advisor, Waddell & Reed

On February 17, 2009, President Obama signed into law the $787 billion American Recovery and Reinvestment Act of 2009 (the 2009 "Stimulus Act"). The Act includes several provisions designed to offer a degree of financial assistance to individuals in the short and intermediate term, including a one-time $250 Economic Recovery Payment to individuals receiving Social Security benefits, Railroad Retirement benefits, Veteran's benefits, or Supplemental Security Income (SSI) benefits. In addition, up to $2,400 of unemployment compensation benefits received in 2009 will be excluded from gross income for federal income tax purposes. And, for individuals who lose their jobs on or after September 1, 2008, and before January 1, 2010, the Act offers assistance in the form of subsidized COBRA premiums--those who qualify will have to pay only 35% of the COBRA premiums needed to continue their health coverage, for up to 9 months.

The Act also features new and modified tax credits and deductions, including:

• A new "Making Work Pay Tax Credit" for 2009 and 2010 equal to 6.2% of earned income, up to $400 ($800 in the case of a married couple filing jointly); withholding schedules will be adjusted to increase current take-home pay to reflect the credit. The credit is phased out for individuals with modified adjusted gross income exceeding $75,000 ($150,000 for married couples filing jointly).

• A revised Hope education tax credit for 2009 and 2010, renamed as the American Opportunity Tax Credit. With an increased annual limit per student of $2,500, the credit is now available for the first four years of post-secondary education, and up to 40% of the credit is refundable. The credit is phased out for individuals with modified adjusted gross income exceeding $80,000 ($160,000 for married couples filing jointly).

• A revised first-time homebuyer tax credit, extended to include qualifying home purchases through November of 2009. The maximum credit is increased to $8,000, and the rules requiring that the credit be repaid are waived for qualifying homes purchased after December 31, 2008, and before December 1, 2009, as long as the home continues to serve as the individual's principal residence for 36 months. The credit continues to be phased out for individuals with modified adjusted gross income exceeding $75,000 ($150,000 for married couples filing jointly).

• A new standard deduction for state sales and excise tax related to the purchase of a qualified motor vehicle after February 17, 2009 and before January 1, 2010. Individuals who itemize deductions will claim the deduction as part of state and local taxes paid, reported on Schedule A of IRS Form 1040. The deduction is capped at the tax attributable to a maximum purchase price of $49,500, and is phased out for individuals with modified adjusted gross income exceeding $125,000 ($250,000 for married couples filing jointly).

In addition, the Act increases the refundable portion of the child tax credit, and makes changes to the earned income tax credit that benefit families with three or more qualifying children, and married couples filing joint returns. Also, 2008 provisions relating to the alternative minimum tax (AMT), bonus first-year depreciation, and IRC Section 179 expensing were all extended through 2009.

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ABSTRACTIONS

by Allan Dick, CEO, Best Homes Title

Perhaps you've heard – that your MLTA leadership and a representative from the ALTA joined forces and testified at a hearing held by the Wayne County Commissioners Government Operations Committee, Tuesday, June 9th, to address the proposal made by the Wayne County Register of Deeds to create a government run title insurer. Needless to say, such a proposal, if enacted, could have a dramatic effect on our industry. MLTA President, Tony Viviani, put out a call to the MLTA membership and other friendly organizations to please attend the meeting and "show your support of our industry".

While the turnout was good, it should have been larger (considering what is on the line). But, the story is far from over. Clearly, there was not enough time allotted to thoroughly discuss and answer questions relative to this proposal. So, a second session will be scheduled to hopefully complete the investigation and discussion. Please watch for the next call-to-arms email from the MLTA, and plan on attending if at all possible.

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The MLTA Summer Convention at the Amway Grand Plaza in Grand Rapids is right around the corner and should prove to be very interesting and entertaining! First, we have this year's PAC FUNdraiser – again using the Nintendo Wii – this time four teams competing in a home run derby! That should be fun, and funny! Then there is our featured speaker, Daryl Turner, a renowned business presenter with a strong background and knowledge of the title industry. Finally, in addition to the other speakers and evening frivolity, many of us will be participating in a community service project on Monday afternoon, working on two Habitat for Humanity homes, a great (and thematic) opportunity to give back.

*****

According to Zillow, a Seattle-based real estate data service, nationally speaking, almost 22% of all homeowners were underwater, meaning they owe more on their mortgage than their property is worth, as of March 31, 2009. Zillow vice president Stan Humphries also noted, "You are going to see home prices fall for the rest of this year and some portion of next year." The current recession cut home values by $2.4 trillion last year, according to First American CoreLogic. All this data underscores the challenges facing the Obama administration and Federal Reserve chairman Ben Bernanke, as they try to implement an effective housing recovery program.

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The MLTA Spring Education Seminars were well attended (considering) and covered a number of topics. It is interesting to note that we occasionally get comments like "too elementary", while other evaluations for the same material might say "needs to be more basic". The fact is that we address quite a cross section of experience in the attendees, and generally shoot for the middle, trying to cover basics, but also looking to expand wherever feasible.

One fine example of this was Jerry McDonnell speaking on railroads. Many closers and even title examiners may have never encountered railroad or former railroad property, with its peculiarities and requirements. For them, this presentation may not have seemed to offer much. But, for those of us who have had to deal with railroad properties, the information – especially the written materials – was invaluable, a great resource! (Thanks again, Jerry.)

The education committee really encourages comments and suggestions – and it does listen. Along those lines and responding to your comments, for the first time in memory, the MLTA Fall Education Seminar in Mt. Pleasant will change locations(!), moving to the Comfort Inn on the south side of town for October 20-21, 2009. So, please take note, when the registration forms come out in early September. Meanwhile, we hope to see you at the Summer Convention.

Views from the Top

by Lester Sam Hill

Howdy to all my land title pals. Well, let me just start this chat right off with a little nugget that is pullin' my chin whiskers pretty dang hard. Me and Gordie Gillespie (my partner) have been told that one of those big city Register of Deeds down there has a hankering to get into the title business. I hear he says it is plenty easy and there are huge profits that us agents been pullin' down. Gordie says he should come up here for a couple of days and we couple play paper, rock, scissors to see who gets to do the one order per week we been takin' in. And with the income, we can pay Geraldine (our secretary), the utility bills and don't forget the underwriter. Oh, and the rent, taxes and ....well you get the picture. That is powerful amount of ground to cover with a $300.00 premium. And ain't it interestin' that if we are all making so much money why the heck are so many small agents closin' their doors. Must be they couldn't stand all that profit that ROD fella says we make, eh?

'Nough said about that. Let's look at that half full glass for a minute. This little refi bubble feels pretty good, eh? Keepin' the wolves away from the door for sure. Me and Gordie are gettin' concerned 'bout the turn around time those banks expect, but we figured it out. Our underwriter says if we use them for the title work they will give us permission to put in a drive thru on the side of our building just like the bank. Customer pushes a button, tells us his name and we shoot a commitment back through the tube. Some mathmatical equations him equations says that increased premiums offset claims and the customer won't get mad at us...that is the part that I am having trouble with. First time we mess up one of Judge I. B., Wrights' land deals that only bench Gordie and me will go before is the one in Ted Tundranowski's Elite Bar and Grille on Main Street.

We hear the summer convention is gonna be a real hum dinger this year. They got that Darryl Turner fella from California comin' in to give us all the heave-ho pep talk. Me and Gordie met Darryl at a shindig down state and I can tell you this, he could sell a poodle pelt to a beaver trapper and they'd both be thrilled!!! You all gotta be signin' up for this one!

Well that's all I have for ya now. I will be talkin' to you again soon and this is the view from the North so you can see from the country what it looks like from here to there from time to time.

Regards,

Lester Sam Hill

ALTA AND THE TITLE INDUSTRY'S ROLE IN DETECTING MORTGAGE FRAUD

Washington, DC, June 18, 2009 – ALTA Board Member Frank Pellegrini testified today at a House Financial Services Subcommittee on "Strengthening Oversight and Preventing Fraud in FHA and other HUD Programs." Pellegrini, President of Prairie Title in Chicago, IL, told Members of Congress, "title professionals enjoy a unique vantage point from which to observe, identify and thwart instances of fraud. Title agents are the independent third party to the transaction whose only interest is to the integrity of the transaction and the protection of our customers. Through training and experience, we hone our ability to spot improper transactions every day."

ALTA's testimony focused on mortgage fraud and the title industry's role in facilitating the real estate purchase and refinance process; conducting closings in real estate transactions; and protecting borrowers and lenders by preventing fraud. Pellegrini also offered thoughts on additional steps that can be taken to combat mortgage fraud. The title industry protects consumers and lenders from fraud every day, and provides consumers with the certainty that when they walk away from the closing table they own their real estate and that it cannot be taken from them because the property has been properly and legally conveyed.

"Fraud is the second leading cause of title claims, so we track it very closely," said Pellegrini. "Our experience indicates that mortgage fraud schemes change with the economy. In a more robust economy we witnessed claims involving inflated values. As prices have fallen and equity has dried up, we now see loan slamming claims. Additionally, with the large numbers of mortgage defaults, short sale mortgage fraud claims are becoming more prevalent."

Pellegrini's testimony established ALTA's members as the experts in the closing space and explained that they are on the frontlines of preventing fraud, and are incentivized to do so because of their claims exposure. Pellegrini also urged Congress to pass a Borrower Right of Inspection as a common-sense step to be taken to assist in the prevention of mortgage fraud. Borrowers should receive their key closing documents in advance of their closing – a consumer protection measure which is strongly supported by HUD. The title industry is well positioned and eager to serve as a resource to combat mortgage fraud.

2009 Spring Seminar Summary

by Bob Wuerfel, President. Lighthouse Title Group

With Railroad Fee ownership, Powers of Attorney, Land Trusts, Foreclosures and REO Sales on the agenda, over 100 MLTA members attended one of the two Spring Seminars held April 15th in Mount Pleasant and May 6th in Livonia.

MLTA Board President Tony Viviani welcomed the members and thanked them for attending. The turnout for both Spring sessions was very good and from all over the state, including the Western Upper Peninsula. Tony mentioned more positives occurring in our Association: 2009 dues to membership was decreased 20% by the Board of Directors; nearly a dozen new members have joined our Association in 2009 due to the recruiting efforts of the Membership and Communications Committees; the MLTA Districts are still on track to be launched by the third quarter of 2009!

Next up, MLTA Lobbyist Tim Ward informed members of the latest happenings with his Lansing Report. Tim first introduced Cami Pendel, who will be assisting in the MLTA Lobbying efforts. Tim mentioned that the State had over a $300 million deficit after the first quarter of 2009 and was tracking at over a billion annual deficit. The State would be making significant cuts in all areas, as the next fiscal budget needs to be done in September for the new fiscal year in October. Tim also highlighted the various legislative matters impacting the Title Industry and mentioned there would be communication to the MLTA members on a regular basis of these bills, their status and the MLTA's position. EDITOR'S NOTE: Please see the four page MLTA Bill Tracker insert in this edition of the Title Examiner.

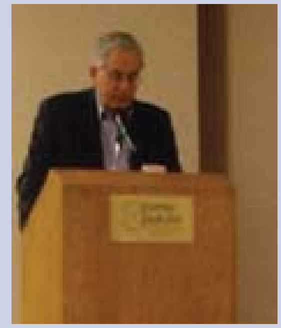
Our first educational topic of the day was led by Jerry McDonnell, a Railroad attorney of Durkin McDonnell Clifton & O'Donnell PC, discussing Railroads and Real Estate. Jerry also happens to be the brother of Tim McDonnell, a fellow MLTA Board Member. Railroad property can be divided into two classes: Operating Property – any property used by the railroad to conduct business as a common carrier by rail. Non-Operating Property – anything else. Jerry's presentation focused on Operating Property. The language of a Railroad Deed will disclose the nature of the railroads interest in the property. The general rule from Quinn vs. Pere Marquette Railway Case in 1931 stated if the deed conveys land, it is fee; if the deed conveys right of way only, it is an easement. Jerry also indicated that as long as the land is conveyed it doesn't matter if the deed says it's for railroad purposes only, cases have said that this is merely an expression for the purpose of conveyance but does not limit the grant. Michigan has a statute which requires a railroad to give notice of abandonment proceedings to MDOT and gives MDOT and DNR right of first refusal. Abandonment decisions and proceedings can be found at www.stb.dot.gov/

After a morning break, Sarah Sutton, of the Fidelity National Title Group, gave the members an update on the Professional Designation program sponsored by MLTA. There will be two designations: Certified Land Title Professional (CLTP) and Associated Land Title Professional (ALTP). These designations represent the highest level of achievement in the land title insurance profession. Sarah explained the points, procedures and requirements to achieve the designations which are based on: education, experience & performance, demonstrating proficient knowledge of land title insurance. Once achieved, CLTP and ALTP designees will receive 10% discounts on MLTA seminars for continuing education credits. Kudos to Sarah and the entire Continuing Education Team for putting together a great program for the betterment of our members and Michigan Land Title Association.

Bruce Redman, of the Redman Law Firm, followed to discuss Powers of Attorney. A power of attorney (POA) can be very broad or very specific and is generally used to allow an individual (grantor) to appoint someone to attend a closing and execute various documents on behalf of the grantor. When to use a Power of Attorney: Grantor not available; Mortgagor not available; Husband/Wife not available. When NOT to use: General POA that is not specific for a certain parcel of land; Corporate Officers or LLC Members; POA does not allow for the action desired (i.e. mortgaging the property). Bruce indicated that a Power of Attorney is valid until the death of the grantor or by revocation. A Durable power of attorney will remain in effect even upon the incapacity of the grantor, however a General power of attorney will not.

Gregg Nathanson, of Couzens, Lanskey, et al and Allan Dick, of Best Homes Title, wrapped up the morning sessions with the topic of Trusts and Certificates of Trust Existence and Authority. A Trust is a fiduciary relationship with respect to property that subjects the person who holds title to the property (the Trustee) to an equitable duty to deal with the benefit of another person (The

Beneficiary). In general, Trustees act free of judicial intervention and are required to administer their Trusts expeditiously for the benefit of beneficiaries. In 1991, Michigan enacted a law permitting the recording of a Certificate of Trust Existence and Authority, instead of recording the entire Trust Agreement. A Certificate of Trust should be drafted by the attorney who set up the trust; however, if the title company assists in the preparation it MUST be consistent with the specific Trust and NOT just use a general verbiage instrument. Gregg and Allan pointed out that NOT conforming to EVERY aspect of the Trust renders the Certificate a worthless document and shall be absolutely void.



In the afternoon, Michael Donovan, of LaMont Title, updated the MLTA members on Case Law Affecting Foreclosures. Michael reviewed dozens of cases, which can be requested by emailing him at mdonovan@lamonttitle.com. A case that he was most concerned about was the Davenport vs. HSBC Bank USA Case, which requires the foreclosing entity to be of recorded assignee, prior to commencement of foreclosure. The assignee, HSBC Bank, commenced foreclosure proceedings four days before the assignment to them was of public record. Court ruling was that the sheriff's deed filed in this case was void as HSBC still must meet the definition of "party" who may foreclose and they were not of record at the time of their filed commencement. Please make sure when examining and/or closing to look at the assignee recording date of record and the commencement of foreclosure date.

Allan Dick kept the foreclosure conversation going by discussing Mortgage Foreclosure Guarantees. The current guaranty evolved from what was historically a title search in commitment form, to our current product which was created in the late 1990's. This product, called the Michigan Mortgage Foreclosure Guarantee and Commitment for Title Insurance, provides more detailed information than its predecessors and assurance as to what would be insurable when resold. Schedule B-Requirements were expanded to included reminders of the statutory guidelines. In addition, Schedule B-Exceptions were divided into items senior to the mortgage to be foreclosed AND junior to the mortgage to be foreclosed. Allan stated that the new product, filed at a higher premium, compensates the underwriters for their exposure to liability.

Mike Reynolds, of First American Title, wrapped up the Spring Educational Sessions with a Topic on REO Sales and Potential Deal Killers or has Mike called it "Road to REO". Mike started out by saying that "We need to be more careful than we can imagine", when driving down this road handling these transactions. On the "Road to REO", we are preparing a commitment for the REO sale and may not have the prior loan policy or Foreclosure Guarantee. Request, if possible, as that would be helpful to work from in current REO setting. Mike concluded with the Rules of the Road to be aware of: REO Seller has foreclosed a mortgage; Redemption period expired or close; Toxic Asset; Title order names a Seller (probably not the same as Sheriff's Deed); REO Sellers never look back; REO Sellers expect to pay off no one – they have already lost; After closing, all bets are off.

From the MLTA President

Dear MLTA Member,

I am happy to report that after presentations by Justin Ailes of ALTA, MLTA member Attorney Pat Gallagher, myself and others; Burtan Leland, Chair of the Wayne County Operations Committee, decided that the proposal to create a Wayne County government run title company required more investigation and hence there will be more meetings and discussions.

The industry should not assume that this matter will go away anytime soon. While our presentations allowed us to raise pertinent questions about the proposal to the Wayne County Commissioners, we are far from out of the woods on this critical issue. The MLTA will continue to keep in contact with the Commissioners in an effort to educate them regarding all the products and services that member title agents provide to consumers and further discuss with them why a Wayne County government run title company is a bad idea.

The impact of a government run title company could be devastating to the future of our industry and livelihood in every county of this state! (Also see article on next page). We would like to thank all of you who took the time to attend this important hearing on Tuesday, June 9, 2009. We had a fair number of members in attendance; however, in the future we will need a standing room only crowd of Agency and Underwriter, owners and employees.

We need to demonstrate that the entire membership of the MLTA is opposed to a tax-payer funded title company if our objective is to prevent a government run title company from becoming a reality. Even though this proposal is not in your county, don't sit on the sidelines thinking that someone else will defend this issue. The MLTA takes this threat very seriously and to deal with this current threat, as well as issues that may arise in the future, we have created a Government Affairs Task Force. The purpose of the task force is to coordinate a response and at the same time, communicate with you, our valued members regarding your involvement.

For 2008-2009, the Task Force is comprised of the following individuals:

Anthony J. Viviani	anthony.viviani@gmail.com
Douglas McFarlane	dmcfarlane@corporatetitle.com
Tim McDonnell	tmcdonnell@oldrepublictitle.com
MaryLou Hartwell	vbcao@aol.com
Cathy Lamont	clamont@lamonttitle.com
Chris Kindsvatter	chris@kindsvatterassociates.com
Tim Ward	tim@mlcmi.com

If you have questions or comments regarding the Wayne County Registers proposal, please contact anyone on the task force. The MLTA needs your commitment of time and effort to defeat this government proposal.

Sincerely,

Anthony Viviani, MLTA President

Government-run Title Insurance

Attempts to increase competition, lower rates or boost public revenue by establishing government-run title insurers result in less protection for consumers, higher costs to consumers and add an extraordinary burden on already strained government budgets. Only one state – Iowa – has established a government-run title insurer. No other state has adopted this system. Proposals to create such public entities are based on well-intentioned ideas to increase government revenue that fail to factor in the extraordinary cost to establish such a program and a lack of understanding of title insurance.

Less protection for consumers

Iowa eliminated competition by banning private title insurance from being sold within the state. Moreover, Iowa's coverage provides substantially less protection than private title insurance policies which provide marketability protection and defense against forgeries, environmental liens, new taxes, encroachment, and damage from exercise of mineral rights.

Government-run title coverage is almost entirely rejected by the commercial real estate market, which requires private title insurance. Most residential lenders require a predictable, reliable title insurance product available in 49 other states.

Higher cost to consumers

Weaker protection forces consumers to find the coverage they need outside the state. It is common for out of state companies to provide additional coverage for Iowa property that is not available within the state's monopoly on title insurance putting additional costs on consumers.

Price comparisons between Iowa's coverage and title insurance in other states often do not account for the cost of an abstract and attorney's opinion which must first be provided before a very limited $110 Iowa coverage can be issued.

A congressional study found, "[I]t is not clear that this system would make the necessary changes to the current model or that it would save consumers money," and went on to state:

Furthermore, while premium rates for Iowa Title Guaranty might be lower, although not the lowest, than rates in many other states, the total costs that consumers pay for title searches, examinations, and clearing of any title problems might not differ substantially. Iowa's total costs were about the same as those in Maryland, Nebraska, South Dakota, Washington State, and West Virginia, where private title underwriters are free to do business.

Iowa's system requires substantially more time to close a transaction which discourages lenders from participating in the market and forces borrowers to obtain longer rate locks which cost borrowers over $17.5 million more each year in increased mortgage interest.

Additional burden on government budgets

Any revenue increase to the public would be offset by considerable costs. Governments would be required to invest substantial upfront costs to hire experienced and trained staff to conduct title searches, resolve title issues and underwrite title risks; establish operations and systems; and hold money that could be used for other budget priorities to meet the capital requirements of an extensive regulatory framework which requires substantial capital and reserve holdings, statutory premium reserves and investment restrictions to protect insurer solvency and prevent consumer loss.

Public labor pools are less able to adjust to the changing demand of the real estate market cycle, leading to higher costs. Governments would face increased liability for risks associated with title insurance's long loss tail which is covered only by a one-time premium and no additional revenue because there is no policy renewal.

State premium tax revenue collected from title insurers would drop as would income tax receipts paid by employees of the title industry. Local authorities would lose the benefits of the $225 million per year incurred by title agents to correct errors in the public records system that would otherwise go uncorrected as well as their portion of the $170 million per year the industry spends to purchase copies of public documents.

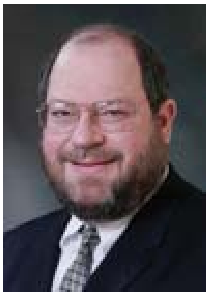
Additional unintended consequences would destabilize real estate transactions as title insurers and agents fill a key role as an independent third party to participants in real estate transactions.

Dear HUD: It's Eleven O'clock.

Do You Know Where the Kickbacks Are?

by Howard Lax, Attorney/Partner in firm of Lipson, Neilson, Cole, Seltzer & Garin, P.C.

This is part 2 of this topic, part 1 can be found in the Spring 2009 issue of the Title Examiner.



Attorney Howard Lax continues the "Unauthorized, Unofficial, Non-Staff RESPA Commentary that Congress never got around to authorizing HUD to draft." Here, Mr. Lax considers the plight of title agents and title companies frozen out of the REO sale market.

Aiding and Abetting a Crime

RESPA provides that a crime is committed when something of value is exchanged for a referral. Illegal kickbacks usually involve only two parties (the seller and its' title agency). However, the seller's real estate broker also plays a role that is instrumental in the transaction by providing the purchase agreement or addendum that permits the seller to dictate that the buyer will use the seller's selected title agency. Aiding and abetting a crime is illegal under Federal law. 18 USC 2 states:

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its' commission, is punishable as a principal.
(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

Hence, anyone who furthers a violation of Section 8 may be subject to criminal sanctions. Since the typical transaction requires the cooperation of a number of parties (real estate brokers, builders, notaries, title agents, etc.) there are a significant number or targets for law enforcement authorities to pursue.

Federal law prohibiting aiding and abetting a criminal enterprise is used by federal prosecutors to stop illegal business activities by attacking vendors that are essential for these enterprises to operate. A good example is the action taken last year by federal prosecutors against online services that sold advertising space to offshore gambling enterprises. Microsoft, Google and Yahoo settled a claim that they aided and abetted illegal online gambling by posting advertising for the online casinos. The settlement will cost these online publishing services a total of $31.5 million. Federal law enforcement authorities could use this law to attack real estate brokers, builders, and others that did not pay or receive a kickback, in order to stop transactions that involve illegal kickbacks paid to other parties.

Civil Liability to Competitors for RESPA Violations

RESPA does not directly protect your title agency when illegal kickbacks interfere with your ability to compete on a level playing field. However, state causes of action exist to recover losses caused by RESPA violations. In Stewart Title Guaranty Company v. American Abstract & Title Company, 363 Ark. 530, 215 S.W.3d 596 (2005), the Arkansas Supreme Court affirmed a jury verdict of $500,000 in compensatory damages and $500,000 in punitive damages when American Abstract & Title Company's illegal kickbacks induced over a million dollars in business to move from Stewart Title Guaranty Company to American Abstract. The Arkansas Supreme Court held that a contractual relationship was not necessary to establish illegal interference with business relationships that would support an award of compensatory and punitive damages.

In Stewart Title Guaranty Company v. American Abstract & Title Company, the illegal kickbacks were accomplished through sham affiliated business arrangements. However, such an arrangement is not necessary to prove illegal interference through RESPA violations. The basic elements which establish prima facie tortuous interference with a business relationship are the existence of a valid business relation (not necessarily evidenced by an enforceable contract) or expectancy; knowledge of the relationship or expectancy on the part of the interferer; an intentional interference using illegal, unethical or fraudulent conduct to induce or cause a breach or termination of the relationship or expectancy; and resultant damage to the party whose relationship or expectancy has been disrupted. You stated that sellers condition the sale of property on the use of a selected title agency. Your title agency had a valid business relationship with various property buyers. These sellers required your customers to abandon their relationship with your title agency in order to purchase properties. The sellers knew or had reason to believe that this practice would result in the loss of business by competing title agencies. Your title agency lost money when it purchased title information from title plants, or hired title examiners to research real property records, before producing the cancelled title commitments. Testimony of your customers and copies of their purchase agreements will prove the tortuous interference.

Potential Liability under the Insurance Code

RESPA does not apply to all transactions. For example, cash sales, sales to legal entities, and sales to investors buying rental homes are not protected by RESPA. However, your state's insurance code prohibits conditioning the sale of property on the purchase of insurance from a particular title agency or title company. It is illegal to refuse to sell property as a means to force the buyer to purchase insurance through a particular agent. MCL 500.1207(5) states:

A person may not sell or attempt to sell insurance by means of intimidation or threats, whether express or implied. Except as provided

(continued on page 13)

continued from page 12

in section 2077(4) a person may not induce the purchase of insurance through a particular agent or from a particular insurer by means of a promise to sell goods, to lend money, to provide services, or by a threat to refuse to sell goods, to refuse to lend money, or to refuse to provide services. State law prohibitions against tying the sale of property to the purchase of insurance from a particular agent or company are fairly common. Similar restrictions are found, for example, in Ala. Code 27-12-15; Miss. Code 83-5-35(h); Wisc. Stat. Sections 134.11 and 628.34(5); and Texas Insurance Code 556.051 et. seq. If the attorneys for Hopkins (see the decision cited above) reviewed South Carolina's Insurance Code, they would have found SC Code Section 38-57-110(1). Coercion of business by sellers or lenders prohibited:

"(1) No lender, vendor, or person engaged in selling real or personal property or the financing thereof or the lending of money on the security thereof, and no trustee, agent, officer, or other employee of any such person, may require, as a condition precedent, concurrent, or subsequent to the sale or financing the purchase of such property or to lending money upon the security of a mortgage thereon or as a condition precedent, concurrent, or subsequent for the renewal or extension of the loan or mortgage, that the purchaser or borrower negotiate a policy of insurance or renewal thereof covering the property through a particular insurer or agent."

Sellers and real estate agents who condition the sale of property on the purchase of title insurance from a particular title agent or company, whether in a commercial transaction or in a consumer transaction, subject themselves to substantial fines.

Where to Go From Here

There are several avenues available to stop sellers from freezing your title agency out of the REO sale market. First, try to negotiate a resolution of the issues raised above by reaching an agreement with the seller that requires the seller to allow property buyers to choose a title agency to provide title insurance and escrow (closing) services. Direct negotiations are the least costly remedy for both parties and, potentially, the quickest method of resolving these issues.

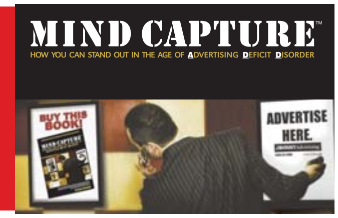
Second, you may file a complaint with the state Insurance Commissioner and with the US Department of Housing and Urban Development (HUD) (a) asking the Insurance Commissioner and HUD to prohibit the practices complained of, (b) seeking restitution for buyers as authorized under RESPA, and (c) asking the Insurance Commissioner to impose fines or terminate the offending title agency's license. This remedy will require substantial time, and it will not result in the recovery of any of your losses due to cancelled title insurance orders.

Third, you may consult an attorney about initiating a lawsuit for interference with your business relationships due to the seller's anti-competitive practices. While this remedy would, potentially, provide the greatest recovery for your losses, this remedy would also be the most costly for you to pursue. This lawsuit would also be very costly to defend.

Whatever you do, remember that your objective should be to level the playing field for everyone. As Mr. Spock said in Star Trek: The Wrath of Khan, "The needs of the many outweigh the needs of the few."

MIND CAPTURE MARKETING

by Tony Rubleski - President, Mind Capture Group



"If the inner world is sick, the outer world will eventually catch up."

Life is not scripted. While we may wish everyday was exciting and fun, that's not how life works. We all have our off days. At the end of the week, I'm grateful when my good days outnumber the challenging days. In the digital age, I'm amused at how spoiled most of us have become with the variety of creature comforts, options, and answers to questions that are often available with a quick Google or Amazon online search. We are a nation that's addicted to digital access and all the gadgets that make real-time communication as common as water from a drinking fountain.

With all the information available in the online world and the speed at which we expect it, I often believe that far too many people expect the same quick fix with real or complex challenges they're facing and mentally trying to solve. I'd like to share with you a few ways that I've discovered and learned from others to recharge my mind, get refocused, and hit more of my goals. Here are five powerful mental exercises you can use to reflect, renew and recharge yourself in the age of speed, digital overload and distraction.

#1. Schedule 'off-grid' time each day for yourself. The death of patience in a world of massive options, Internet speed, and real-time communication is a huge mental challenge for most of us. To draw a parallel from marketing consulting, I often see existing business owners wanting a 10-minute, sound-bite, solution to a problem that took years to create. I advise them that it's not going to be a 'quick-fix' and it will require a plan and then executing on it. The challenge is often slowing them down enough to consider options and the pros and cons associated with each.

One of my favorite things to do that I strongly recommend you try is to have a block of time each day where you go 'off grid'. This could be the first part of the day where you shut off your email, cell phone, turn off the radio or TV and simply focus on yourself. A few ideas include exercise, reading a great book, prayer, meditation, reviewing your goals or writing in a journal. This will be challenging at first because your inner self talk will often tell you things such as, "Hey, we've got too much to get done today. We don't have time. we'll fall behind." Once you block out these thoughts and really buckle down you'll be amazed at how enjoyable it is to give yourself the gift of 'off grid' time each day.

#2. Remember where you came from and where you're going. Humans have the wonderful ability to self reflect and I'm amazed at how we forget to use it in the proper balance. I meet lots of interesting people on the road and when I'm speaking at conferences. I can usually pick out the speaker's and author's that believe their fan mail and inflated ego versus those who are genuine, real and haven't forgotten where they came from. It's stunning to me how many of them discount any constructive help and forget who's helped them along the way. Success is not a solo journey. Hollywood and TV would have you think this way, but behind every successful person are many people who believed in them, even when they at times didn't believe in themself.

One of my favorite sayings that reminds me to not get too big for my britches is "You'll meet the same people going up the ladder as you will coming back down it." This was said to me many years ago from a mentor in the speaking business and it's true. While I hope to never go down the ladder too far, I'm also realistic and pragmatic enough to know that there are many things I can do my best to control, but their will also be situations and lessons, good and bad, which will surprise me. This is how life works for everyone.

With that said, it's important to not believe all your press clippings. Who you are today is not the same person as yesterday, a month ago, or a year ago. Pull from what you've learned from the past and do your best to stay grounded in each day with a solid plan for the future to guide you. The most interesting thing I often observe with many people is that they either relive their past 'glory days' or dream too much about the future when their day-to-day efforts are lacking attention and hustle.

#3. Be flexible and remember that when you make a mistake, no one will likely remember it a year from now except you. This is a tough strategy to follow. It's far too easy for people to relive their negative experiences over and over in their head when they know deep down they should let go of it and move on with their life. We all make mistakes. I make tons of them, but I do my best to learn the lesson it's trying to teach, so I can quickly get back in the game of the present moment. Sadly, there are millions of people walking around each day on the planet letting past experiences hold them mentally hostage when they could and should be free.

To give you some perspective, think about the past challenges you've faced and the success stories or positive new changes that have been a result of going through them. I call this flipping your frustration into fascination and it's a wonderful exercise to help you maintain a flexible and healthy perspective when confronting life's challenges.

#4. Always give the audience your very best regardless of what they think about you. This may sound arrogant but let me quickly explain. We can't control others. No matter how much people wish we could, it's simply impossible. This is why it's essential that you have strong faith, goals and be persistent when chasing your goals and dreams.

You'll be amazed at how many people will not see eye-to-eye or roll out the welcome wagon for you. This shouldn't bring you down, but rather serve to inspire and fire you up even more. I've been told and still hear the word "no" each and every day. Some of the deals I don't win make me shake my head in disbelief, while others I win surprise me sometimes even more. In life and in business no one wins all the time and I fully expect that what I offer isn't a fit for everyone. I never take rejection personally and neither should you.

For example, I learned many years ago that when I'm hired to speak before a group or association, as soon as I open my mouth from the stage and utter my first word, I immediately have a few people that disengage, don't like my style and stop listening. It used to bother me greatly, but I had to stay focused and learn to get over it quickly. I can't worry about these people, but on the other hand I can stay focused on bringing the best message possible to those who are really listening to what I'm saying. I recommend you focus on your fans and followers, not your critics. Why embolden and permit the critic to slow you down?

#5. Laugh at yourself. I was at a local Toastmaster's Christmas party a few years back where I witnessed a wise and amazing woman, by the name of Judy Johnson end her speech with the wonderful quote, "Laughter is a momentary holiday." It was such sage advice, that I wrote it down and make it a daily habit to take a few holiday's each and every day. It troubles me how serious people are these days.

Life moves quickly and with each passing birthday, school year with our kids and wedding anniversary. We know the world has challenges. It always has and always will. To be able to laugh at yourself is a great way to take what Judy described as "a momentary holiday" when you're going through the ups and downs of each passing hour, day and year.

Right now in a time of great economic change many well intentioned people are crushing their talents, drive, ideas and energy by acting as if everything they do is life or death. Sorry to rain on your parade, but very few of us are working each day to cure cancer or save the planet like Superman. Slow down, lighten up a little and laugh each day. You'll not only feel better, but so will others around you. Plus it doesn't cost you anything. That observation alone should put a smile on many people's faces.

BECKWITH FINANCIAL GROUP

What could be Better?

Okay, sure – winning the lottery would probably be better. So would not having to deal with insurance at all! But since you didn't pick the winning numbers in last week's drawing, you're likely to need to keep running that company. And that means dealing with insurance – for your business, for your employees, for your future and your health. Not to mention your peace of mind.

The good news is, insurance doesn't have to be painful! And we're putting our money where our mouth is by offering you a FREE insurance audit to prove it. It's designed to help you see where your coverages may be out of date (yes, we'd rather be golfing, too) and where your business may be vulnerable. It's also designed to show you where your coverages are strong ... possibly too strong! ... as well as where it could be improved (is it lunch time yet?).

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But seriously ...

We take your business' insurance needs as seriously as you do. Which is why the Michigan Land Title Association picked us as the one insurance company to earn your board's endorsement (our sense of humor had nothing to do with it). And because your business is a member of the association, you can enjoy exclusive benefits offered only to MLTA members. Including custom coverages, favorable pricing, and priority service when you call.

Plus, because we at Beckwith Financial Group have long-term relationships with a wide variety of providers, we can shop your coverages for you – so you always get the best deal. In fact, we've been helping businesses like yours save money on custom coverages for over 25 years. And have earned the reputation of trusted advisors throughout the state.

For more information – and to participate in your free, no-obligation insurance audit, log on to the Michigan Land Title Association's web site and follow the quick link to receive information via e-mail. Or log on to directly to ***www.beckwithgroup.com*** and click the "request a quote" button for the type of insurance you're interested in. Or speak directly to one of our advisors by calling **1-800-237-5504.** We're ready to help you take the worry out of your insurance world – so you can get back to the *real* world. Now wouldn't *that* make you happy?

MICHIGAN LAND TITLE ASSOCIATION
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fleet insurance • umbrella liability

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group dental • health savings accounts
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self-insured health programs
health reimbursement arrangements

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Hit One Out for the PAC

Once again, this year's Summer MLTA-PAC fundraiser should be a great time for participants and viewers alike. We will be "Hitting One Out for the PAC" in a competitive, but fun, virtual baseball tournament. Presently, we have 4 teams in Spring Training getting ready for the tournament! The fundraiser will be similar to years past where members donating to the MLTA-PAC will vote with their dollars for the team that they like the best. The funds contributed toward each team will determine where teams are seeded. Then we will have a virtual home run derby to determine the winners.

Upon conclusion of the event, we will have a live auction to find new homes for not one, but two, complete Nintendo Wii game systems with an added Sports Pack. So plan on bringing your checkbook for the big event to bid early and often!

The Teams:

Slammers	***Beacon Bombers***	***Beach Bums***	***Metes and Bombs***
Diana Parker, Mgr.	Connie Curio, Mgr.	Lisa Cicinelli, Mgr.	Darlene Wilsey, Mgr
Kim O'Connor	Bob Wuerfel	Phil Savich	Tom Lico
Wes Parkinson	Jeff Beyer	Cy Tope	Dan Lievois
Debbie Wiley	Tony Viviani	Michael Donovan	John Bommarito - reserve
Brent Warner - reserve			

Watch your e-mail as the official team announcements and bid form will be coming soon! Please contact Tim McDonnell at 810.599.4878 or tmcdonnell@oldrepublictitle.com if you have any questions or would like to assist with the fundraiser. Thank you in advance for your generous support of the MLTA-PAC!

The MLTA has the privilege of welcoming

Darryl Turner

as our Guest Speaker at our
MLTA Summer Convention

Amway Grand Plaza, Grand Rapids
Monday, July 20th

Darryl is a leading expert in assisting title companies achieve and exceed their business goals. Known for his integrity in the sales process.

2009 MLTA Summer Convention AGENDA

Register online at www.MiLTA.org

SUNDAY, JULY 19, 2009

3:00 - 5:30 pm	Registration
4:00	Hotel Check In
6:30 - 7:30 pm	Icebreaker Baseball Reception *Baseball is America's past time! Show your team spirit by wearing your favorite baseball team's colors! You'll want to look the part when you play in the PAC fundraiser... Wii Home Run Derby!*
7:30 - 10:00 pm	Welcome Dinner *A fun relaxing dinner with your fellow MLTA Associates.*

MONDAY, JULY 20, 2009

7:30 - 9:00 am	KEGS Breakfast (Past Presidents Only)
8:00 - 9:00 am	Continental Breakfast
9:00 - 10:30 am	Spouse/Guest Breakfast
9:00 - 9:15 am	Opening Business Session *President Anthony Viviani*
9:15 - 9:30 am	Legislative Report *Tim Ward, Michigan Legislative Consultants*
9:30 - 11:30 am	Featured Speaker: Darryl Turner

MONDAY, JULY 20, 2009 (CONTINUED)

1:00 - 5:00 pm	Annual MLTA Habitat for Humanity Golf Scramble - *The Mines Golf Club* **Advanced registration is required*
1:30 - 5:30 pm	Habitat for Humanity House Build **Advanced registration is required*
6:30 - 7:30 pm	President's Reception
7:30 - 9:30 pm	Annual Banquet
9:30 pm	MLTA Pub Crawl - *Downtown Bars*

TUESDAY, JULY 21, 2009

8:00 - 9:00 am	MLTA Committee Breakfast *All convention attendees are welcome*
9:00 - 9:15 am	Closing Business Session *President Doug McFarlane*
9:15 - 10:15 am	Dave Keilitz, *American Baseball Coaches Association Executive Director*
10:15 - 11:15 am	Mike Pryor, *ALTA President*
11:15 am	Golf Awards and Adjournment
12:00 pm	Hotel Checkout

Commercial Lending: A Generation To Recover?

by Dan Meisler, Ann Arbor

Conduit lending, non-recourse loans, life insurance companies, major banks - several structures and sources of credit once readily available for commercial real estate have dried up almost completely. How long it will take for the capital markets to recover is the question of the day, but real estate leaders are also acknowledging that what emerges will look very different from the activities of the past 10 years or so.

That leaves the commercial real estate community in Michigan - where the weakening national economic dynamics are compounded by the auto industry's struggles - bracing for a new, undefined way of doing business. Albert Berriz, CEO of McKinley, the Ann Arbor based real estate company with commercial and residential holdings in 15 states in the Midwest and Southeast, said it could take a generation or more for commercial lending to resemble what it once did. "Several decades," was Berriz's response when asked when a capital market recovery would happen. "Because the number of people who had bad experiences won't forget those quickly," he said. "So the way that we've been borrowing money in the last 10 years in commercial real estate will profoundly change in the decades to come."

Berriz singled out non-recourse loans as a structure that is not coming back, and said that the level of leverage will also shrink. "There will be less deals. Values will be less. But you're going to go back to the basics," he said. Overcapacity in office and retail will also work to constrain future activity, said Berriz. That idea was echoed by Aaron Klein, owner of Commercial Mortgage Capital in Ann Arbor. "Capacity definitely is enormous," he said. "We're going to have a contraction in consumer spending, and that's going to stay with us for a while. We're definitely overbuilt. "Klein also said life insurance companies are less willing to finance deals than in the past."Life companies are experiencing the same challenges with their financing that everyone else is," he said.

The restricted capital markets and the financing environment that might emerge were the subject of a panel discussion at the Synergy commercial real estate conference in Lansing in April, where participants agreed that a new model is here. Panelist Patrick Fehring, president and CEO of Level One Bank in Farmington Hills, held out hope that the nation's larger banks will come back to the commercial lending market if their earnings hold up over the next two or three quarters. He said once banks are able to turn their attention from protecting their earnings to expanding them, "you'll see banks enter the market more aggressively. "He said a key indicator will be simply the core earnings of the big banks over the next few quarters. "We're just at the bottom end of a cycle," Fehring said. "It'll take five or six years to be close to where we were before."

Panelist Scott McKelvey, executive vice president at Monroe Bank & Trust, said previous lending practices, including the relatively high loan-to-value ratios of past years, will not return any time soon."Going forward, banks are not going to go back to the old relaxed ways of lending," he said. Relationships rather than transactions will drive commercial lending going forward, added Jeffrey Schuman senior vice president and senior client manager at Bank of America. "Our focus today is in allocating the limited amount of real estate capital we have," he said at Synergy. "The first call goes to existing, established clients ... if we have a customer with a substantial deposit relationship, we'll do things for that client we wouldn't do for others."

Panel moderator Dennis Bernard of Bernard Financial Group in Southfield, also brought up the potentially sticky issue of how lenders will treat borrowers in the future who are forced to go through loan workouts in the current environment. "It's a tough question, no doubt," Fehring said. "The key is how the workout goes. The style of the workout will impact the borrower in future years. "If customers are honest and truthful with us, we'll try to work with them again down the line," said McKelvey. In the meantime, multifamily transactions through government agencies and smaller deals are the easiest to complete, Klein said. "All of the deals getting done are very moderately leveraged, with substantial cash equity in the deal, with conservative amortization schedules and generally a full recourse guarantee from the owners," he said. "We are still funding deals, but lenders have their pick and are picking the ones that have the lowest roll-over risk in terms of tenants, the strongest sponsorship and the best submarkets."

In Michigan, that latter point means Ann Arbor and Grand Rapids, Klein said, which have relatively diverse economic bases.

Deals of less than $10 million are easier to fund also, he said, because it allows for lenders to diversify their risk in many smaller transactions. "Multi-family housing is the primary product that's financeable because we still have government agencies that are active," he added.

For the other commercial deals getting done, he has a large group of out-of-state lenders, including individuals, pensions funds, and life insurance agencies, as prospective lenders. "It's a very capital constrained environment," Klein said. "The available capital with respect to commercial real estate is a fraction of what it was 18 months ago. "Berriz said the days of seemingly endless increases in commercial real estate values, which enabled some of the poor lending practices, but are probably gone for a long, long time. "We've gone through a period of hyperinflation in values and it was just unconscionable," he said.

MICHIGAN ASSOCIATION OF REALTORS®

Residential Sales Statistics
April 2009

Local Association	2009 Apr sales	**2009 YTD Apr # Sales**	2008 YTD Apr # Sales	09-08 YTD % Change	**2009 YTD Apr Ave Price**	2008 YTD Apr Ave Price	09-08 YTD % Change
Alpena, Alcona, Presque Isle Board of REALTORS®	25	68	87	-21.84%	$85,167	$90,227	-5.61%
Ann Arbor Area Board of REALTORS®	260	756	763	-0.92%	$151,783	$217,278	-30.14%
Antrim Charlevoix Kalkaska Association of REALTORS®	45	137	120	14.17%	$123,509	$138,055	-10.54%
Battle Creek Area Association of REALTORS®	117	355	308	15.26%	$76,652	$94,126	-18.56%
Bay County REALTOR® Association	114	397	359	10.58%	$56,328	$78,246	-28.01%
Branch County Association of REALTORS®	34	129	124	4.03%	$72,259	$86,688	-16.65%
Central Michigan Association of REALTORS®	88	246	249	-1.20%	$69,494	$85,602	-18.82%
Clare-Gladwin Board of REALTORS®	49	168	123	36.59%	$58,075	$61,235	-5.16%
Dearborn Board of REALTORS®	251	811	611	32.73%	$70,224	$106,255	-33.91%
Detroit Board of REALTORS®	1082	4,139	3,360	23.18%	$11,533	$20,514	-43.78%
Down River Association of REALTORS®	238	700	981	-28.64%	$62,506	$94,240	-33.67%
Eastern Thumb Association of REALTORS®	142	473	376	25.80%	$76,293	$110,773	-31.13%
Eastern U.P. Board of REALTORS®	25	71	80	-11.25%	$73,350	$99,429	-26.23%
Emmet Association of REALTORS®	32	104	150	-30.67%	$155,196	$340,311	-54.40%
Flint Area Association of REALTORS®	640	1,989	1,640	21.28%	$66,407	$90,290	-26.45%
Grand Rapids Association of REALTORS®	1021	3,472	3,386	2.54%	$97,212	$126,118	-22.92%
Greater Kalamazoo Association of REALTORS®	267	848	1,036	-18.15%	$119,129	$138,102	-13.74%
Greater Lansing Association of REALTORS®	444	1,478	1,351	9.40%	$83,797	$125,385	-33.17%
Hillsdale County Board of REALTORS®	37	116	139	-16.55%	$60,030	$81,175	-26.05%
Jackson Area Association of REALTORS®	200	606	525	15.43%	$61,169	$85,529	-28.48%
Lapeer & Upper Thumb Association of REALTORS®	62	190	148	28.38%	$68,125	$136,709	-50.17%
Lenawee County Association of REALTORS®	150	422	329	28.27%	$76,733	$101,040	-24.06%
Livingston County Association of REALTORS®	208	641	549	16.76%	$143,833	$195,460	-26.41%
Oakland	611	1,958	1,551	26.24%	$105,650	$158,709	-33.43%
Macomb	650	2,206	1,821	21.14%	$90,306	$133,513	-32.36%
Mason-Oceana-Manistee Board of REALTORS®	46	181	240	-24.58%	$90,376	$116,907	-22.69%
Midland Board of REALTORS®	58	164	207	-20.77%	$117,349	$147,512	-20.45%
Monroe County Association of REALTORS®	91	285	327	-12.84%	$103,789	$140,933	-26.36%
North Oakland County Board of REALTORS®	388	1,271	1,039	22.33%	$106,126	$158,064	-32.86%
Northeastern Michigan Board of REALTORS®	33	105	120	-12.50%	$67,247	$86,468	-22.23%
Paul Bunyan Board of REALTORS®	97	332	329	0.91%	$62,129	$78,341	-20.69%
Saginaw Board of REALTORS®	170	550	530	3.77%	$58,886	$85,142	-30.84%
Shiawassee Regional Board of REALTORS®	52	183	179	2.23%	$66,333	$80,857	-17.96%
Southwestern Michigan Association of REALTORS®	196	583	919	-36.56%	$113,568	$145,036	-21.70%
St. Joseph County Association of REALTORS®	56	190	174	9.20%	$71,624	$115,087	-37.77%
Traverse Area Association of REALTORS®	129	460	505	-8.91%	$155,497	$192,068	-19.04%
Upper Peninsula Association of REALTORS® *	146	391	449	-12.92%	$86,602	$90,962	-4.79%
Water Wonderland Board of REALTORS®	107	295	266	10.90%	$74,972	$110,343	-32.06%
West Central Association of REALTORS®	89	287	288	-0.35%	$64,403	$88,819	-27.49%
West Michigan Lakeshore Association of REALTORS®	336	1,042	1,165	-10.56%	$100,281	$140,455	-28.60%
Western Wayne Oakland County Association of REALTORS®	907	2,994	2,385	25.53%	$114,404	$167,701	-31.78%
TOTALS	9691	31,793	29,288	8.55%	$87,033	$120,481	-27.76%

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

MLTA Upcoming Events

2009

July 19-21 — Summer Convention
Amway Grand Plaza Hotel,
Grand Rapids

October 20-21 — Fall Education Seminar
**Comfort Inn - New Location*
Mt. Pleasant

ALTA Events

October 21-24 — 2009 Annual Convention
The Breakers
Palm Beach, Florida

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