



THE TITLE EXAMINER

A PUBLICATION OF THE MICHIGAN LAND TITLE ASSOCIATION

SPRING 2008

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Spring Education Seminar Reminder:

April 15th & 16th
Soaring Eagle Inn,
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May 7th
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see page 19 for more details

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Title Insurance May Not Be Enough

by Melissa N. Collar, Partner, Warner Norcross & Judd LLP

A few weeks ago, a commercial real estate broker called and asked me to assist with a client who had a potential legal problem over title to a piece of property. "He has title insurance, so the client thinks it probably doesn't matter," the distraught broker confided.

One of the most common — and frequent — misconceptions that I encounter in my practice of real estate law is over the power of title insurance. While it is a crucial part of any commercial real estate transaction, title insurance does not absolve the buyer from conducting the appropriate due diligence. It also may not provide an adequate financial remedy if problems over title do surface.

Buying property is arguably one of the biggest investments a business will make. Yet I am always amazed when people don't take the necessary steps to ensure what they are buying is what they *think* they are buying. Think of it this way: Would you ever hire an employee based solely on a resume, or would you want to check references, educational background, work history and criminal record first?




It's exactly the same thing when it comes to a title. At a minimum, the buyer needs to do three things before buying any piece of commercial property:

- **Review the title commitment — carefully.** Sure, this is an obvious place to start, but don't just file the commitment away in your important papers. Take the time to carefully read the title commitment and all of the documents referenced in the commitment (which can be a few pages or a few hundred pages) *before* you buy the property. A title commitment will assure that the seller does own the property and spells out any exceptions to the seller's interest in the property, such as mineral rights, a third party's claim to a portion of the property, utility easements or tax liens. These types of issues are easier and significantly less expensive to clean up with the seller before the seller has your money, rather than after.

- **Get a survey.** When I was a young associate, one of my mentors would tell anyone who would listen there are three rules when it comes to real estate: "Get a survey. Get a survey. Get a survey!" A survey will visually translate the title to the physical property, again ensuring that what is spelled out in the title is consistent with the buyer's expectations. Sellers are famous for saying that the property extends to the oak tree in the corner. Yet when a surveyor comes out to survey the property, the physical dimensions can be quite different. The courts, of course, will rely on how the title and survey describe the property, not what the seller told the buyer.

- **Get title insurance.** Contrary to popular belief, title insurance is not property insurance. It is not a 100-percent, money-back guarantee. It only ensures the condition of the title as *reported* in the title commitment. If a buyer fails to read and understand the title commitment, he can't necessarily file a claim for title insurance to secure a refund. Ignorance of the law, as they say, is no excuse. This means that if the commitment disclosed that there was a tax lien on the property, the title policy does not protect the buyer from losing title to the property when the tax lien is foreclosed. If, instead, the title policy failed to identify the tax lien, a refund is possible. However, the buyer must recognize that even then he will only be reimbursed up to the policy amount, and there will be no increases in the policy amount for appreciation, inflation, or for any improvements that have been made since the property was purchased.

Title insurance plays a significant role in any commercial real estate transaction. Yet it's not enough to fall back on title insurance. It's important for potential buyers to review the title closely, perform a survey and purchase title insurance before completing the transaction. As in hiring a new employee, a little due diligence in advance of a deal can save a tremendous amount of headaches — and expenses — later. 

Melissa N. Collar can be
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by Justin Metzgar,
Communication
Resources

Improving Phone Communications Skills


Communication over the phone is challenging, since only your voice is used. Research suggests that, in a conversation, non-verbal clues are 55% effective, tone of voice is 38% effective, and words are 7% effective. In other words, what you say is not nearly as important as how you say it, but on the phone, you don't have access to those non-verbal cues.

With only your voice to communicate, factors such as voice quality, energy, rhythm and pacing, and tone become vital. A dull message delivered with energy and enthusiasm will be better received than an excellent message delivered by someone who sounds uninterested in the topic, because it won't engage its intended audience.

A classic example of great verbal communication is Dr. Martin Luther King's "I Have a Dream" speech. Obviously, most business calls will not be delivered so dramatically, but it's worth noting what made that speech so memorable. It was filled with powerful visual images that provoked strong emotions, delivered with passion by someone who connected with the audiences' hopes. Likewise, the more you can help your customer envision concrete benefits from the service you provide, the better the chances of winning that customer.

Listening skills are equally important in learning to communicate well. Real communication occurs when we listen with understanding – seeing the idea from the other person's point of view, sensing how it feels to them, achieving their frame of reference. By practicing listening skills, you will also develop better speaking skills. If you listen to where people misinterpret what you say, you will find ways to make it clearer.

Improving your listening skills can be as easy as using "perception checking" questions. For example, when a customer on the other end of a phone call stops talking, repeat back to them what you thought you heard, starting with phrases like "I want to be sure I understand what you are saying. It sounds like..." or "What I heard was... was that accurate?"

Practice these skills, and you will see an improvement in the quality and outcome of your calls. 

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



MLTA Member Spotlight

Catharine LaMont (Cathy)

President

LaMont Title Corporation
Detroit, Wayne County and Troy, Oakland County

MLTA Involvement: Member, Board of Directors; Co-chair Professional Designation Committee; Board Liaison Abstractor and Agency Committee; Member, Legislative Committee; Member, Legal Issues



Personal Interests: Horseback riding, reading, wine tasting

Something About You: My husband, Michael, and I work together at LaMont Title and we love it! We consider ourselves very fortunate to have one of the best teams in the business and we have an especially good time when our two daughters, Caitlin and Lindsay, get to work with us. Michael and I are only recently empty nesters and we are enjoying that too! I am also very active in a charity called Alternatives For Girls which serves girls and young women who are at risk of harm in southwest Detroit. It provides a shelter and opportunities for homeless girls and has been very successful in providing them with positive alternatives to the dangerous cycle of poverty. I'm also very interested in informing the general public about the personal benefits of title insurance and the powerful contribution to our economy that our industry provides. I'm hopeful that we in the MLTA will be able to change many of the misconceptions that are prevalent about what we do.

William L. Robinson, Jr.

Central Michigan Region Manager

First American Title Insurance Company
Ingham County - Okemos Office

MLTA Involvement: I've been a past or present member of the Audit; Communications; Grievance; Legislative Steering; and PAC Committees. I've chaired the Audit; Grievance and Legislative Steering Committees in the past. I was first elected to the Board in 1994 and served as Association President in 1999-2000. I have been honored to receive both the Bob Jay and Mary Feindt Awards. I currently sit on the Legislative Steering Committee.



Personal Interests: Other than running a business and raising 2 teenagers! I like to play the piano (badly); read; and walk/hike/bike etc. I'm also an assistant Scoutmaster in the Boy Scouts of America and enjoy camp outs with my son.

Something About You: Over the years, many of our members have learned that I'm a closet Thespian. Allan Dick and I have collaborated on many plays and skits - not to mention PAC fund-raisers. Right now, Allan and I are appearing in an amateur stage production of an episode of the famous TV show, the Addams Family. And you're right - I'm playing the part of Uncle Fester!

Diana M. Parker, a.k.a. "Di"

Michigan Agency Account Manager

First American Title

I currently work out of our Ada office and have a home office as well.

MLTA Involvement: Over the course of my many years of membership I have served on a variety of committees including, but not limited to: Membership, Convention and Public Relations



Personal Interests: My number one personal interest is my grandchildren. They are the apple of grandma's eye and occupy a majority of my free time. I also enjoy a variety of sports activities and an avid Spartan fan.

Something About You: I have been with First American Title for 28 years. I began my career in the title business as a co-op student and advanced to examining, managing a direct office operation and most recently joining the agency division. I consider having the opportunity to work with a great group of agents as my most gratifying experience. I have two sons; Troy and Brent and enjoy being involved in the activities of 8 (5 boys and 3 girls) active grandchildren. In 2008 we will have two additional grandchildren to brag about. In the immortal words of Erma Bombeck; "If I would have known grandchildren were this much fun I would have had them first." I have lived in DeWitt for the past 10 years and Rod and I recently moved into a new home that we are in the process of furnishing.

Timothy R. Ward

President

Michigan Legislative Consultants
Lansing



MLTA Involvement: Governmental Affairs Consultant; Working with Legislative Steering Committee, Legislative Committee, and PAC Committee

Personal Interest: Skiing, Golf, Pheasant hunting and Sporting clays

Something About You: Married to Mary Liioi-Ward for 17 years and have a 12 year old son Evan.

Meredith H. Weingarden

Agency Counsel

Chicago Title and Security Union Title
I actually work out of my home office (in Oakland County,) but I'm on the road visiting agents quite a bit. My department is based in Cleveland, OH.



MLTA Involvement: Member of Membership and Legislative Committees, I also regularly contribute articles to the Title Examiner

Personal Interests: Are you kidding? I have two small children, who has time for hobbies?! I like reading, watching TV, U of M football, and chasing after my kids.

Something About You: I've now been with the Chicago Title family for 12 years. This was my first real job out of law school—funny, they never mentioned title insurance in law school! I'm a 4th generation lawyer, my youngest brother is an attorney and so are both of my parents. I'm also the Case law Coordinator for the Residential Transactions Committee of the Real Property Section, State Bar of Michigan. I live in Farmington Hills with my husband Adam, and my children—Noah who is 8, Emilie who is 5, and our five cats. Last year I raised over \$1,000 for Autism Speaks, a national organization that works on behalf of people with autism, like my son.

BOARD BIZ

by Douglas McFarlane, Secretary/Treasurer MLTA


UPDATE: Board of Review – Professional Designations

It's official. The MLTA Board of Directors has appointed Sarah Maddox Sutton as the Chairperson of the Board of Review – Professional Designations Committee. This formal appointment "dissolves" the Professional Designation Ad Hoc Committee that was "born" out of another MLTA project concerning education. The idea behind this project was to create *formal designations* that would be awarded when a member of MLTA met the requirements under the designation programs. These designation programs will recognize superior achievements of practitioners within our industry, along with elevating the role of MLTA in developing expertise and standards of practice in title.

The new Board of Review is charged with implementing a plan for the Professional Designation Programs by creating By-Laws for the Board of Review to be approved by the MLTA Board of Directors and then moving forward to evaluate and finalize all the materials we already have developed, to roll out the program to our members. [Sarah Maddox Sutton, Fidelity National Title](#), has agreed to chair the new Board of Review. Sutton was empowered to appoint other committee members and the following have accepted the appointment to serve on the Board of Review for the next two years: Cathy LaMont, LaMont Title Corporation, will be the Board Liaison committee member; Mary Lou Hartwell, VanBuren County Abstract Office and current President of MLTA; Eileen LaPlante, Investors Title; and Linda Hinshon, LandAmerica – Lawyers Title. There's lots of work to be done to bring this exciting program to fruition! If you have an interest in serving on this important Board of Review/Committee, please contact Sarah Maddox Sutton for more information.

We currently envision two professional designations. The Certified Land Title Professional (CLTP) and the Associate Land Title Professional (ALTP) designations, for those persons within the Michigan Land Title Association who, through combinations of education, experience and performance, have demonstrated a proficient knowledge of land title insurance. The Board of Review will review, approve and track progress of members that endeavor to achieve professional designations through the Michigan Land Title Association.

The MLTA, through its educational programs and its active committees, will provide an ongoing program of continuing education and service opportunities for members of the land title insurance industry and for persons with a professional interest in land title services and insurance.

These designations will represent the highest measure of achievement in the land title insurance profession and follow the Professional Designation concept found in other lines of insurance. The Board of Review looks forward to presenting this exciting program to the members sometime in 2008. 

ON THE MOVE...

Colleen A. Devlin

has found a new home away from home at Stewart Title Guaranty as Senior Agency Services Representative. Colleen can be contacted by cell: 517-256-4885 or email cdevlin@stewart.com

TITAN

(The Independent Title Agent Network) has had articles appear in the June 2007 and October 2007 "Title Report"; the October 2007 "ALTA News You Can Use," and most recently in "The Title News" the official publication of the American Land Title Association January/February 2008 issue. TiTAN was interviewed for the cover story [Principles of Fair Conduct](#). TiTAN is also one of the featured guest speakers at the ALTA Technological Conference to be held this spring in Las Vegas April 13th -15th.

Visit their website at www.titanreferrals.com or contact Judy Sasfy at judy.sasfy@titanreferrals.com

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

Michigan's New Business Tax - The "MBT"

by M.C. Kostrzewa & Co P.C. CPA's



It is with no small amount of media attention that Michigan went through, in late 2007, a period of angst in which the single business tax (SBT), around since 1976, was replaced effective 1/1/08 by a Michigan business tax (MBT). So, just what are the salient points of this new MBT?

1. What date did the MBT begin? The MBT was effective beginning 1/1/2008.

Any fiscal year entity subject to SBT will file a final SBT return ending 12/31/07 and a short year MBT return to accommodate the opening months of 2008 until their fiscal year end.

Under MBT two short year calculation methods are available named as 1. the annual method or 2. the actual method.

2. Are you or your entity, as title agents, subject to the MBT?

Like almost all businesses doing business in Michigan, title agents are subject to the 2 parts of the MBT; 1. The "Business Income Tax" part of MBT 2. The "Modified Gross Receipts Tax" part of MBT Insurance companies, and financial institutions are taxed by MBT under special rules set up just for them.

If gross receipts from Michigan are under \$350,000 per annum there is an exemption from the MBT and while a MBT return still may be filed, a MBT return is not required. This \$350,000 test is known as a "nexus" test.

continued on page 5

Regarding the nexus issue, we know that businesses are organized and structured in any number of different combinations. In response to these combinations, where entities are controlled by the same owner(s), the MBT provides for "Unitary Business Group" taxation.

A unitary business group is defined by both a control test and a "flow of value" test. Generally, if there is more than 50% common control, and there is a flow of value between/among entities, then entities meeting both criteria must be combined for MBT purposes including the \$350,000 nexus test. Generally, a flow of value exists between entities that are "integrated with, dependent upon, or contribute to" each other per the Michigan Department of Treasury. So it is quite possible that in a group of controlled entities some might have to be combined for MBT while others may file as stand along entities, while still others might not be required to file the MBT return. It should be noted that any entity that was registered for SBT is automatically registered for MBT.

3. What are the mechanics of the MBT? The MBT is a 2 pronged tax with a "kicker" involving the following calculations; Prong **1.** Business Income is taxed at 4.95% Prong **2.** The modified gross receipts tax is at .8% (eight tenths of one %) The kicker **3.** The kicker is a 21.99% addition (known as a surcharge) applied to MBT liability before any credits.

Basic Calculational Approach. **1. Business Income Tax:** Profit is taxed at 4.95%. For any pass through type entity (i.e. Partnerships) profit is adjusted downward for any profit deemed subject to Self employment tax (i.e. Fica). **2. Modified Gross Receipts Tax:** Gross receipts minus purchases from other firms are taxed at a rate of .8%. Gross receipts means the entire amount received by the taxpayer from any Michigan business activity except that the net book value of capital assets sold is allowed as a subtraction from gross receipts. As to title agents, 100% of the title insurance premium, including that portion remitted to the underwriter is considered gross receipts. "Purchases from other firms" generally means cost of goods sold and other materials and supplies that are not considered inventory or fixed assets. **3. The Kicker:** The 21.99% addition is part of the MBT through at least 2016. It must be Noted that any taxpayer who qualifies for the MBT "small business Alternative credit" is not subject to this kicker.

4. If you owe MBT, how do you pay it? If an entity owes MBT it may pay it in estimated payments due on 4/15, 7/15, 10/15 and 1/15 for calendar year filers. In order to avoid underpayment penalty the estimates must be at least 85% of the annual liability and each payment must approximate the tax liability for the quarter. If the full year MBT is \$800 or less, no estimates need be filed. Annual returns are due on 4/30 with any tax due. The timely filing of the Michigan application for extension takes the due date for filing out to 8/31, but does not extend the time for payment of tax. It should be noted that any overpaid SBT may be carried forward against MBT liability.

5. What happens to SBT unused credits and other carryovers as of 12/31/07? Items that may carry forward out of final SBT returns are; **1.** SBT overpayments **2.** Unused



SBT credits (except for historical preservation credit and Brownfield credit) will carry forward and can be used to offset MBT liability in 2008 and 2009. The historical preservation and Brownfield credits may be claimed against MBT for the remaining years the credit would have been

available under SBT. **3.** 65% of any unused SBT business loss actually incurred in 2006 or 2007 may be deducted in 2008, but only against the modified gross receipts tax base.

6. Items of curiosity, note, interest: **1.** 6% sales tax collected by entities on behalf of the Michigan Department of Treasury is considered a gross receipt. **2.** The MBT retains 15 credit areas from the old SBT and adds 11 new credit areas. At 26 potential credits that is both a lot of ground to cover and a lot of potential for dollar MBT reduction.

Conclusion: It was generally conceded that SBT had become a problem to the state of Michigan with the complex way in which it had evolved since its 1976 inception. Whether the MBT provides an efficient, acceptable tax is yet to be known. Only time will tell if the MBT helps lead Michigan back to its former economic stability. 🏠



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January 22, 2008

Mr. Christian Kindsvatter
Executive Director
Kindsvatter & Associates
1000 W. St. Joseph Hwy, Suite 200
Lansing, MI 48901-5339

RE: Winter 07/08 Title Examiner

Dear Chris:

Just a short note to add a fourth point to the "Knowledge is Power!" article by Lisa A. Tyler; besides reporting any possible fraud or forgery to the lender, title agents should be reminded to report any suspicions to the appropriate regulatory agency, whether it's state or federal criminal or administrative authorities. Many of the cases of fraud or forgery reported to this office involve activities of the title agent AFTER the closing has taken place. For example, the complainant alleges that the title agent should have known that the signatures were forgeries before funds were dispersed. Once dispersal takes place the agent has committed an alleged fraudulent act. Or, if an agent certifies that the HUD is "true and accurate" and it's not, we consider that a violation of the Michigan Insurance Code; especially in cases where one party is paying costs normally associated with another party but those payments are not reflected on the HUD.

I hope this is helpful. If you have any questions, call me at (517) 335-1725.

Sincerely,

Randy A. Watkins, MPA
Senior Investigator, Consumer Services Division
Insurance Investigations & Examinations Section



Welcome

New Members

Best Homes Title Agency, LLC (*Southfield, MI*) Allan Dick

Cadillac Title, LLC (*Cadillac, MI*) Lorrie King

Kasparnet, Inc. (*Medina, OH*) Amy Kaspar

Macatawa Title Services Agency, LLC (*Holland, MI*) Bob Wuerfel, & Dan Kaboos

Michigan Shores Title Agency, LLC (*Holland, MI*) Bob Wuerfel, & Emily Pylman

Dear Fellow Member:

As you know, the Michigan Land Title Association (MLTA) board of directors always looks for ways to help you improve your business. So we're very pleased to announce that we've found a new one: a complete, comprehensive package of insurance services designed just for members of our association. Even better, we've negotiated with Beckwith Financial Group to provide these services to businesses like yours at favorable member rates wherever available.

Beckwith Financial Group has been in business for over 25 years, and brings with it a solid track record for shopping for the best coverage at the best prices as well as a reputation for superior customer service. That is why the MLTA is giving Beckwith Financial Group our whole-hearted endorsement.

So if you wonder if you're paying too much and getting too little when it comes to insurance for yourself, your business, or your employees, we hope you'll consider the enclosed flyer. In it, you'll find detailed information about the kinds of coverage Beckwith Financial Group can provide. You'll also get an insight into the character of the people behind "the big B", and why we think a working partnership with them will benefit you.

Not only may Beckwith Financial Group decrease the cost of your business or personal insurance premiums, they also offer an additional benefit: the more MLTA members that enroll, the greater the return for our association can be. So it's not only worth looking into for yourself, it's also worth talking to other association members about.

Contacting Beckwith Financial Group for a free, no-obligation review of your current coverage couldn't be easier. Simply call 800-237-5504 toll free and ask to talk to a specialist for our association; visit our association's website at www.milta.org and follow the quick link to receive information via e-mail; or visit The Beckwith Group's website directly at www.beckwithgroup.com and click on the MLTA logo to find out more about the services available exclusively to members like you.


We're excited about being able to offer this new benefit exclusively to members of our association. And we encourage you to take advantage of it at your earliest opportunity! The sooner you do, the faster you may be able to save on the insurance services you and your company need most!

And, should you decide to sign up with the Beckwith Financial Group, they'll make the transition as simple and hassle-free as possible for you. So there's no reason to wait until your current coverage lapses. Why not act on this exclusive benefit *today*?

Sincerely,

Mary Lou Hartwell

President

P.S. Remember, the more association members that sign up, the larger the potential return to our association can be. So talk to others in our association about this exciting opportunity today! 

What could be etter?

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?).

ut 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?



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LEGISLATIVE STEERING COMMITTEE ("LSC"):

by Jerome Jelinek, President, Corporate Title and Tim Ward, JD, Michigan Legislative Consultants

The primary function of the LSC is to receive and review the summaries of new legislation affecting our industry provided by the Legislation Committee and recommend specific action to the Board. Members of the LSC are also often involved in implementing the action approved by the Board. Three important issues on which the LSC is currently working are: new entry book legislation, electronic recording, and the commercial Realtor's lien bill. Following is an update on the proposed entry book legislation. 📄

ENTRYBOOK UPDATE

The Michigan Association of Register of Deeds has initiated legislation (HB 5512/SB 927) to amend the existing entry book statute (MCL 565.24 et al). The existing critical statute establishes the precise time of recording (date, hour and minute of presentment) and the priority of rights flowing therefrom. The proposed legislation attempts to incorporate a far less precise determination of the "official" time of recording. Committee members have been involved in numerous meetings and drafting sessions with interested parties in an effort to preserve the most important aspects of the existing entry book statute. Several weeks ago, [Bill Robinson](#) and [Tony Viviani](#) represented the MLTA in a work group called by the Chair of Senate Local and Urban Government Committee, Senator Van Woerkem. The workgroup includes members of the Michigan Association of Register of Deeds, and Dave Charron representing the Michigan Real Property Law Section. The workgroup discussed every section of SB 927 and at times, the debate was contentious. However, the meeting was productive and the MLTA is in the process of negotiating a revised version of the legislation. 📄

FORGED DEEDS

Last session Representative Steve Tobocman (D-Detroit) introduced legislation to address a forged deed problem that the Wayne County Prosecutor's Office had brought to his attention. The legislation, not having been taken up, died at the end of the session. Recently, Representative Tobocman again introduced the legislation, this time in the form of HB 5534. The MLTA's Legislation Committee reviewed the bill and offered some suggested changes to the sponsor's office, which included expanding the type of documents for which a corrective document (mortgage, land contracts, etc.) would also be recorded. 📄

CANDIDATE PROFILE

Paul H. Scott (R-Grand Blanc) announced his candidacy for state representative in the 51st district on Saturday, September 15. He was the first Republican in his district to announce his candidacy. Scott is a local graduate of Grand Blanc High School. He then went on to U of M where he received his Undergraduate and Law Degree. Scott earned his Masters in Public Policy from Harvard University. He currently serves as Deputy Director of the Gallup Organization. www.VotePaulScott.com 📄



EDUCATION COMMITTEE HARD AT WORK

Allan Dick, COO, Best Homes Title

The MLTA Education Committee, chaired by [Allan Dick](#) and [Sarah Sutton](#), has been delighted with the attendance and enthusiastic reviews of its recent seminars. Most recently, the topics covered included Mobile Homes, the Mutual Indemnification Agreement, Mortgage Foreclosures and Abandonment, Short Sales, Split Closings and Investigation of Real Estate Fraud, with a guest speaker from the IRS – a very full menu of relevant subject matter.

This spring's sessions will be a bit less diverse, but rather more concentrated in two areas. The morning section will tackle Legal Descriptions and Surveys, while the afternoon will focus on Recent Court Cases and Title Standards as they affect examining and underwriting, leading into break-out groups and an underwriter panel discussion. There will also be a brief demonstration of the new and improved MLTA website, as well as a Lansing report from our MLTA lobbyist.

It should also be noted that after a recent effort to promote membership, by allowing guests to attend these seminars and paying the same fees as MLTA member attendees, the fee structure is reverting to the former standard where guests will be charged a significantly higher non-member fee to attend. It pays to be an MLTA member! 📄

ABSTRACTIONS

by Allan Dick, COO, Best Homes Title

In an effort to continue the nature of this column to provide snippets of information (some serious, some factual, some nonsense), we'll start with some fun stuff. The MLTA Summer Convention will be at the Bavarian Inn in Frankenmuth, July 19-22. Frankenmuth was selected by the convention committee as a more reasonably priced, family-friendly venue with plenty of shopping and other family oriented possibilities nearby, as well as the usual golf and room crawl.


Not to dwell on foreclosures, it is a dubious distinction to be sure, but Wayne County led the nation in foreclosures in 2007 with one house in 20 being in some stage of default or foreclosure. Michigan ranked third as a state. Economists unfortunately predict that the unemployment rate may worsen yet for the next year, but that signs of recovery in Michigan should start to show by 2010. 450,000 Michigan jobs have been lost since 2000. Be thankful for what you have!

To that end, plaudits to [Darlene Wilsey](#) for her lead article in the last *Title Examiner*, entitled *Enough Chicken Little* – right on! While there are obvious negative economic realities around us, there is still real estate, lending and foreclosure-related activity to sustain us. The sky has not fallen (it just sometimes feels like it has). Likewise, congratulations to [Bob Wuerfel](#), Laura Veldhof and Jill Smalldon for the dynamite job they are doing with the new and improved *Title Examiner*. It never looked so good! Keep up the good work!

More economic news – Nationally, new home sales dropped 26.4% in 2007, the largest decline since 1980, and the Mortgage Bankers Association predicts another 13% drop this year. But, with a high inventory of unsold

home, bargain prices and interest rates dropping below 6%, it is a “great time to buy a new home”, according to Building Industry Association of Southeast Michigan president, Richard Ives. America is still on a growth path, and once the current over supply of homes is diminished, household formation trends indicate the need for 1.8 million new housing units for the next 10 years. Here's hoping ...

Question: What famous Michigan landmark celebrated its 50th birthday November 1, 2007? *Answer:* Big Mac – no not the hamburger, the Mackinac Bridge. Did you know that the 5 mile long bridge weighs more than one million tons? Interestingly, when the bridge opened, the toll was \$3.25 per car. Today, the toll is only \$2.50. what a bargain! The 100 millionth vehicle crossed the bridge June 25, 1998. Can anyone remember what it was like before the bridge?

Finally, what do the California cities of Stockton, Modesto and Los Angeles, as well as New York City, Chicago, Philadelphia, Providence, Rhode Island, Detroit, Flint and Charlotte, North Carolina all have in common? They were rated by Forbes Magazine as the ten most miserable cities. Recalling the scathingly distorted article Forbes had previously published on the title industry, has anyone considered rating the most miserable magazine? 



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February 27 & 28, 2008

Mid-Winter Convention ❄️ Lansing Radisson

10



George & Nancy Amar discussing MLTA matters with State Representative, Jack Hoogendyk (R-Portage).



Margo Hannum and Jilanne Scholtz talking with State Representative, Rebekah Warren (D-Ann Arbor).



State Representatives, Ted Hammon (D-Burton), State Senator, Mike Prusi (D-Ishpeming), and State Representative Frank Accavitti (D-Eastpoint) conversing with Connie Curio.



Jennifer Jacobs meeting Doug Smith and other MLTA members.



Tim Ward, Chris Kindsvatter and a very active Mary Lou Hartwell in discussions with State Representative, Tonya Schuitmaker (R-Lawton).



MLTA President, Mary Lou Hartwell talking about MLTA issues with State Representative, Tonya Schuitmaker (R-Lawton).



Wednesday evening's guest speaker, Daniel Kildee conversing with Mary Lou Hartwell and other MLTA colleagues.

*Photos courtesy of
Derek Dalling, Kindsvatter
& Associates*



Mid-Winter Conference Highlights: Timely Topics

by *Jilanne Z. Scholtz, VP/State
Manager, United General Title
Insurance*

The 2008 MLTA Winter Conference at the Sheraton Lansing held February 27 and 28th, addressed some very important and pressing issues. **Dan Kildee, Genesee County Treasurer** spoke about the Genesee County Land Bank and the progress the program has made in the county. The Land Bank was instituted in 2002, has 13 full time staff members and receives no governmental funding assistance. The program is completely self-funded through property sales. Mr. Kildee stated that since 1961 the City of Flint has lost 40% of its population resulting in many vacant properties. Through the Land Bank system, literally thousands of properties have been rehabilitated and hundreds of properties demolished resulting in stabilization of neighborhoods. According to their website (www.thelandbank.org) the Genesee County Land Bank has 10 programs, Planning and Outreach, Brownfield Redevelopment, Development, Adopt-a-Lot, Clean and Green, Demolition, Housing Renovation, Sales, Side Lot Transfer and Foreclosure Prevention.

Samuel D. Kahan, Senior Economist at the Federal Reserve Bank of Chicago (Detroit Branch) gave an overview of the economy for 2008 and the general housing outlook. Mr. Kahan received his undergraduate degree in Economics from Yeshiva University and graduate degrees in Economics from Columbia University.

Mr. Kahan first explained some Simple Calculations about the economy stating that only six percent of the total economy is housing; 94% of the economy is made up of other factors. The largest percentage determining the health of our economy is the strength of consumer spending. (See Chart Below).

| | SHARE % | GROWTH ESTIMATE | | |
|-------------------------|------------|-----------------|-----|------|
| | | A. | B. | C. |
| Consumer Spending | 70 | 3 | 1 | 1 |
| Housing | 6 | -15 | -15 | -20 |
| Non-residential Housing | 11 | 5 | 5 | 0 |
| Government | 18 | 2 | 2 | 2 |
| Exports | 12 | 8 | 8 | 6 |
| Imports | -17 | 4 | 4 | 4 |
| Inventories | | | | |
| | 100 | 2.4 | 1.0 | -0.1 |

- A weak housing sector alone does not necessarily create a recession.
- A weakening consumer sector leads to soft GDP
- Recession is likely if consumers retrench and other sectors, along with housing, also weaken. (See column C.)

According to Mr. Kahan the housing crisis dramatically varies by market: California and Nevada have seen extreme declines in housing prices, whereas Madison, Wisconsin has actually seen an increase in home prices. He also discussed the foreclosure rates in Michigan and the Midwest. Mr. Kahan believes the Michigan foreclosures are a direct result of lost income and job opportunities; whereas Ohio and Indiana's foreclosures are a result of more adjustable rate mortgages and sub-prime loans.

In summary, his national forecast includes:

- Slow growth for the next few quarters
- Risk of recession; but not the most likely scenario
- Inflation has been well contained in the past; but a possible jump may take place

Phil Savich, Vice President and Michigan State Counsel for Old Republic Title Insurance Company rounded out the speakers discussing Survival Tactics in a down market. One of his best ideas was "listen to your customers"; find out what they want and "do something". He explained that customers want help and want you to fix their problems.

He also reminded us that there is no silver bullet and you must continue to try different approaches. Look at what your local competitors are doing right, then tweak, improve and implement yourself. Phil encouraged everyone to see their customers often and let them know you can help them.

Finally, each MLTA chairperson gave an overview of their committee's activities. 🗣️



MLTA members at Thursday's seminar.



Samuel D. Kahan
giving overview of our economy.



Phil Savich discussing survival tactics
in a down market.



Bob Wuerfel giving a communications
committee update regarding
MLTA Examiner.



E-Bidding a Success at **MLTA-PAC Silent Auction**

Tim McDonnell, Michigan Agency Rep, Old Republic Title Insurance



The Silent Auction held at the Winter Convention by the MLTA-PAC very quietly raised **\$2,855.00!!!** There was a wide variety of items to bid on so there was something for everyone. A new feature at this year's auction was the availability of E-Bidding for those people who could not make it to the convention, but still wanted to get in on the action. The MLTA-PAC Committee has a fund-raising goal for 2008 of **\$20,000** and the auction has given us a good start toward that goal!

We would like to thank the all of the people who donated items for the auction:

Jacquie Brink, Chicago Title Insurance Company
Lisa Cicinelli, Old Republic National Title Insurance Company
Colleen Devlin, Stewart Title Guaranty Company
Allan Dick, Best Homes Title Agency
Margo Hannum, United General Title Insurance Company
Linda Hinshon-Canter, LandAmerica/Lawyers Title
Cindy Immonen, A.S.K. Services, Inc.
Tim McDonnell, Old Republic National Title Insurance Company
Doug McFarlane, Isabella County Abstract Company
Steve Nadolski, LandAmerica Commercial Services
Diana Parker, First American Title Insurance Company
Jill Scholtz, United General Title Insurance Company
Sarah Sutton, Fidelity National Title Insurance Company
Tony Viviani, Philip F. Greco Title Company
Darlene Wilsey, LandAmerica/Transnation Commonwealth
Bob Wuerfel, Lighthouse Title Group

The PAC Committee would also like to thank the successful bidders:

Nancy Amar, Pinnacle Title Agency
George Amar, Pinnacle Title Agency
*Sharron Ardanowski, First American Title Insurance Company *E-Bid**
Jeff Basil, Safe Title
Jacquie Brink, Chicago Title Insurance Company
Allan Dick, Best Home Title Agency
Margo Hannum, United General Title Insurance Company
Tom Henrickson, Safe Title
Cathy LaMont, Lamont Title Corporation
Mark Maddox, Fidelity National Title Insurance Company
Tim McDonnell, Old Republic National Title Insurance Company
Diana Parker, First American Title Insurance Company
Dawn Patterson, United General Title Insurance Company
Jill Scholtz, United General Title Insurance Company
Tony Viviani, Philip F. Greco Title Company
Bob Wuerfel, Lighthouse Title Group

Wii (that is a hint) are currently planning our Summer Fundraiser for the Summer Convention at the Bavarian Inn in Frankenmuth. It will be just as much fun as last year, but nobody will have to jump out of a plane! **In the meantime, there doesn't have to be a fundraiser to contribute to the MLTA-PAC! The MLTA-PAC depends on your continued support so that the voice of MLTA can be heard in Lansing.**

MLTA-PAC to Kick-off Annual Giving Campaign

The MLTA-PAC Committee will continue to have our annual Silent Auction at the Winter Convention and some form of wacky fund-raiser at the Summer Convention; however, we will soon be initiating an annual giving campaign. This year's fund-raising goal for the MLTA-PAC Committee is **\$20,000!** The Silent Auction at this year's Winter Convention got us a good start by raising \$2,855 toward that goal. This is an important election year so it is very important that we reach and surpass our goal. Our PAC dollars allow us to support candidates that have an understanding of our industry and will look for our input on legislation that affects our businesses.

Very soon you will be receiving a mailing that will ask you to support the MLTA-PAC. The PAC Committee would like everyone to give whatever amount that they can. We also ask that the managers and owners discuss the importance of the MLTA-PAC with your staff. If each member organization generated \$200.00 in contributions to the MLTA-PAC, we would blow through our goal of \$20,000!

We thank you in advance for your support of the MLTA-PAC and look forward to receiving your check. Please remember that all contributions to the MLTA-PAC must be in the form of a personal check.

| Local Association | 2007 Dec sales | 2007 YTD Dec # Sales | 2006 YTD Dec # Sales | 07-06 YTD % Change | 2007 YTD Dec Ave Price | 2006 YTD Dec Ave Price | 07-06 YTD % Change |
|---|----------------------|----------------------------|----------------------------|--------------------------|------------------------------|------------------------------|--------------------------|
| Alpena, Alcona, Presque Isle Board of REALTORS® | 26 | 376 | 398 | -5.53% | \$111,565 | \$116,925 | -4.58% |
| Ann Arbor Area Board of REALTORS® | 224 | 3,035 | 3,345 | -9.27% | \$247,462 | \$258,934 | -4.43% |
| Antrim Charlevoix Kalkaska Association of REALTORS® | 29 | 451 | 477 | -5.45% | \$222,275 | \$224,282 | -0.89% |
| Battle Creek Area Association of REALTORS® | 92 | 1,222 | 1,327 | -7.91% | \$115,936 | \$121,175 | -4.32% |
| Bay County REALTOR® Association | 88 | 1,395 | 1,268 | 10.02% | \$92,627 | \$102,839 | -9.93% |
| Branch County Association of REALTORS® | 28 | 417 | 503 | -17.10% | \$99,223 | \$110,041 | -9.83% |
| Central Michigan Association of REALTORS® | 54 | 822 | 904 | -9.07% | \$100,970 | \$108,078 | -6.58% |
| Clare-Gladwin Board of REALTORS® | 35 | 643 | 672 | -4.32% | \$92,312 | \$95,428 | -3.27% |
| Dearborn Board of REALTORS® | 137 | 1,787 | 1,988 | -10.11% | \$134,705 | \$147,702 | -8.80% |
| Detroit Board of REALTORS® | 711 | 7,765 | 7,222 | 7.52% | \$37,955 | \$61,444 | -38.23% |
| Down River Association of REALTORS® | 211 | 3,162 | 3,613 | -12.48% | \$120,657 | \$136,959 | -11.90% |
| Eastern Thumb Association of REALTORS® | 102 | 1,347 | 1,349 | -0.15% | \$138,200 | \$155,252 | -10.98% |
| Eastern U.P. Board of REALTORS® | 15 | 304 | 317 | -4.10% | \$193,295 | \$231,249 | -16.41% |
| Emmet Association of REALTORS® | 34 | 536 | 639 | -16.12% | \$296,185 | \$324,532 | -8.73% |
| Flint Area Association of REALTORS® | 343 | 4,757 | 5,106 | -6.84% | \$107,586 | \$122,135 | -11.91% |
| Grand Rapids Association of REALTORS® | 834 | 11,327 | 11,562 | -2.03% | \$146,425 | \$161,840 | -9.52% |
| Greater Kalamazoo Association of REALTORS® | 236 | 3,852 | 4,354 | -11.53% | \$152,383 | \$159,327 | -4.36% |
| Greater Lansing Association of REALTORS® | 321 | 5,020 | 5,822 | -13.78% | \$141,022 | \$149,691 | -5.79% |
| Hillsdale County Board of REALTORS® | 18 | 451 | 467 | -3.43% | \$101,622 | \$107,490 | -5.46% |
| Jackson Area Association of REALTORS® | 118 | 1,675 | 1,718 | -2.50% | \$111,920 | \$133,432 | -16.12% |
| Lapeer & Upper Thumb Association of REALTORS® | 44 | 585 | 660 | -11.36% | \$131,498 | \$140,540 | -6.43% |
| Lenawee County Association of REALTORS® | 71 | 1,094 | 1,158 | -5.53% | \$134,319 | \$140,504 | -4.40% |
| Livingston County Association of REALTORS® | 150 | 2,006 | 2,223 | -9.76% | \$206,688 | \$230,329 | -10.26% |
| Oakland | 391 | 5,521 | 6,533 | -15.49% | \$203,482 | \$232,129 | -12.34% |
| Macomb (NOTE**) | 547 | 7,847 | 8,315 | -5.63% | \$136,868 | \$159,135 | -13.99% |
| Mason-Oceana-Manistee Board of REALTORS® | 56 | 870 | 877 | -0.80% | \$125,642 | \$137,593 | -8.68% |
| Midland Board of REALTORS® | 47 | 859 | 926 | -7.24% | \$157,246 | \$158,009 | -0.48% |
| Monroe County Association of REALTORS® | 75 | 1,147 | 1,262 | -9.11% | \$162,762 | \$176,594 | -7.83% |
| North Oakland County Board of REALTORS® | 212 | 3,187 | 3,160 | 0.85% | \$191,027 | \$191,306 | -0.15% |
| Northeastern Michigan Board of REALTORS® | 35 | 596 | 799 | -25.41% | \$100,154 | \$94,633 | 5.83% |
| Paul Bunyan Board of REALTORS® | 68 | 1,143 | 1,258 | -9.14% | \$107,634 | \$113,591 | -5.24% |
| Saginaw Board of REALTORS® ** | 109 | 1,799 | 1,907 | -5.66% | \$94,697 | \$107,998 | -12.32% |
| Shiawassee Regional Board of REALTORS® | 59 | 645 | 644 | 0.16% | \$98,297 | \$114,570 | -14.20% |
| Southwestern Michigan Association of REALTORS® | 217 | 3,049 | 3,430 | -11.11% | \$198,216 | \$189,192 | 4.77% |
| St. Joseph County Association of REALTORS® | 42 | 747 | 856 | -12.73% | \$120,542 | \$114,140 | 5.61% |
| Traverse Area Association of REALTORS® | 169 | 2,354 | 2,468 | -4.62% | \$205,909 | \$213,197 | -3.42% |
| Upper Peninsula Association of REALTORS® * | 108 | 2,188 | 2,246 | -2.58% | \$107,187 | \$102,735 | 4.33% |
| Water Wonderland Board of REALTORS® | 76 | 1,163 | 1,167 | -0.34% | \$132,712 | \$136,991 | -3.12% |
| West Central Association of REALTORS® | 72 | 1,027 | 1,038 | -1.06% | \$102,762 | \$107,603 | -4.50% |
| West Michigan Lakeshore Association of REALTORS® | 245 | 4,463 | 4,479 | -0.36% | \$154,869 | \$160,726 | -3.64% |
| Western Wayne Oakland County Association of REALTORS® | 570 | 8,460 | 8,824 | -4.13% | \$203,142 | \$216,357 | -6.11% |
| TOTALS | 7019 | 101,094 | 107,281 | -5.77% | \$142,438 | \$152,845 | -6.81% |

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

**Due to reporting errors, December YTD has been revised to show correct numbers for 2006 and 2007

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Case Brief: To Whom Does a Title Agent Owe a Duty?


by Adam B. Kutinsky & Nikkiya T. Branch, Attorneys, Kitch Drutchas Wagner Valitutti & Sherbrook

The duties and obligations imposed upon title agents in Michigan are, with some exceptions, governed by three sources of law - statutory, contract and tort. Generally, to bring an actionable claim against a title agent, the complaining party must cite at least one of these three bases in support of its claim. Recently, the Michigan Court of Appeals upheld the dismissal of a lawsuit filed by the purchaser of property against a closing agent because the purchaser failed to demonstrate that the agent owed her a duty under tort or contract.

In *Burton v. Sanders, et al.* (unpublished 12/11/07; Docket No. 274417), the defendant seller purported to convey two adjacent lots (5 and 6) to the plaintiff purchaser. Significantly, the plaintiff did not purchase any title insurance from the title agent that closed the sale of the property. As a result, there was no contractual relationship between the plaintiff purchaser and the defendant title agent until the actual time of closing. Subsequent to the sale of the

property, the plaintiff discovered that she did not receive the entirety of both lots 5 and 6 and therefore, brought suit against the seller and the title agent. The trial Court dismissed plaintiff's tort and contract claims against the title agent because the agent owed no duty to the plaintiff under either theory of liability:

(the agent)... owed plaintiff no duty in tort. It is axiomatic that there can be no tort liability unless defendant owed a duty to plaintiff. *Fultz v Union-Commerce Assoc*, 470 Mich 460 (2004). Plaintiff cannot identify any duty owed to her by... (the agent) because there was no special relationship between the parties that could have given rise to such a tort-based duty. *Beaty v Hertzberg & Golden, PC*, 456 Mich 247 (1997). Similarly... (the agent) owed plaintiff no duty in contract. Plaintiff was not a party or privy to any contract with defendant... Nor was plaintiff an intended beneficiary of any contract between... (the agent) and a third party.

This decision by the Court of Appeals, addressing the duties and obligations of title agents in Michigan, affirms the precept that a title agent does not owe a duty to a party at closing absent a sound legal basis in support thereof. 



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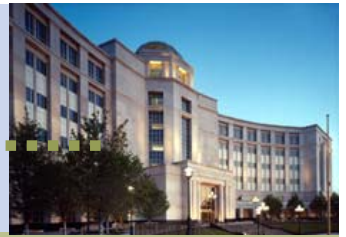
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MICHIGAN SUPREME COURT NEWS



IMPORTANT TRANSFER TAX DECISION

by Gregg A. Nathanson, Esq., Attorney, Couzens, Lansky

What the Appellate Court giveth, the Supreme Court taketh away.


Two years ago the Michigan Court of Appeals issued an important decision permitting developers, builders and purchasers of newly constructed buildings and homes to pay less in real estate transfer taxes. The Michigan Supreme Court just reversed that decision. Lake Forest Partners 2, Inc. v Department of Treasury (February 1, 2008)

Consider the following scenario: Do-good developer records a Master Deed and creates 80 residential site condominium units. Do-good enters into purchase agreements with individual, prospective homeowners. Each purchase agreement provides for both the sale of an unimproved unit and construction of a new home on the unit. The purchase agreement sets forth a separate purchase price for (a) the cost of the unimproved land (the unit) and (b) the cost of the home

(which is much more than the cost of the unit). When the transaction closes, Do-good delivers a warranty deed. The question becomes: what is the value of the “property” (is it the unit or the unit and new home?) for purposes of determining the amount of the State real estate transfer tax?

In 2006, the Michigan Court of Appeals held that the value of the “property” is set at the time the parties sign the purchase agreement, *not* at the time of closing. The parties signed the purchase agreement before Do-good built the house. Therefore, the Michigan State real estate transfer tax applied to the value of the unit (the raw land) but not the value of the unit improved with a home. According to the Court of Appeals, the value upon which the tax is imposed, means the fair market value of the property “at the time of the transfer.” The Court determined that transfer occurs not upon delivery of the deed, but, upon execution of the purchase agreement.

The Michigan Supreme Court disagreed. The Supremes concluded that Do-good should have paid the State real estate transfer tax based upon the value of the unit improved with a residence. The transfer tax taxes recorded instruments. The only recorded instrument was the deed. Therefore, the “value” exchanged for that deed included both the cost of the unit and the home.

While this case is bad news for people who want to pay less in transfer taxes, it did not close the door completely with respect to planning opportunities. For example, it *might* still be possible to structure and document a new construction transaction in such a way that the parties can legally pay a State real estate transfer tax on the value of the land alone, but not the value of the new home or building. 

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TAX DECISION FAVORS BUILDERS


by Greg Migliore, Ann Arbor Business Review

Developers are expected to save money as the result of a February 5 Michigan Supreme Court decision that could change the way some cities and townships assess property values. The unanimous ruling said public service improvements, including water, sewer and utility services, can't be used to raise taxes on the land until individual homes on the property are built or sold. The decision was the result of a suit Toll Northville Limited and Biltmore Wineman LLC filed against Northville Township over infrastructure improvements they made on development in 2001 and 2002. The Supreme Court's ruling mostly upheld decisions by lower courts.

Jim Haeussler, president of Peters Building Co. in Saline, estimates the ruling could have saved him “hundreds of thousands” of dollars in tax money he's paid on projects stretching back as far as 10 years. Recently,

he said, he was taxed on a sewer he installed in the Mystic Ridge development in Hamburg Township, where 48 homes are built, but there are 50 vacant lots. “I like the interpretation,” he said of the ruling. Jack Campbell, managing partner of Marhofer/Campbell Building Co. in Pinckney, said the ruling could impact several appeals he has before the state tribunal over tax increases on his developments. “The long and short of it is, it is the law of the land, and it's going to be interesting to see how this plays out,” said Campbell, who is also president of the Washtenaw Home Builders Association.

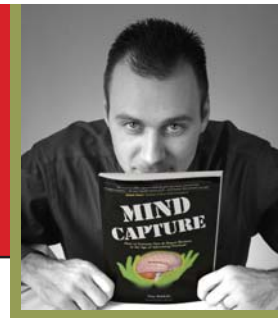
The ruling, however, isn't a universal windfall for developers, as some cities, including Ann Arbor, changed their practices when the state appeals court issued a similar opinion in 2006. “I can see the logic in the decision,” said David Petrak, Ann Arbor's assessor. “It

is somewhat unfortunate because local municipalities are hurting for revenue.” More than 50 percent of the city's revenue comes from property taxes, though the city, which is largely built out, won't be heavily impacted by the court's decision. Outlying areas, however, could face problems as a result of it. “Overall, we're very disappointed with the result,” said Sue Jeffers, associate general counsel for the Michigan Municipal League. The ruling comes as some builders are sitting on large tracts of land they can't sell or develop because of the region's economic downturn, potentially offering them breathing room until they decide to move forward on projects. “It's going to help our builders out there that are carrying a lot of land,” said Maureen Sloan, chief executive of the Washtenaw Home Builders Association. 

MIND CAPTURE MARKETING:

Spring Into A Great 2008

by Tony Rubleski - President, Mind Capture Group



2008 is already in full motion and are you wondering a few months into the New Year, *"Am I on pace to hit the goals I set in January?"* In a world drowning in information, messages and choices I'd like to share a few ideas to help you stay on course with some simple, yet profound reminders for making 2008 a wonderful year. As the great Albert Einstein said, *"The genius is in making the complex simple"*. Sage advice indeed.

Three More Ways To A Better Mind, Body and Spirit

1. Read more. In the age of digital society and the massive changes coming out of Silicon Valley and the Internet (YouTube, MySpace, etc.), society has quickly moved into the age of video. This is a good thing. The challenge however, is to keep the powerful skill of reading front and center in our lives and those we work with, employ or care about. In the classic book *Fahrenheit 451* author Ray Bradbury paints a futuristic world full of censorship, and the dumbing down of society where reading books is essentially outlawed. I recently read his book and did additional research and stunningly discovered a huge gap between those who read and those who do little if any once they graduate from high school or college.

Folks, we've entered the information age, not the ignorance age. I urge you to keep sharpening your reading skills in the New Year by investing more time in yourself via books, newsletters, and audio books. There is no excuse to become mentally lazy when incredible books are available with the click of a mouse, or library card. I'm not so much worried about you or our valued subscribers but those around us who read little if any, and let their skills and mind become stale.

2. Give more. A common thread among high achievers is the belief in giving back to others. It's often not because of guilt, shame or fear, but truly because they see the huge benefits it provides to others and themselves. Done with free will and strong intention, giving isn't a selfish thing, but truly an act of love designed to help society and our fellow man. I know a few of you might be reading this and thinking, *Tony, you're a marketing guy. Why are you being so sentimental with this point?* These are valid questions to ponder and I'll explain my rationale.

In the scheme of history, our time here on Earth goes by far too quickly. I'm challenged by people I meet or listen to who have a fear based, poverty mentality. All advanced cultures, religions, and societies understand that there are no shortages. It's a big, big universe full of abundance and growth. If you think there are shortages, guess what, that's what you'll attract and see each day. On the flip side, if you see the world through a lens of abundance and apply good old fashioned hard work, it will often show up in your life and the actions you see and carry out on a daily basis.

Here are a few reminders ideas and strategies each of us can use to give more in 2008:

- Volunteer with an area non-profit or school
- Share some of your time and talents/knowledge/ideas at little or no fee
- Set bigger goals to positively impact more people
- Wake each day with gratitude and remind others why it's important
- Seek to lift people each day and avoid gossip and judgment
- Donate money anonymously to causes you truly believe in
- Give someone a much bigger tip for service than they expect
- Stay healthy by watching your diet, and exercising more so you have the energy and motivation to carry out your goals and have time to give back
- Set bigger goals to push, inspire and drive you to help even more people

3. Live more. Use the power of appreciation daily. By stopping to reflect on our talents, blessings and where we've been, it allows us to look at our present situation in a positive light and give thanks for what's right in our lives, not our problems.

Too many people are playing it safe with their lives, careers and afraid to try anything new. Habit force is powerful indeed. As we age we often become more conservative and set up habits to build routine and structure. This isn't all bad, but I do however think each of us should strive to keep growing, trying new things, learning, giving more and pushing ourselves to stay active in the game of life. The world is going through massive change both good and bad. Those of us in Michigan have seen this the last several years firsthand. To counter the negativity we need positive, creative, and caring people leading by example and fully engaged in their passions and goals to help counter the intense negativity we sadly see hogging up the headlines in newspapers, TV and on-line.

We recently had a family friend lose one of their children in Iraq while serving in the U.S. Army. As I visited the funeral home, it struck me how truly short life is and how easy it can be to get caught up in routine and take life for granted. Beyond the initial grief, and condolences, I always leave a visitation changed and grateful for my health, family, friends and especially the present moment.

We never know when our number's up. I mention this story because I'm certain that the young (26 years) soldier knew of the dangers associated with military service. A vast majority of those within society encounters risk everyday when they awake and leave their homes. They assume everything will be predictable, routine and tomorrow is a given. Take each day as a gift, a fresh start, and chance to grow in the life journey. No one is guaranteed tomorrow. I wish you a wonderful and prosperous 2008 despite what the headlines say! 🙏

IT'S TRUE... YOU DO GET WHAT YOU PAY FOR!

by Mike Clark, Velo City Cycles

Below is an excellent article that I found to be a great read and have asked for permission to reprint. What is said also applies to our industry and the standards/costs that are found throughout many of our markets. - Bob Wuerfel, MLTA Examiner Editor

We've all been there... sitting on an airplane waiting for take-off, listening to the conversations all around us, the majority of which are comprised of complaints about the air travel experience in general. It's too crowded, the planes are too old and/or dirty, the customer service is marginal at best, there's no meal on this flight, we got bumped, our flight was delayed, we missed our connection... and on and on. The last time I was in this position I wanted to stand up and get everyone's attention; "Excuse me! Would everyone on this plane that thinks we deserve a better experience as customers of this airline please raise their hand?" (Up go 90% of the hands) "Okay... now, everyone that spent some time on the internet searching out the lowest fare please lower your hand?" (Down come 90% of the upraised hands).

Yep, I thought so. What do we expect? We've told the airlines time and time again that the only criteria for us in making our buying decision is the lowest price. The best way to lower your price? Cut the level of quality and service you offer. It's pretty simple when you get right down to it. If we tell our food and toy and automobile and clothing suppliers that we're going to buy whatever we can find that's the cheapest we're going to convince them that the surefire way to our hearts and wallets is to make their products and services as cheaply as possible, no matter the social, environmental or ethical cost. So what do we get? We get poison toys, poison food, a poisoned world. We get oppressed and enslaved workers, jobs leaving in droves and an economy defined by the lowest common denominator. We save some pennies, but at what actual cost?

Now, I am far from well off, at least by local standards, but I am willing to vote with what little disposable income I have at my command. I am willing

to pay a little more to get a higher quality experience, whether that means a better product or just the increasingly rare pleasure of dealing with someone that knows how to do their job and what they are talking about.

One thing I don't expect is that I can have it all... the lowest price; the best service and the highest quality are three things that just aren't found together all that often.

When I pause to contemplate the local businesses that I frequent the one thing they have in common is that they all offer me something I need more than the most competitive price. I need to feel like the folks that I patronize care about their product, their people, our community and the world. I *want* them to be financially healthy and stable... that way they'll be there the next time I need them! I want to feel good about interacting with their staff, using their products, eating their food. That's a more pressing issue to me than whether I'll be able to tell the folks at work that I got a great deal or saved a bundle.

Am I suggesting that we shouldn't shop around and try to be smart, well-informed consumers? I am not. To the contrary... smart and well-informed consumers are exactly what we need! I'm just suggesting that there just might be something to consider when accessing the merits of a purchase besides the bottom line at that moment.

All too often the "bottom line" is lower than you think and it's worth taking a step back and trying to see the bigger picture. Sometimes you *can* see the forest for the trees! 🌲



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SELLING THE "SIZZLE" AND NOT JUST THE STEAK...

A Message to REALTORS

Below is another great article that I asked for permission to reprint. It applies to our Realtor clients throughout the state and would be worth sharing with your local Realtors.

- Bob Wuerfel, MLTA Examiner Editor

There is plenty of media attention to how bad the real estate market was in 2007. The market surely was down, but it wasn't devastatingly down... not at all. In fact, some folks in our business experienced a really good year. Why is that?

In reading the weekend editions of several area newspapers and spending time on-line checking out the latest real estate ads and marketing methods, it became vividly clear that I was looking at the same tired ads and methods that were in place when things were really hopping in the real estate market – in other words, virtually nothing has changed! Is it really anticipated that doing the same things, running the same ads all the time is suddenly going to result in more sales? Should REALTORS continue throwing good money after bad, hoping for a positive result?

Here's what I believe: REALTORS that want to succeed while assisting their buyers and sellers, can and should be directly responsible for turning things around and causing things to happen by "selling the sizzle" and not just the steak. It's

not all that hard, really. In fact, I believe it's really pretty simple. Let's think about this for a moment... what do REALTORS have to "sell"?

1. Lowest interest rates in years
2. Tremendous inventory of homes that results in,
3. A wide variety of styles and prices that are priced to SELL, and of course we have,
4. Michigan – A Great Place to Call Home!

Okay, you think you've heard this before, right? Let me pose this question. How many people do REALTORS, talk to each day about the OPPORTUNITY that is waiting to be taken advantage of? I believe most REALTORS will say few or more. I'm saying this has to be done daily. It means spreading the word, shouting it from the rooftops, handing out business cards with a message attached that reminds people over and over again that Low Rates + Great Inventory + Tremendous Selection + VERY Affordable Prices = OPPORTUNITY. This Opportunity will not last forever; history is clear that real estate is cyclical and a major turnaround is in our future. When that happens, all the elements of today's Opportunity will be Opportunities lost. Get the point here?

It's up to REALTORS, to sell opportunity, not just homes and property. This is an ongoing process that needs to be done over and over and over again... REALTOR members and Affiliates can have a profound impact on the Michigan real estate market and its economy by "selling the sizzle". If selling real estate today is taking a listing and putting it in the MLS and on the Internet, then waiting and hoping it will sell as in the past, you are doomed to fail. If being in the business today means singing the blues and crying woe is me, you are doomed to fail. We all are in this together and can make things happen. Sure, some sellers might feel they are not quite getting the price they want BUT the price they'll pay on their next purchase will more than compensate as that seller is experiencing the same thing.

Opportunity is knocking at the proverbial door and we in the real estate industry can cause things to happen in a huge way. Sell the Opportunity, Sell the Sizzle, and talk the talk as you walk the walk. To do so is to succeed. To do otherwise and sit back and wait for things to happen is a one-way ticket to failure.

We've got a great thing going here in Michigan – let's make it happen.

Dale Zahn can be contacted
at dale@wmlar.com



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MLTA 2008 Spring Education Seminar

April 15 & 16, 2008 – Mt. Pleasant, Michigan
May 7, 2008 – Livonia, Michigan

Member On-line Registration \$75 per person
Non Member On-line Registration \$160 per person*


www.milta.org

**This is a one-time opportunity only.*

Once again, in an effort to promote membership in the Michigan Land Title Association, the MLTA will be offering two opportunities to participate in the annual Spring Education Seminar.

In April, the regularly scheduled Education Seminar will be held in Mt. Pleasant at the Soaring Eagle Inn. Committees will meet the night before on Tuesday, April 15, 2008. For times and room assignments, please see included committee schedule.

In addition to the April Education Seminar, the same speakers and topics will once again showcase at the Radisson Hotel Livonia on Wednesday, May 7, 2008. This is a great second opportunity for any that would have liked to attend in April, but could not.

Both of these Education Seminars will once again be open to both members and nonmembers of MLTA. Members are encouraged to bring colleagues or anyone else that might benefit from being a member of the Association. If you know someone that currently is not a member of MLTA, but you think should be, encourage them to attend either seminar. 

Mark your calendars!

2008 MLTA Summer Convention

Sunday July 20, 2008 to Tuesday July 22, 2008
at the Bavarian Inn in Frankenmuth, MI.

A few of this year's convention speakers will be ALTA President, Gary Kermott, as well as, Howard Lax and Sarah Sutton. We are featuring a content rich convention by gearing the presentations toward practical information that will benefit our owner members.

For those of you attending this event, the MLTA will be offering attendees a discounted room rate. Please check your mail, email, and the MLTA website for more details when available.



AGENDA

The MLTA 2008 Spring Education Seminar will feature the same speakers and topics at each meeting location*.

- | | |
|------------------|---|
| 8:30 – 9:00 am | Registration and Continental Breakfast |
| 9:00 – 9:15 am | Opening Remarks and Announcements <i>Mary Lou Hartwell, MLTA President</i> |
| 9:15 – 9:30 am | Lansing Report <i>Tim Ward, Michigan Legislative Consultants</i> |
| 9:40 – 10:00 am | Overview on Legal Descriptions with ALTA <i>Allan Dick, Best Homes Title</i> |
| 10:00 – 10:30 am | Basics of Legal Descriptions <i>Polly Graves, First American/Metropolitan Title</i> |
| 10:30 – 10:45 am | Break |
| 10:45 – 11:15 am | Land Divisions & Determining the Correct Legal Description to Use <i>Polly Graves, First American/Metropolitan Title</i> <i>Allan Dick, Best Homes Title</i> |
| 11:15 – 12:00 pm | Surveys: The Various Types and Their Uses <i>Randy Vugteveen, Nederveld, Inc.</i> |
| 12:00 – 1:00 pm | Lunch |
| 1:00 – 1:15 pm | Brief Demo of the New MLTA Website <i>MLTA Staff</i> |
| 1:15 – 1:45 pm | Recent Court Cases & Their Impact on Title Examination & Underwriting <i>Michael Donovan, Lamont Title</i> |
| 1:45 – 3:00 pm | Breakout Groups & Panel Discussion – Covering Problems & Scenarios Relating To Court Cases, Title Standards and/or Issues Concerning Legal Descriptions <i>John Bommarito, Land America Lawyers Title</i> <i>Meredith Winegarden, Chicago Title</i> <i>Michael Donovan, Lamont Title</i> |

**Schedule and speakers subject to change*

MLTA Calendar of Events

2008

| | |
|-----------------|---|
| April 15 & 16 | Spring Education Seminar Soaring Eagle Inn, Mt. Pleasant |
| May 7 | Spring Education Seminar Livonia Radisson |
| July 20-22 | Summer Convention Bavarian Inn, Frankenmuth |
| October 14 & 15 | Fall Education Seminar Soaring Eagle Inn, Mt. Pleasant |
| October 15 – 18 | ALTA Convention Koloa, Hawaii |
| November 5 | Fall Education Seminar Livonia Radisson |

2009

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|-------------|---|
| July 18 -22 | Summer Convention Amway Grand Plaza Hotel, Grand Rapids |
|-------------|---|



The Title Examiner
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LAURA McMAHON LYNCH, PLC



Laura McMahon Lynch, licensed in Michigan since 1983, is a former Assistant Attorney General who represented the State of Michigan Homeowner Construction Lien Recovery Fund and prosecuted licensure violations by Residential Builders and Real Estate Brokers. Returning to private practice in 2000, Ms. Lynch now specializes in real estate related litigation and conflict resolution including:

- defense of title claims
- quiet title actions
- construction lien and bond claims
- mortgage foreclosures
- general debt collection

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