



TITLE TALK

Old Republic National Title Insurance Company

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A Year in the Life of the President of the Maryland Land Title Association

*By: John Micciche, CLTP
President, Maryland Land Title Association
Agency Representative, Old Republic Title*

First, I must begin by thanking our local office personnel and our auditors, Judith Brewer and Melissa Davis- who 'covered for me' at audits which I could not attend, due to business of the Association, and in great part to Richard Harvey, Esq., Maryland State Manager, for the support I received during my term as President of the Maryland Land Title Association (MLTA). The service rendered to the MLTA and the title industry is very time consuming and labor intensive- and without that support, keeping 'all the balls in the air' would have been impossible! Brenda Dyer has worked very closely with the Southern Maryland Chapter of the MLTA, providing educational seminars to our members in that region. At the Corporate level- Ron Blitenthal, Esq. was instrumental in working on Senate Bill 941, which will be referenced later. It speaks well of our Company- so many people giving of their time and talent in the service of our industry!

Rick will continue to serve as a (soon to be re-elected) Director of the Underwriters' Section. I will serve as the Immediate Past President.

Where does one begin to summarize the accomplishments of the last year?

Membership: While the industry continues to contract, the MLTA maintained its base by 'attracting back' many former members, as well as reaching out to new entrants in the industry. The Association has nominated and recruited many 'new faces' to serve on the Board and on various committees. Our Annual Members' Crab Feast was a huge success, with more than 200 in attendance. Attendees donated non-perishable goods to the Maryland Food Bank in tangible support for the needy.

By-Laws: The By-Laws of the Association have served for approximately 26 years. Under the last administration, a committee was formed to begin a comprehensive

're-write,' and I am pleased to report that work has come to fruition, and will be voted upon by the membership prior to the Annual Election Meeting and Convention, to be held in Hershey, PA from September 15th-18th.

Legislative: In the last session of the Maryland General Assembly, the MLTA introduced SB 941; it provided for a fee for the issuance of Insured Closing Protection

Letters. It became necessary to withdraw the Bill, but as I write, we wait for our Agents' Section to confirm the new version that was prepared by the Underwriters' Section. We anticipate introducing the Bill in the upcoming session. We have begun to work on an initiative which may result in the establishment of statutory title search parameters in the state of Maryland, which was approved for study at the August meeting of the Board of Directors. On the Federal level, Sally McCash, Esq., our American Land Title Association Liaison and I went to the Capitol in March to lobby for GSE (Government Sponsored Enterprises; Fannie Mae and Freddie Mac) reform. Given the fact that the entities still exist, I would say that efforts of ALTA were successful.

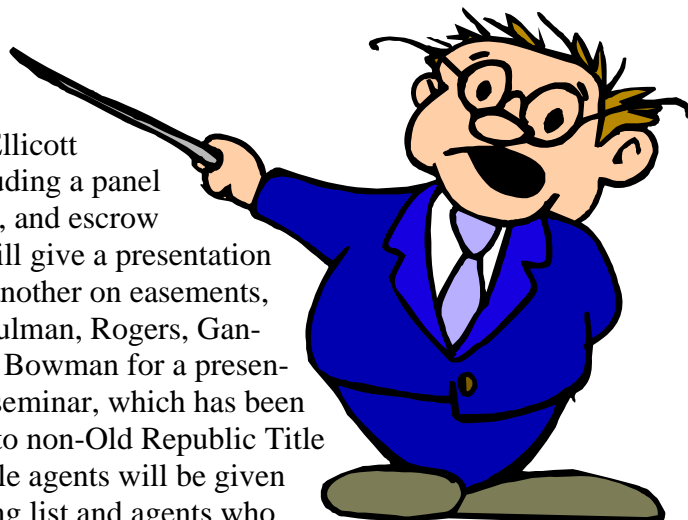
Regulatory: The MLTA has seen tremendous growth in a cooperative relationship with the Maryland Insurance Administration (MIA). We continue to offer support and guidance as requested. We are working with the MIA to improve agent compliance with MAHT (Maryland Affordable Housing Trust) requirements. Deputy Commissioner Karen Steckem-Hornig will address the membership in Hershey, and the MLTA will provide FAQ infor-

(Continued on page 2)



Old Republic Title's Maryland and DC Seminars

Registration forms for Old Republic Title's 2011 Maryland Agents' Seminar have been sent to agents via e-mail. The seminar will be held Wednesday, October 12, 2011, at the Turf Valley Resort & Conference Center in Ellicott City, Maryland. A variety of topics will be covered, including a panel discussion of the basics of file maintenance, underwriting, and escrow accounting. Underwriting counsel Walter Weinschenk will give a presentation on commercial transactions for the residential agent and another on easements, air rights, and riparian rights. Attorney Mort Faller of Shulman, Rogers, Gandal, Pordy & Ecker will join underwriting counsel Donna Bowman for a presentation on recent claims developments and case law. The seminar, which has been submitted for four (4) insurance CE credits, will be open to non-Old Republic Title agents. However, seating is limited and Old Republic Title agents will be given priority. Non-agents who would like to be put on a waiting list and agents who may not have received the e-mail invitation can contact Ann Marie Ciara via e-mail at aciara@oldrepublictitle.com.



Old Republic Title will also hold our first DC-specific seminar on Thursday, November 3, 2011, at the Greenbelt Marriott in Greenbelt, Maryland. Topics to be covered include the Title Insurance Producer's Act of 2010, the Title Insurance Insurer's Act of 2010, underwriting DC foreclosures, and the Tenants Opportunity to Purchase Act (TOPA). We are hoping to have a representative from the DC government join us as a guest speaker, but plans have not yet been finalized. This will be a two-hour seminar and we anticipate that it will be approved for two (2) DC insurance CE credits. Like the Maryland seminar, the DC seminar will be open to non-Old Republic Title agents, but Old Republic Title agents will be given seating priority. Non-agents who would like to be put on the waiting list can contact Ann Marie Ciara via e-mail at the aforementioned e-mail address. Invitations to agents will be sent via e-mail in the very near future.

Ann Marie Ciara Joins the Maryland Office

We are pleased to welcome Ann Marie Ciara to Old Republic Title's Maryland office as an administrative assistant. Ann Marie has extensive senior level administrative and organizational experience, as well as experience as a licensed real estate agent. She will prove to be a very valuable asset to Old Republic Title.

Ann Marie can be reached at aciara@oldrepublictitle.com.

Life of MLTA President (Continued from page 1)

mation on the website, as well as helpful links. Our Industry Enhancement Committee is working on its 6th draft of the *Consumer Bill of Rights Regarding Title Insurance*, which we were invited to construct for the MIA and the Department of Labor, Licensing and Regulation. This directive came from the Commission to Study Title Insurance- another instance that illustrates the credibility and respect the MLTA has achieved.

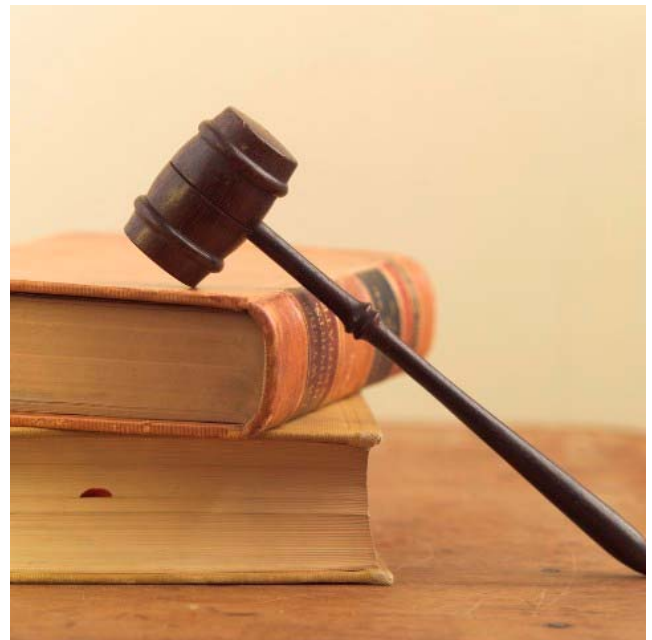
Legal: The MLTA had provided a few *amicus* ('friend of the court') briefs during the year. The most pertinent was with regard to *Guttman, Trustees et al. v. Wells Fargo Bank, et al.* heard in the Court of Appeals. The result was the upholding of existing curative statutes with regard to matters that could have resulted in new challenges to previously perfected foreclosures. This was of critical importance to our industry, from both the settlement services providers and insuring perspectives.

It has been my honor to serve the MLTA and the title industry during this past year- but any credit due rightly belongs to the many members who have served on the Board and various committees. "The whole is greater than the sum of its parts..."

Recent Maryland Case Law

There have been some recent title insurance-related Court decisions in Maryland worth noting. The first is the case of Zvi Guttman, Trustee, et al. v. Wells Fargo Bank, et al., in which the United States Bankruptcy Court for the District of Maryland certified to the Court of Appeals four questions regarding Section 4-109 of the Real Property Article, more commonly known as the “curative” statute. In the wake of the burst of the housing bubble, bankruptcy trustees had filed many adversary proceedings attempting to avoid the liens of deeds of trust that contained alleged defects in the affidavits of consideration or where the affidavits were missing altogether. The curative statute states that failure to comply with the formal requisites of that section have no effect unless they are challenged within six months of recording. Formal requisites include a lack of or improper acknowledgement or affidavit of consideration, among others. The Court of Appeals held, after a discussion of legislative intent and an interpretation of plain language, that the General Assembly expressed a clear intent that the defects presented in the four questions are cured if not challenged within six months. The Maryland Land Title Association had retained counsel to file an amicus curiae brief on its behalf. The Court of Appeals holding in this case is a good result for title insurers and agents. However, agents should take great care to make sure that deeds of trust are properly executed and notarized and that affidavits of consideration and disbursement are properly completed. If challenges to alleged defects occur within six months from recording, lenders may have valid title claims that would result in losses to insurers and agents.

The second court decision worth noting involves a case that we first mentioned in the June, 2005, issue of Title Talk. We said we would keep our readers updated, so here we are six years later. Mitchell-Tracey v. United General Title Insurance Company is a case in which class action plaintiffs allege they did not receive the benefit of receiving reissue rates to which they were entitled. In an unpublished opinion, the United States Court of Appeals for the Fourth Circuit affirmed the District Court’s grant of the defendants’ motion for judgment on the pleadings, denial of plain-



tiffs’ motions for reconsideration, and decertification of plaintiffs’ class. The Fourth Circuit Court’s decision was based on the premise that the plaintiffs did not fully exhaust their administrative remedies through the Maryland Insurance Administration (MIA) before seeking a judicial remedy in the courts, in that the threshold question of whether the insurers charged the correct rates is one for the MIA to decide.

One of the cases cited in the Mitchell-Tracey decision was Carter v. Huntington Title & Escrow, a Court of Appeals case decided on July 14, 2011. This is another case in which the plaintiff asserts that he was entitled to a reissue rate and then pursued a claim through the court system. The Court of Appeals held that the plaintiff must exhaust his administrative remedies through the MIA first. But instead of dismissing the court case, the Court ruled that it should be stayed, or put on hold, pending the outcome of the MIA adjudication. If the plaintiff declines to pursue an administrative remedy, then the judicial action would likely be dismissed. While both the Mitchell-Tracey case and the Carter case were good results for title insurers and agents, they do both underscore the importance for agents and underwriters to charge correct rates. Agents must follow their underwriters’ filed rates and guidelines and may not deviate. Even when agents and underwriters prevail in class action lawsuits, the time and expense that goes into defending the lawsuits can be extremely costly.



Richard N. Harvey, Esq.
Vice President
Maryland State Manager
410.953.6763

Judy Unruh
Assistant Vice President
Agency Manager
301.948.8500

Donna L. Bowman, Esq.
Assistant Vice President
Underwriting Counsel
410.953.6763

Walter Weinschenk, Esq.
Underwriting Counsel
410-953-6763

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Old Republic National Title Insurance Company

Columbia Corporate Park
8840 Stanford Blvd., Suite 4500
Columbia, MD 21045