Oklahoma Land Title Association
PO Box 1544
Oklahoma City, OK 73101
Phone 405-293-4753
Facsimile 866-593-3730

Dear Colleague:

On behalf of the Oklahoma Land Title Association, I am pleased to enclose for your information and consideration a New Member packet. This packet contains the following information:

- A new member application;
- OLTA membership brochure outlining the benefits of membership;
- Membership dues schedule; and,
- Recent editions of *"The TitleGram,"* the OLTA quarterly newsletter.
- Check out the OLTA website at www.oklahomalandtitle.com

Please take a moment to review the enclosed information and see how the Oklahoma Land Title Association can benefit you and your company. This past spring, the OLTA Board of Directors revised the bylaws dealing with *Active* and *Associate* membership status. Hopefully, this change will allow you to reconsider membership in OLTA.

Active Membership allows you full benefits and voting privileges in OLTA and various discounts throughout the year to attend classes, conventions, check out videos and other financial benefits. However, although *Associate Membership* dues are significantly less, Associate Membership does not afford you or your company the full discounts and benefits of membership. Please consider carefully as you make the decision on which membership level best represents your needs.

NOTE: If you are currently receiving OLTA membership benefits, such as member fees for OLTA continuing education classes, video rentals, etc., through an affiliated company who holds the membership, please provide us with the name and address of the affiliated company.

An OLTA representative will be contacting you in the near future to answer any questions you may have about becoming a member. In the meantime, thank you for your consideration.

Sincerely,

Jeff Noble, President
Oklahoma Land Title Association

Enclosure

OKLAHOMA LAND TITLE ASSOCIATION
APPLICATION FOR MEMBERSHIP
(Associate or Title Examiner Member)

Type of membership sought:

_____ Associate (does not receive OLTA voting rights)

_____ Title Examiner* (does not receive OLTA voting rights)

Application fee submitted $_____ (see fee schedule enclosed)

1. Company/Applicant Name: _____
   Physical Address: _____
   Mailing Address: _____
   Phone Number: _____ Fax Number: _____
   Primary Contact Name: _____
   Primary Contact Email: _____
   Additional Names/Email addresses to be added to the mailing/email list

Name:	Email:
_____	_____
_____	_____
_____	_____

2. If a successor to some other company, please give the name of the former company and the date the applicant company succeeded to the interests of such former company: _____

_____

3. If a corporation, give the names and title of officers; if a partnership, give the names of the partners; if a sole proprietorship, give the name of the owner: _____

_____

4. Are you now engaged in the following business activities:

   (a) Compiling abstract of title: _____ Yes _____ No

   (b) Insuring titles to land (i.e. title insurance underwriter): _____ Yes _____ No

5. If not engaged in either compiling abstracts of title, or insuring titles to land, PLEASE INDICATE ONE OR MORE of the following professions in which you are engaged:

_____ Real Estate Broker

_____ Mortgage Banker

_____ Surveyor

_____ Lending Institution

_____ Developer

_____ Builder

_____ Title Examiner – OBA No. _____

_____ Legal Counsel (In the employment of a mortgage banking company, a life insurance company or a supervised lender [as defined in the Oklahoma Uniform Consumer Credit Code] which make loans secured by legal property)

_____Other (Describe): _____

6. List four references, including two current, active members of the Oklahoma Land Title Association, who are totally unrelated to each other in business or otherwise, from whom we may solicit letters of recommendation, on behalf of your application:

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

7. Please briefly describe the reasons you wish to belong to the Oklahoma Land Title Association:

_____

_____

_____

IT IS UNDERSTOODAND AGREED BY AND BETWEEN THE APPLICANT AND THE OKLAHOMA LAND TITLE ASSOCIATION (ASSOCIATION) THAT:

The information in this application is to be held in confidence by the Association and used only for the purpose of determination of the applicant's qualifications for membership.

Applicant certifies to the Association that the information contained herein is true and correct to the best of his knowledge and belief.

Applicant agrees, in the event of approval of this application, to abide by the By-Laws and Code of Ethics of the Association, no existing or subsequently adopted.

Signed this _____ day of _____, 20___.

CORPORATION OR PARTNERSHIP APPLICANT:**

COMPANY: _____BY: _____

TITLE: _____PHONE:_____

INDIVIDUAL APPLICANT:

NAME: _____ PHONE:_____

❑ **YES! Please contact me about being involved with one of the OLTA Committees!**

***NOTE**: "Title Examiner" membership applications should be submitted in the name of the individual title examiner whose practice is, to a large extent, devoted to the examination of abstracts of title.

****Corporations** must list members as participating Associates.

Please Return Application to: Oklahoma Land Title Association
P.O. Box 1544
Oklahoma City, OK 73101

QUESTIONS? Call the OLTA office at 405.293.4753 or via email at Admin@oklahomalandtitle.com. Applications may also be accessed on the OLTA website at oklahomalandtitle.com.

Revised 6/09

For over 100 years, OLTA has been making the land title industry stronger in Oklahoma. OLTA is comprised of dedicated professionals desiring to improve themselves and their businesses. Associating with individuals and companies that are the best at what they do, combined with the nurturing environment OLTA provides, creates a win-win opportunity for employees and employers.

Based in the state's capitol city, the Oklahoma Land Title Association (OLTA) is the only trade association of the land title and abstract industry in Oklahoma. Why join the OLTA team? See the reasons why OLTA membership consistently proves to be a smart investment for us in Oklahoma.

A Smart Investment to Make Your Business Stronger

Networking and Business Contacts

Long-term partnerships with your peers and to build many lasting friendships with others in our industry. We have many regularly scheduled meetings that all members of our association are welcome to attend, beginning with the Owners-Managers Meeting and Legislative Reception in February, followed by the Annual Convention in spring and the statewide meetings held in the Fall.

These meetings allow you the opportunity to discuss:
general business practices regarding operations,
marketing,
settlement service issues,
legislative issues
affecting our industry and overall business performance in the industry with others in our industry, enabling you to enhance your own business.

Every contact an employee makes is a potential asset to you and your business. As an OLTA member, an employee has access to a network of professionals in the title insurance industry and its related fields. If a tough question arises, OLTA is here to help members find the answer.

Looking Out For Your Interests at the State Capitol and Nationally

Our effective and ongoing presence at the Capitol and relationships with our regulatory boards, the Oklahoma Abstractors Board and Oklahoma Insurance Department has yielded dividends for our Association and its members. We are now perceived by the Oklahoma Legislature as a much more united voice. This has been accomplished through the dues support and personal participation of our members. On the legislative front, we must move forward to avoid falling behind. Your continued membership in the OLTA will allow the Association to continue its forward movement on your behalf.

The Oklahoma Land Title Association is an affiliate of the American Land Title Association. On the national level, the American Land Title Association (ALTA) is considered the premier expert on issues critical to the land title industry and actively represents the concerns of its members both on Capitol Hill and with regulatory agencies. ALTA works for you, the member, in Washington, D.C.!

Educational Opportunities

Throughout the year, OLTA provides many educational seminars that are available to members at a fraction of the cost you would pay as a non-member. OLTA continues to be the "*number one"* provider for continuing education courses for title insurance licensees and escrow personnel. We also provide training for abstractors, both on beginning and advanced levels. We offer education opportunities via a variety of formats including live classes, DVD rentals and webinars which can also be used for continuing education accreditation.

No matter how busy you are, your staff needs to take time out to invest in your company's professional advantage. OLTA's educational seminars provide a training ground for employees. Association programs address emerging and top-of-mind subject matter, keeping employees in touch with key industry trends and developments.

Publications and Website Information:

Our dues-paid members receive regular communications about the activities of the Association in the form of the "Titlegram." Also, in recent years, we have put out a publication called the "OLTA Directory." This is a handy guide providing information about our members and their various services. Our website address is www.oklahomalandtitle.com and is a handy resource for our members.

Cool Savings

Belonging to OLTA provides you with business opportunities at a discount rate and helps your business prosper. You get member discounts to attend all OLTA conventions, seminars, video check-out…you name it…. OLTA offers their members discounts you can count on.

Join the best of the best today!

Mission Statement:

The OLTA Mission is to establish and maintain high professional standards and ethics in the business of abstracting and title insurance.

OKLAHOMA LAND TITLE ASSOCIATION

MEMBERSHIP DUES

Effective 1/1/2003

ABSTRACTOR//TITLE AGENT MEMBERS:

POPULATION CATEGORY	AMOUNT OF DUES
1) Population Greater than 250,000	$ 1,000.00
2) Population from 115,001 to 250,000	$ 900.00
3) Population from 50,001 to 115,000	$ 800.00
4) Population from 30,001 to 50,000	$ 700.00
5) Population from 15,001 to 30,000	$ 600.00
6) Population from 10,001 to 15,000	$ 400.00
7) Population below 10,000	$ 300.00

UNDERWRITER MEMBERS:

GROSS INCOME (Premium)			**AMOUNT OF DUES**
$0	-	$250,000	$ 600.00
$250,001	-	$300,000	$ 700.00
$300,001	-	$350,000	$ 800.00
$350,001	-	$400,000	$ 900.00
$400,001	-	$500,000	$ 1,000.00
$500,001	-	$750,000	$ 1,250.00

Plus $ 10.00 per $ 10,000 premium above $ 750,000, Maximum of $ 2,500.00

ASSOCIATE MEMBERS : $250.00

TitleGram

Oklahoma Land Title Association

What's an Abstractor To Do?

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Fall 2014

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TitleGram

Fall 2014

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The objectives of the Oklahoma Land Title Association shall be to promote the safe and efficient transfer of ownership of, and interests in real property, to provide education, consistent with the purpose and objectives of the Association, to the membership, and to the public, to disseminate information to those who regulate, supervise or enact legislation affecting the land title industry, and to affiliated associations, to maintain liaison with users of the products and services provided by the members of the Association, and with the government, and to do any and all things incidental to the promotion and accomplishment of the purpose and objectives of the Association.

If you have any questions or need more information about any of these events, please contact the OLTA office at 405-293-4753 or via email at admin@oklahomalandtitle.com.

President's Message

Dear OLTA Members:

As I write this letter I can't help but think that I'm entering my sixth month as President of the Association. It seems like the convention was just a few weeks ago. Anyway, I hope everyone had a prosperous and profitable summer. I know we have all been very busy, which was good after the cold weather in the first quarter. We are all very blessed that we live in Oklahoma where the economy is running on all cylinders mainly due to our energy business and our pro-business leadership at the Capitol.

Speaking of the Capitol, we have state-wide elections coming up in November. I encourage everyone to get out and vote, particularly for those that we consider our friends in the Legislature or Executive office. Also, if anyone has a personal relationship with any legislator, please let me know so that we can add them to our list of contacts for those instances where we need help on a particular piece of legislation.

As I previously reported, we have been putting the final touches on a Mortgage Release Bill to be introduced in the 2015 Legislative session. In this regard, I would like to thank Barry Schmulbach and Monica Wittrock for their assistance in helping with this measure. Essentially, it is very similar to that which the association introduced a few years back. Within the next few days, I am hopeful that a draft of this measure will be sent to the members of Legislative and Research Committee for comment before it goes to the Board. Since the last newsletter, I've been busy with OLTA matters. The association held its summer meeting in July at the Chateau on the Lake in Branson, Missouri. The meeting was well attended and for those who were unable to attend, you missed a good meeting and a great time in Branson. The meeting included three (3) hours of continuing education covering Cyber-Theft, Common Underwriting Issues and Customer Service. All of these courses were taught by OLTA members. In August, I attended the Kansas Land Title Association Annual Convention in Manhattan, Kansas. This meeting included four (4) hours of continuing education on Powers of Attorney, Mechanic's Liens and Broken Priority, Escrow Theft and Kansas Insurance Laws and Regulations. Other speakers discussed Best Practices and Privacy of Personal, Non-Public Information. In September, I attended the Missouri Land Title Association Annual Convention in St. Louis. This was the 107th Annual Meeting for that association and was attended by 125 members. The meeting included several hours of continuing education, as well as a presentation by former ALTA President, Frank Pellegrini. One particularly interesting and unique continuing education course was a narrated bus tour of various properties in St. Louis that had unique title issues. Not only was it a great way to see some of the interesting architecture in St. Louis, but it also counted for an hour of continuing education.

After meeting our counterparts in surrounding states it confirmed my belief that title people are amongst the best on earth. It is also gratifying to hear the leaders from neighboring states say how much they like our annual convention.

In September, the association held the regional meetings benefitting Okie Tipac in Krebs, Claremore, Oklahoma City and Weatherford. At each meeting a representative of the Oklahoma Abstractor's Board and the Insurance Department gave a presentation. Additionally, there was a Legislative and Pac Report was given at each meeting. A big thanks to the following sponsors of the regional meetings: Adams Abstract Company, Liberty Abstract Company, Marshall County Abstract Company, Pioneer Abstract

Company, Abstract & Guaranty of Lincoln County, Claremore Abstract, Grand River Abstract, American Eagle Title Insurance Group, First American Title Insurance Company, The Oklahoma City Abstract Company, Stewart Abstract & Title, Oklahoma, Old Republic Title, Cordell Abstract Company and Custer County Abstract Company.

In early October, the Education Committee held its Basic Abstractor's School in Oklahoma City. Of the twenty-one (21) students enrolled in the class all but one (1) passed the test for an abstractor's license. Special thanks to the dedicated and experienced OLTA members that took time out of their busy schedules to teach this important class.

Finally, the Education Committee will be presenting a course on Basic Title Insurance in November in Oklahoma City. This course will be beneficial to abstractors, escrow personnel and those new to the title insurance side of our business. I would encourage all members to examine their staff levels and consider sending a student to this valuable class if possible.

Regards,

Jeff Noble
OLTA President

TitleGram Challenge

The first five OLTA members to respond with the correct answer will win $25 in OLTA Bucks!

Email your answer to admin@oklahomalandtitle.com today!

QUESTION:

An increase in the amount of land caused by the permanent withdrawal of the sea or a river is:

A. Avulsion.
B. Accretion.
C. Reliction.
D. Erosion.
E. All of the above.

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Abstracting of Guardianship and Conservatorship Proceedings
by Robert J. Getchell, Attorney Member, Oklahoma Abstractors Board

In the process of compiling an abstract, abstractors gather and analyze information from multiple sources. Often, an abstract will contain a substantial number of pages compiled from judicial records, whether it be a foreclosure action, bankruptcy, divorce proceedings, or the probate or administration of an estate. The court files in such matters can be a treasure trove of personal information on the parties involved. Perhaps less frequently, an abstractor finds it necessary to include matters from a pending guardianship or conservatorship proceeding. Almost without exception, these kinds of cases reveal medical and financial information that is highly sensitive and should remain private. This article is intended to serve as a reminder of the substantial responsibility

abstractors are charged with in the use of such information when compiling an abstract.

Under the Oklahoma Guardianship and Conservatorship Act, Title 30, Oklahoma Statutes, §1-101, et seq, access to the court file is tightly controlled. The policy behind this restriction is the protection of the privacy of the individual that is the subject of the proceeding. By definition, these proceedings require a court to consider evidence concerning the mental capacity of an individual, and the file will contain very detailed medical records, testimony, and the disclosure of deeply personal facts about that person's life. In addition, the file will also contain very detailed financial information. Because of these factors, the Legislature has seen fit to limit access to these files. Abstractors are one of the few classes of individuals specifically authorized by statute to have access to these records.

Title 30, Oklahoma Statutes, §1-122 provides as follows:

A. Confidential information filed with or submitted to the court in conjunction with any proceeding pursuant to the Oklahoma Guardianship and Conservatorship Act, shall not constitute a public record and shall be sealed by the court. Access to confidential information shall be strictly controlled. Except upon court order, no confidential information shall be disclosed to persons other than:
5. Abstractors licensed pursuant to the Oklahoma Abstractors Law, for the purpose of having access to records regarding minors and determinations of persons as incapacitated or partially incapacitated persons pursuant to the Oklahoma Guardianship Act. Abstractors shall maintain the confidentiality of this data, except for such parts as are relevant to the land title being researched;

The key part of the statute is "Abstractors shall maintain the confidentiality of this data, except for such parts as are relevant to the land title being researched." What exactly are the parts of such a proceeding that are relevant to the land title being researched? Guardians (and conservators) have broad statutory authority to conduct the affairs of the ward. This includes authority to purchase, sell, exchange, and mortgage real property, by order of the Court. Under these circumstances, what pleadings should be included in an abstract?

Fortunately, this issue has received significant attention from the Oklahoma Land Title Association resulting in guidelines available for use in making this determination. The following provide an excellent outline of what information from a guardianship proceeding should be included in an

Abstracting of Guardianship and Conservatorship Proceedings continued

by Robert J. Getchell, Attorney Member, Oklahoma Abstractors Board

abstract in a number of common scenarios:

The following pleadings from a guardianship proceeding should be reflected in the abstract:

1. Petition for Appointment of Guardian
2. Order Setting Hearing for Appointment of Guardian
3. Notice of Appointment of Guardian
4. Affidavit of Mailing of Notice of Appointment of Guardian
5. A Return of Service reflecting personal service made on the Ward of the Notice of Appointment of Guardian
6. Order Appointing Guardian
7. Guardian's Bond
8. Letters of Guardianship

In the case of the guardianship of a minor there may also be a nomination or an appointment of a guardian by the minor child, which should be shown as well. The file should also be examined to ensure that the appointed guardian is still lawfully acting in that capacity, and that the guardianship is still pending. Careful consideration should be given to the disclosure of any exhibits attached to the original petition, some of which may include confidential information inappropriate for inclusion in the abstract.

Once the legal status of a guardian has been established, what will be shown in the abstract will depend on the nature of the transaction prompting the abstract order, most commonly a sale, purchase, or finance transaction. In such cases, the following pleadings from the Court file are recommended for inclusion in the abstract:

Sale and purchase transactions

1. Application or Petition for an Order Authorizing Sale of property
2. Order Setting Hearing for Order to Sell Property
3. Notice of Hearing for Order to Sell Property
4. Affidavit of Mailing of Notice of Hearing for Order to Sell Property
5. Order Authorizing Sale of Real Property
6. Sale Bond (if required by the judge or is in file)

Abstracting of Guardianship and Conservatorship Proceedings continued

by Robert J. Getchell, Attorney Member, Oklahoma Abstractors Board

7. Order Appointing Appraisers and Appraisal of Property
8. Notice of Sale of Real Estate
9. Proof of Publication of Notice of Sale of Real Property
10. Affidavit of Mailing of Notice of Sale
11. Return of Sale of Real Property
12. Order Setting Hearing for Confirmation of Sale
13. Notice of Hearing of Confirmation of Sale
14. Affidavit of Mailing of Notice of Hearing Confirmation of Sale
15. Proof of Publication of Hearing of Confirmation of Sale
16. Order Confirming Sale

Purchases would have similar pleadings, with slightly different titles.

Finance transactions

1. Petition to Mortgage Real Property
2. Order for Hearing on the Petition
3. Notice of Hearing on the Petition
4. Proof of Publication and Mailing of the Notice of Hearing
5. Waivers (if any)
6. Order Authorizing Mortgage

Of course, there are other situations that might arise involving the guardianship that are not as common, and additional checklists are available in the OLTA Abtsractor's Handbook. Often the title examiner or title insurance underwriter will make specific requirements as to what they want to review. Particular care should be taken to avoid the inclusion of annual reports, care plans, inventories, and other pleadings that are not directly relevant to the land title be researched. It is sound business practice to err on the side of caution isn such matters. It is far less problematic to consider a request by a title examiner or title insurance underwriter for additional information from the court file, than trying to remove documents containing confidential information from a completed abstract that already has left your office.

The foregoing are excellent guidelines that will allow you to maintain the balance required between maintaining the confidentiality required by the Oklahoma Guardianship and Conservatorship Act while also performing the statutory duties set forth in the Oklahoma Abstractors Act.

What's An Abstractor To Do? Part I

by Joy Scheller

Ever feel like you've been doing your job long enough and have seen so many different aspects, angles, twists and turns, that you think you've seen it all and feel you have a pretty good grasp on how to abstract a title, but THEN some title throws you a fast ball and suddenly you're at a loss on what to do? This article will cover some of the more recently asked questions with discussion so you can think through what do you do if? These are intended for discussion and if your company already has policies in place, then those should be followed (after review), but if you are new to any of these scenarios, then give it the necessary thought and develop your policy accordingly.

LEGAL DESCRIPTIONS WITH MEASURED/RECORD VARIATIONS (CONFLICTS)

You have an existing abstract to update, or even if you are making a new one, and the legal description for the parcel has been of record for some time. Now your survey shows something to the effect of: "Thence North 82° 12' 34' West for a distance of 250.0 feet - measured (North 80°32'46" West 251.77 feet - record) to an 3/8" iron pin" and maybe with other calls similarly identified with inconsistancies or conflicts. What are you being told and how do you react? Do the prudent thing and think and process what you know and what is questioned, don't just go forward thinking you still have the same property, although that may be the case.

Can you tell if the two descriptions were written off the same basis of bearing? (Maybe they both go along the North, South, East or West line of a quarter section on the same bearing for the same distance) Can you tell if the surveyor was describing the record legal but found variations or if he was trying to survey a possessionary tract based on evidence found in the field? The showing of a fence off the property line may indicate he's using the record legal, while a showing of a fence on the property line with a different bearing, may say he's using possessionary lines. How does that affect you? You have to know if he's considered the adjoining tracts and if he's alleging any overlaps or gaps exist. So this may mean that you have to ask questions and ask for more detailed certification in the survey. Can he confirm the basis of bearing of the two variations? Is the iron pin one he found or one he has just set in place? If all surveyors used the same monuments, and the same quality of measuring equipment, and evaluated eviddence equally, there would be few boundary disputes caused by survey error or conflict. But time in history, equipment, weather and skills all affect the results found by the surveyor.

Let's look at surveys and legal descriptions in general.

There is little in the way of statutory law to guide surveyors to practice uniformaly. So we are faced with looking deeper to determine how our work is affected by each survey presented to us. The courts have established principles that surveyors are to follow where the location of boundary lines is uncertain because of conflicting elements in deed descriptions. While some terms are considered controlling and others informative, you have to know which actually control and which take a secondary role. For a monument to

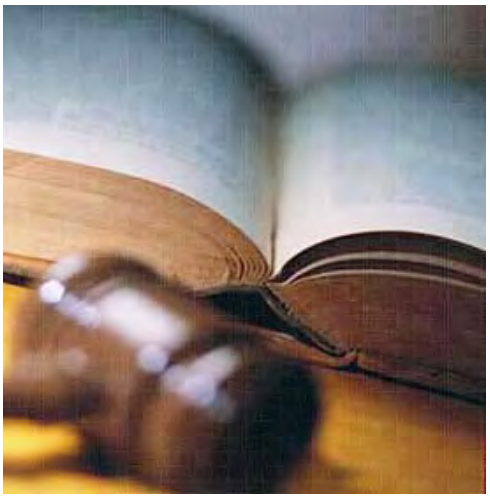
What's An Abstractor To Do? continued
by Joy Scheller

control it must have been called for or required by law. So, for example, if the surveyor was told to start the description at the iron pin previously set by a prior surveyor, then that is controlling when properly described in the legl description. Let's also look at the Oklahoma Board of Registration of Engineers and Land Surveyors Rules:

Oklahoma Minimum Standards for Surveying state in part:

245:15-13-2. Minimum Standards
(a) Definitions: as used in these standards, the following terms shall have the following meanings where the context permits as provided in 59 O.S. 471.1 et seq and Chapter 245:15-1-3 of the Rules of the Board.
(b) Research and investigation. Every property boundary survey shall be made in accordance with the boundary description, as provided to or as created by the surveyor, as nearly as is practicable. The surveyor, prior to making a survey, shall acquire available necessary survey data, which may include record descriptions, deeds, maps, abstracts of title, section corner ties, government notes, subdivision plats, road records, and other available section and boundary line location data in the vicinity. The surveyor shall analyze the data and make careful determination of the record title boundary of the property to be surveyed. From the information gathered, the surveyor, or those working under his or her direct control and personal supervision, shall search thoroughly for all controlling corners and all other available field evidence of boundary location. In the event of the discovery of a material disagreement with the work of another surveyor, the surveyor shall make reasonable efforts to contact the other surveyor in an attempt to resolve the disagreement.
(c) Minimum technical standards for land or boundary surveys (field and office).
(9) Where evidence of inconsistencies is found, such as overlapping descriptions, hiatuses, excess or deficiency, or conflicting boundary line or monuments; the nature and extent of the inconsistencies shall be shown on the drawing. *(Should also say in legal description, but currently does not).*
(12) The land surveyor shall establish or confirm a monument or confirm the prior placement of monuments at each and every property corner on the boundary line or boundary lines of the parcel or tract of land being surveyed.
(d) Minimum Standards for Legal Descriptions.
(4) A written legal description of the surveyed tract of land must provide sufficient information to locate the property on the ground and ***distinctly set it apart from all adjoining properties.*** (Emphasis added)

(You should review these in their entirety when possible, Found at www.ok.gov/pels/Publications/Minimum_Standards_for_the_Practice_of_Land_Surveying)



Based on these Minimum Standards, we should believe that the professional surveyor analyzes the legal description and determines which calls are controlling and which calls are informative in nature. He should reconcile the legal description with the measurements between controlling monuments on the ground. This is often when the result will have the surveyor showing two (or more) dimensions across the same line on the plat of survey ("Measured" – "Record"). We should all have a feel for whether the surveys made by surveyors in our area are following minimum standards. But can you actually tell if the survey is following minimum standards? Most put that language on the survey, because they are required to, but how much research did they do. If you tried to plot the two descriptions out, you may have

What's An Abstractor To Do? continued

by Joy Scheller

found evidence of a gap or overlap, increasing as a line lengthened in distance, but as laymen (as far as engineering and surveying goes) we don't know if we've considered all the facts and realities. So then we really should consult with the surveyor. When asking a surveyor about his work, don't question field work, but question whether the drawing or the written legal description actually tells you what you need to know about the property of record. (Your question may lead to him finding errors in the field work or maybe they were just made on paper.) Hopefully, if asked, what the surveyor will tell you is that he found a conflict, but that whether the record legal call or his measured or found call is used, that the description is of the same property and that there are no overlaps or gaps between the property and it's adjoiners. (You can ask for that language to be included in his certification. So now he has met Minimum Standard (d) –the legal does not affect adjoining property.

Whether you are confident that the variations or conflicts do not describe actual variations in boundary locations or not, the best you can do is show the first deed out and the current deed (will show who has senior rights) on every side of the parcel where there are inconsistencies or conflicts (with a statement that the full title is not shown within the abstract). Even if the question of overlaps and gaps is unclear, by showing these deeds you have given the minimum notice of a problem to the title to an examiner. They can ask for further showing or require certification by the surveyor that there are no gaps or overlaps with adjoining properties, if they feel it is necessary. If you choose to leave evidence on the adjoininers out, you may be opening yourself to claims of negligence. If the survey is actual and does not create overlaps or gaps, then by showing this minimum of information you have not overburdened the abstract with the full title of adjoiners but have given information necessary for the examiner to review.

Luckily, the vast majority of surveys give no hint of ambiguity, conflict or dispute, and this is often due to the survival of the monuments called for in the title record, availability of original survey records and methods for perpetuating the evidence disclosed by subsequent survey records. Land surveyors are generally found to be keen at deciphering the title records and recognizing the footsteps of prior surveyors, even so they can fall short of their best potential when confronted by difficult situations. We would hope that the surveyor should always try to resolve conflicts at the time they are discovered rather than to merely document their existence with the expectation that someone else will resolve them. Sometimes the surveyor's impatience is precisely the root of the difficulty. When faced with conflicting evidence, the surveyor should step back, re-evaluate the evidence, perhaps begin a lengthy quest for additional evidence, and be willing to allow the necessary time for all things to be adequately considered. The surveyor should be willing to assist in finding a remedy for the conflicts and must be familiar with the state and local regulations which may bear weight on the possible solutions to ensure the chosen remedy will not cause additional problems. When faced with conflicts, we should be able to help by questioning those surveys that raise previously unseen conflicts and praising those that clearly show what is needed for title review.

This article does not allow space for disussion of the principles surveyors are to follow when location of boundary lines is uncertain because of conflicting terms in deed descriptions nor the rules and elements used by the courts to determine boundary disputes. Those are available on various websites including (http://www.slideshare.net/SmithRobertsNatlSurvey/deed-descriptions-and-informative) and in BROWN'S BOUNDARY CONTROL AND LEGAL PRINCIPLES Seventh Edition (©2014) By Walter G. Robillard and Donald A. Wilson.

PART TWO: DEEDS FILED OUT OF ORDER or DEEDS WITH INCORRECT LEGAL DESCRIPTIONS BUT NEEDED IN CHAIN OF TITLE - to follow in a later issue.

Coming Events

Basic Title Insurance School
November 6, 2014
Francis Tuttle Technology Center
Oklahoma City, OK

2015 Owners/Managers Meeting
February 16, 2015
Oklahoma History Center
Oklahoma City, OK

OLTA Annual Convention 2015
April 16-18, 2015
Embassy Suites
Norman, OK

2015 Summer Meeting
July 17 & 18, 2015
Tanglewood Resort
Pottsboro, TX