

ADVOCATE

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WHAT'S IMPORTANT? Thoughts From a Technology Break By: Lawrence C. Bell, Esq.

Insuring owners of real property against loss or damage suffered by reason of liens, encumbrances upon, defects in or the unmarketability of the title is what we do. The law of the State of New Jersey at N.J.S.A. 17:46B-9 is clear: "No policy of title insurance shall be written unless and until a reasonable examination of the title has been conducted and a determination of insurability has been made in accordance with sound underwriting practices." For all of us engaged in the process, a reasonable examination of title and determination of insurability is about as important as important gets. But I digress.

The knock on my law office door was a bit unusual. The door was never locked during business hours back in the mid-1980's, and clients, visitors and appointments usually just opened the door and

walked in. One of the two gentlemen standing in the hall was holding a large box. He asked if they could come in and demonstrate a new technological invention that they said would forever change the way business was conducted. "Everyone uses telephones" they said, "But now you can use your phone line to send and receive copies of documents!" 'Facsimiles' is what they called them. "What will they come up with next?" I wondered, as they set up the machine and dialed someone who had one of those gadgets in their office too. The significance of the fact that they were dialing up the office of a title insurance agent was completely lost on me.

The day those guys knocked on my door was one of the musings I contemplated during a technology break that I enjoyed a short while ago. A time for reflection

and contemplation without a computer, without a cell phone, but also without any of the duties, functions, and responsibilities that required technological reliance. I was between engagements with a little time on my hands. I had turned in my company laptop and cell phone and experienced what felt like both physical and emotional symptoms of technology withdrawal. It was unexpected.

I did miss a very important aspect regarding the continuity of my personal information. Millennials may scoff at my misperception, but I will share it anyway with the hope that this won't happen to any of you. For the past 15 years or so my cell phone was the repository of anything that needed to be 'written down.' I believe the progression started

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with a Rolodex open card file with A to Z dividers, then an electronic Rolodex, to the short-lived use of a palm pilot, to the use of my cell phone for information storage. With every cell phone upgrade my personal information was transferred and my continued use was adding to what was important in my daily life. Names and physical addresses, home numbers and cell numbers, e-mail addresses, Wi-Fi codes, credit card numbers, usernames, passwords, account numbers, medication names, prescription numbers, and information about doctors for my Dad. I knew that I would be turning in my company laptop and cell phone but had no worries! I went to the Apple Store first and they said that everything was backed up to the cloud and could be easily downloaded on my new device. Unfortunately, that was wrong. All of that personal data was stored on the Outlook server of my prior employer and not directly on my cell phone or in the cloud. That was an important fact to know. When my server access was terminated all of that data and information went poof. Now we all know.

So for a while I was like Gilligan - as primitive as can be. Lots of time to think about the use of technology with little presently at my disposal. Akin to the plight of the ancient Egyptians whose 'land records' disappeared every time the Nile flooded. That may have been the first time in history that anyone ever said 'necessity is the mother of invention' as they developed a system of measurement based upon a readily available low tech natural device: the human arm! Not very exact by today's standards, but good enough for 3000 B.C.E. Traditionally, the length between a bent elbow and the tips of the fingers equaled one cubit. They also used palms, based on the width of the palm of the hand, and digits, based on the width of human fingers. Four digits equaled one palm; seven palms equaled one cubit; and 100 cubits equaled one rod. They used calibrated ropes of 100



cubit lengths for their land measurements and called early Egyptian surveyors 'rope stretchers' which is where the word 'surveyors' originated.

Annual floods destroying or burying boundary markers caused the development of methods of memorializing the extent of land ownership and determining land dimensions. While most lands were owned by the pharaoh or by the temples, rents and taxes were based on the areas being used, cultivated or farmed. The scribes who were educated and had mathematical and practical knowledge supervised the process and viewed their role as instrumental in maintaining order in ancient Egyptian society. Having reliable land records was just as important then as it is now. The only real difference being the manner in which we get there.

Are you a printer or a reader? When you have a complex and difficult search

or lengthy and confusing instrument, do you read that through on your computer screen - sorry, computer monitor, or do you print it all out? I, for one, admit to being a printer. I know all about best practices and paper-free offices and the environmental issues, but old habits die hard. I do print on both sides of the paper as my contribution to propriety, but then I'm off to a clean conference room table where I can spread out with yellow highlighter, pen and a legal pad in hand. Rip it apart; look at descriptions side-by-side; get it in order the way I like it, the way I can understand it, the way I can work with it. I've seen 'readers' working at their desks, watching with awe as they speed through a file with precision and acuity. Populating fields, fingers dancing on keys, mouse clicks grabbing and pasting in a blur of muscle memory and familiarity with processes as natural as chewing gum. Old way, new

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way, or future way to come, we all wind up in the same place – just a different way to get there.

I never wanted to think about getting it right when the process, to me, seemed so wrong. I've learned to be careful what I wish for. Those who entered and learned the ins and outs of the title industry when everything was handmade will no doubt agree. When one or two people or a small group within an office work a transaction from start to finish, reading, examining, abstracting, preparing the commitment, clearing objections, attending to post closing and ultimate policy issuance, there is very little likelihood that anything will get missed or that something may slip through the cracks. Generally, everything fits together and makes perfect sense. The same can be said for a well-run and properly organized centralized title operation even though hundreds of people may be involved in each transaction in some small way. Row after row of work stations with title clerks, examiners, and underwriters as far as the eye can see processing thousands of transactions a month for national accounts and lenders all focused on what's important to each one of them. A middle initial, marital

status, house number, description, signatures, over and over, day after day. Sure, there are coaches and team leaders and always someone available to jump in when the unusual occurs, leveraging the application of technology to the 'search, report, insure' process. What's important though really hasn't changed.

I'm reminded of the story of the father who took his school age daughter to the public library for the first time. After she looked around for a while she returned to her father and said "It's just like the internet, Daddy, only everything is printed!"

It was good to take a technology break. It helped me to focus on how far we have come in the use and reliance upon systems, applications, and programs that didn't even exist a few years ago. Title production software with push-button searches and self-populating data fields; automatic data and order tracking; fiduciary account fraud detection programs; cyber security and data protection; not to mention all of the seamless new ways to exchange information between agents, underwriters, lenders, vendors, real estate professionals, and the consuming public. How we do what we do has changed so drastically and so quickly, that a lot of

what we do today is barely recognizable from practices of the past. But what's important is clear and has not changed: "No policy of title insurance shall be written unless and until a reasonable examination of the title has been conducted and a determination of insurability has been made in accordance with sound underwriting practices."

During my recent technology break I thought about how the definitions and explanations might have changed. How do we fit within the four corners of a 'reasonable examination of title'? How has the 'determination of insurability' process evolved? How has technology contributed to the 'soundness of underwriting practices'? Answers to these questions may differ. It's the thinking about the questions that is important. ■

Lawrence C. Bell, Esq., recently joined CATIC Title Insurance Company as Senior Vice President, Senior Underwriter and New Jersey State Counsel. After a four-year hiatus, this article is Larry's twelfth contribution to the cover of the Advocate. The opinions and views expressed herein are solely those of the author and not his employer or the NJLTA.



ALTA Advocacy Update

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The Two Most Important Aspects of Your Title Company's Growth

PropLogix | October 11, 2018
<http://tinyurl.com/y7eoc4uw>

How do title companies make sure they are keeping up with the changes that affect their customer and employee experiences and expectations? For title and real estate professionals that are caught in the daily grind of their work, it can be difficult to stop long enough to know where to begin. Here are two places that you should start.

Why Real Estate Activity Will Inevitably Slow

GlobeSt.com | October 17, 2018
<http://tinyurl.com/y7fhak4z>

It is normal at this stage of the cycle to wonder about when it will end and how. Everyone from economist groups to industry experts have their educated opinions to offer. So little wonder this was a topic of conversation and debate at the Urban Land Institute's annual

Emerging Trends conference recently held in Boston. Andrew Warren, director of Real Estate Research for PWC, said during the conference that he doesn't see a sharp downturn ahead, but more of a plateau.

Title Insurance is Efficacious

Title News Online | October 18, 2018
<http://tinyurl.com/ybzu56ky>

The title industry tends to forget that not everyone in the world experiences the value of our product and the protections provided by a title insurance policy.

12 Industry Experts Share Their Near-Future Real Estate Predictions

Forbes | October 29, 2018
<http://tinyurl.com/ycko3qnf>

For those looking to invest in real estate, understanding the current market is essential to striking an optimal deal. But for current property owners or aspiring investors, it's equally important to know where the market is headed in the coming years. Any plans to buy, rent or sell in the near future could be

significantly impacted by market conditions, and you may decide to make a move or wait it out depending on the circumstances. To help you strategize your next real estate transaction, we asked the experts at Forbes Real Estate Council what they believe the most prevalent market trends will be in the next few years. Here's what they had to say.

Get Your ALTA Best Practices Questions Answered Here

Title News Online | October 30, 2018
<https://www.alta.org/best-practices/faq.cfm>

To help ensure industry receives consistent guidance about the Best Practices, ALTA publishes answers to frequently asked questions on its FAQ Portal. Check out the latest answers, which address questions about standard record retention for closing files, whether closing agents should have a separate privacy notice from the one issued on behalf of their underwriter and international wires. ■



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