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July 29, 2014

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## **2014 Annual Mid-Year Convention Re-Cap**

### **Special Member Spotlight**

Henry Eschenbrenner, Co-owner of Metro Title Company in Perryville, MO and Cape Girardeau, MO, has announced his retirement and plans to wind down his role with the company within the next few months.

Henry was born and raised in Chicago, Illinois and upon graduating from high school went into the Air Force from 1969-1973. He served one tour in Viet Nam while stationed in Japan in 1971. He also holds a degree in Computer Programming and was just shy of attaining his teaching certificate which would later serve him well as a regular instructor at numerous MLTA Title Schools.

Henry and Pat were married in 1970 and

The Missouri Land Title Association hosted the annual Mid-Year convention at Camden on the Lake at Lake of the Ozarks on June 8 - 10. There were 85 members registered for the event which kicked off with a board meeting which was open to all in attendance on Sunday evening. Committee updates included a report from Lobbyist Jim Durham to inform us of the latest developments on the legislative front and the impact on our industry. Be sure to check out a full report from Jim in the Legislative Update in this issue of the E-News.

Monday kicked off with another well-prepared Continuing Education Seminar with 42 attendees receiving 4 hours of CE for the full session. Chris Cisar of Arrowhead Title invited her banking partner to discuss the Best Practices changes she has made in her office to better protect her company and her customers. Bob Swiss, Underwriting Counsel for First American Title, presented title documents and insight as to the pitfalls and hurdles we face when documenting our files and preparing for closing and insuring land transactions. Finally, a panel of underwriters and agents presented current issues and concerns affecting our business and how we can best prepare for our ever-changing industry.

One of the highlights of the event included an exclusive behind-the-scenes tour of Wilmore Lodge and the Ameren UE Dam. Chris Cisar was instrumental in organizing this

they had one daughter in 1975 who currently lives in Perryville with her husband and 3 children. He shared with me that his greatest personal accomplishment was raising his daughter and seeing her with a thriving family of her own.

His first job after his honorable discharge from the service was in car sales in New Mexico which led him to work for Territorial Abstract and Title Company. Henry was instrumental in growing this agency from a relatively small two-county operation to serving seven counties in the surrounding areas.

In 1980, Pat and Henry moved back to Pat's hometown where he worked as the deputy assessor. According to Henry, the sitting assessor had been there since World War II and didn't know how to read a legal description and needed someone to straighten everything out. In doing so, Henry met a surveyor who suggested he start a title company so he partnered with Cara Detring of Preferred Land Title and long-time MLTA member and they formed Metro Title Company. He started as a two person operation and spent all day running records at the courthouse "until they kicked him out" and he then went back to the office to type commitments. He is very proud of the company he has built and the successful operation it is today. Sadly, Pat passed after a long illness in 2009.

He served as President of the association and was on the education committee and membership committee for years. Henry was a regular instructor at title school,

tour which turned out to be very rare and we're so thankful that she was able to put such a unique and informative outing together. Comments from some of the tour participants were surprise about the history and the time in which the dam construction was completed and with such limited heavy equipment and engineering technology when compared to that of today.

Upon returning to the hotel, we enjoyed a fantastic BBQ dinner and silent auction to raise money for PAC. Spirited bidding and some very excited children laying on the guilt resulted in approximately, \$5,300 in PAC funds raised. Thank you, to those who donated items for the auction and especially to those bidding on the items. Following the auction, the young and young-at-heart were invited to the resort theatre for a private screening of Disney's *Frozen*.

Golfers headed to the links Tuesday morning for our annual golf outing. Rainy weather threatened much of the day but we never felt a drop and the cooler temperatures made for the perfect day on the golf course. We had 24 golfers join us at Osage National Golf Resort and all had a great day!

Please keep an eye out for next year's Mid-Year Convention. The convention committee works hard every year to create a fun and informative meeting that includes family-friendly activities to enjoy. We hope those that attended will do so next year and for those that were unable to join us - please consider for next year.

This was the first year we held the event from Sunday through Tuesday and a fun time was had by all. If you would like to weigh in on this year's format vs. the Thursday - Saturday events we've had in the past, please email Pam Hart at [mlta@mlta.com](mailto:mlta@mlta.com). We want to accommodate as many members as we can and provide quality programming and networking opportunities at all times.

served on the ALTA Abstract & Research Committee as well as being appointed by the governor to serve on the Surveyor's Board.

## 2014 ANNUAL CONVENTION

### Meet Me in St. Louis For the 107th Annual Convention of the Missouri Land Title Association.

**When: September 11, 12 & 13, 2014.**

**Where: Union Station, St. Louis Missouri**

Henry married Danisse in February, 2012 and they look forward to many days ahead traveling on their motorcycle and enjoying the next chapter in their lives together. As an association, we cannot express enough how much Henry has meant to our membership and the industry as a whole. His dedication to this business and countless volunteer hours cannot be measured and we are a better association for having worked with Henry. I had reached out to Cara to get Henry's contact information and she informed me that he only uses his cell phone to MAKE calls. He will not answer and he does not text. He will give out his email address to a select few and if I wanted to get in touch, it would be best to call Danisse. THAT is the Henry we all know and love! If you would like to send a congratulatory message to him, please feel free to send it to me at [dhoffman@thetitleresourcenetwork.com](mailto:dhoffman@thetitleresourcenetwork.com) and I will forward on to Henry right away.

This year's convention is centered around the 250<sup>th</sup> birthday of St. Louis. The convention will highlight the history, both past and present, of St. Louis and land title issues that were created in cultural and ethnic areas in the formation as well as repurposing of some of the city's finest areas.

The convention begins Thursday, September 11<sup>th</sup>, 2014 with a scramble golf tournament at Gateway Golf Course in Illinois where the golfers will view the skyline of St. Louis from a number of greenways. An alternative event for Thursday morning will be a Tour of "The Hill", a fun-filled slow-paced walk, showcasing a thriving community of Italians centered around Church, Community and Family (and maybe a cannoli or two). BONUS: 1 hour of C.E. while you enjoy the sights.

Continuing in the Italian theme will be My Mambo Italiano Dinner at LoRusso's Cucina Thursday evening. Buon appetito!

### HELP WANTED:

**Do you have a talent that can help the Missouri Land Title Association?**

Friday morning's General Session will be followed by 4 hours of Continuing Education. The first two hours will be "The Title Tour of St. Louis" complete with tour guide and title extraordinaire on a Coach Line bus. After lunch will be an additional two hours with keynote speaker Richard Andreano, Jr., partner at Patton Boggs LLP in Washington, DC. As a regular speaker on industry matters, Mr. Andreano will discuss the upcoming CFPB regulations from both the

title and lending perspective.

**Do you wonder how you can contribute to your state title association but it's difficult to attend meetings?**

We will end the day with the Annual President's Cocktail Hour, Banquet and Installation of Officers. This year's theme: A Birthday Celebration. Come one, come all in semi-formal dinner attire wearing a **HAT** of your choice (use your imagination in choosing from a birthday theme or any era) to celebrate not only 250 years, but also 107 years of MLTA.

**The advertising and publicity committee is looking for a tech savvy individual that has desktop publishing and/or layout design experience. Our goal is to issue the E-Title News 4 or 5 times per year and we want to deliver a quality, well-designed format to push as much information to our members as possible. Articles, advertisements, photos, and the calendar of events will be provided and our new editor will work with the chair and committee members to put the piece together and upload it to our distribution resource. Experience using Constant Contact is a plus.**

As we celebrate and enjoy each others' friendship and business relationships in grand style, we don't want to forget the previous generations of immigrants who forged this ground in all of Missouri for our livelihood. As a way of giving back to those roots, we will have a fun charitable walk "March to the Arch" on Saturday morning (and maybe a 10-minute history spiel describing the soon-to-be new Arch grounds). The funds raised for this charity walk at 7:30 am will benefit refugee families @ Oasis International Ministry with their own special birthday celebration.

**If you want to make a difference in the MLTA and this sounds like the job for you, please email David Hoffman, Chair of Advertising and Publicity, at [dhoffman@thetitleresourcenetwork.com](mailto:dhoffman@thetitleresourcenetwork.com)**

The convention will then end with the First Board Meeting of the newly elected 2014-2015 Board Members at 9:30 am. Please show your support by attending this meeting.

Important Dates:

## **WEBSITE UPDATE**

**The hotel room block will expires on August 15, 2014.** All hotel reservations must be guaranteed by advance deposit or credit card. The negotiated room rate is \$159.00 per night. Reservations may be made by calling 855-271-3620. Be sure to tell them you are with the Missouri Land Title Association when making your reservation!

Do you have pictures of MLTA Events?

Do you have pictures of local landmarks to show off your county?

**Early Bird Registrations on or before August 15,**

We want to update and personalize your MLTA website to better reflect the beauty and unique features of our great state. Please forward pics you would like to see on our website to [dhoffman@thetitleresourcenetwork.com](mailto:dhoffman@thetitleresourcenetwork.com)

**2014.** New this year: Volume discounting for groups of six or more

**Convention Dates: September 11 - 13, 2014.**

Registration is open now at [www.mlta.com](http://www.mlta.com)

### **Meet Me in St. Louis for a Birthday Celebration!**

Nancy LoRusso, MLTA President  
and the entire Convention Committee

### **Legislative Update**

**By: Jim Durham, MLTA Lobbyist**

Considering that we began this session with one issue we were pursuing-Deed of Trust priority-which died within days of being introduced, you would have expected this to have been a fairly quiet, easy session for MLTA. Instead, it rapidly turned into a hectic scramble to address issues springing up out of nowhere or rising from graves in which we had interred them in hopes that we could rest in peace. This session was a reverse of normal events; we played whack-a-mole for the first two-thirds of session, while the final third-until the last two weeks-was relatively quiet.

The issues affecting MLTA this session (and the outcome) were:

**Deed of Trust Priority (Died):** This was a quiet

attempt to clarify in statute the priority of a Deed of Trust over other claims or encumbrances on real property, although it might have been correctly read as significantly restricting the extent of a mechanic's lien claim. The language was drafted by us and presented to the bankers for review; they loved it. Rep. Tony Dugger introduced it in the House as **HB 1479** and Sen. Gary Romine offered it in the Senate as **SB 783**. Both legislators were immediately beset by the various subcontractor associations, the multiple home builder associations, Associated General Contractors and, apparently, a few construction unions. We have agreed to work with some of these groups over the interim, but the MLTA Board needs to decide how critical this issue really is.

**Foreign Ownership of "Agricultural Land":** We should have had something ready to file on this issue, but we kept hoping-and expecting-to get rules from the Department of Agriculture to resolve the problem. Instead, we were six weeks into session before we even had agreed language, but we also had built considerable interest in the bill and a lobbying bloc that included lenders, realtors, and even-sort-of-the Missouri Farm Bureau. Unfortunately, the Farm Bureau was also a stumbling block because it still wanted to eliminate the permission for 1% of Missouri farmland to be foreign owned.

Unfortunately, we did not perceive our greatest obstacle until two weeks before the end of session; we became entrapped by "captive cervids". Simply put, two rural Senators (Lager and Munzlinger) were committed to passing a bill to protect owners of captive deer, elk and other "cervids". The Senators had plotted to assure that the only agriculture bills to reach the Governor's desk would be omnibus bills that included their captive cervids. In the second week before session ended, our bill came up for final approval in the Senate and they discovered it involved "agriculture"; more importantly, they saw a bill supported by a whole wealth of groups not usually associated with agriculture. We were kidnapped and added to **HB 1326** and **SB 506** along with dairy farms, livestock markets, pesticide applicators, veterinary students and, of course, captive cervids.

On July 8, the Governor vetoed both HB 1326 and SB 506 which included MLTA's language for foreign ownership of farmland. Our language was not the reason for the veto. The two bills included a provision relating to regulation of captive deer; this is the provision that is getting all the headlines.

Prior to the veto, MLTA was already in contact with the Department of Agriculture which has the authority to enact rules which, we believe, would resolve any concerns we have about the revisions made to the law in 2013 (in SB 9). We have requested a meeting with the Department as soon as possible to ascertain whether such a resolution is possible. We anticipate that we will know what our next step is before the first of August.

**Mandatory Closing Protection Letters (Died):** In the last weeks of session, the underwriters were seeking to add their language to a number of bills, but nothing ended up passing. While MLTA supported the bill, most of my activity involved repeatedly reassuring the lenders and realtors that they had no reason to oppose the bill. If the underwriters intend to offer this again next session, it would be extremely helpful to have some talking points about occurrences this bill would cover that don't entail some misdeed by a title agent.

**Tax Foreclosures (Died):** This item is actually two issues (at least) which will be back next session. One is **HB 1718** which would have capped the charge for a title exam for property after a tax foreclosure sale, based on the collector's determination of the average fee. This issue arose because some law firms were charging exorbitant amounts (several thousands of dollars). The second issue is how to handle tax-foreclosed property now in the hands of the Collector, when the property is not worth the cost of a quiet

title action. We are working on that issue, but suggestions would be welcome.

**Surveyors' Exclusive Functions (on the Governor's desk):** After fourteen years, the land surveyors finally got their language stating that the subdivision of land into smaller parcels and the location of easements is their exclusive realm. While we focused on rural legislators with the question, "What about the farmer with 160 acres who wants to give his son the northwest 40 acres?"; what surprised me was that most of the "true" land-owning farmers in the legislature stated that they would want the survey.

**Mechanics' Lien Waivers (Killed):** A brief attempt was made to modify the mechanics' lien law we passed in 2010. The change would have made an "Unconditional, Final Lien Waiver" neither unconditional nor final; worse yet, it left in our language and declared it was still applicable, so the section would contradict itself. Of course, SITE testified in support of the bill, but we, the banks, the home builders and the realtors testified against it. The committee chair, Noel Torpey, was upset that we rough-handled the bill sponsor and insisted that the committee vote the bill "Do Pass" while promising them that he would never report the bill to the floor. The following Representatives voted against the Chair and deserve our appreciation: Gary Cross (R), Mike Bernskoetter (R), T. J. Berry (R), Jon Carpenter (D), Ben Harris (D), Jeremy LaFaver (D), Jeanie Lauer (R) and John Mayfield (D). Of particular note is Gary Cross who is also the Vice Chair of the committee; it is extremely rare for a Vice Chair to vote in opposition to the Chair. One final note, the bill sponsor, Rocky Miller, and I have "made up" and he has stated he certainly didn't feel "roughed-up" by any of the opposition.

**Notary Public Requirements and Fraudulent Conveyances (Died):** **HB 2260** initially appeared to be a weird aberration, but it turned out to be a weird means of addressing an actual problem. The bill required notaries to

obtain the thumb print of the signer of a Deed in the notary's journal while the notary had to place his or her thumb print on the actual document to be recorded. The purpose of the bill was to address the recording of fraudulent conveyances which has, apparently, become a problem again in the Kansas City area. Another approach was offered by Rep. Mike Cierpiot of Lee's Summit; his **HB 1467** would require the Recorder of Deeds to provide notice to the last owner of record anytime "a deed transfer has been filed". The bill fails to define "deed transfer" or suggest a remedy for the owner receiving the notice.

### **Underwriter Issues:**

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**"Reservation of Rights" Proceedings (Died):** The bill, **HB 1336**, would have provided all insurers with the ability to challenge coverage issues in a separate action from the defense of a claim against the insured. While tailored to the various forms of liability insurance, the bill would have been available to title underwriters as well. The bill, with several others, was held hostage to compel the sponsor's actions on another issue; to his credit, he held firm. This bill is also opposed by the trial lawyers.

**Insurance Holding Companies (Died):** We were merely following these bills, **HB 1336** and **SB 537**, for our underwriter members (although the House sponsor would have excluded title insurance if the underwriters wanted...and had responded to me). These bills were part of the group of hostage insurance bills.

On July 8, the Governor vetoed both **HB 1326** and **SB 506** which included MLTA's language for foreign ownership of farmland. Our language was not the reason for the veto. The two bills included a provision relating to regulation of captive deer - the provision that is getting all the headlines.

Prior to the veto, MLTA was already in contact with the Department of Agriculture which has the authority to enact rules which, we believe, would resolve any concerns we have about the revisions made to the law in 2013 (in SB 9). We have requested a meeting with the Department as soon as possible to ascertain whether such a resolution is possible. We anticipate that we will know what our next step is before the first of August.

If you have any conversations with your legislators, for the present we would recommend that you simply inform him or her that we are attempting to work with the Department to remedy the situation. While there may be the possibility urging your legislators to vote for an override of the Governor's veto, we are first attempting a workout with the Department of Agriculture to avoid any political confrontations.

**Disclaimer and Warning:**

All of the bills listed as "Died"-and even the one described as "Killed"-are really only comatose; each is likely to rise again during pre-filing in December or once session begins in January. Even more frightening, some issues, such as the problems with tax foreclosure land and fraudulent conveyances in the Kansas City area, are ones **we** need to address; even if we can't solve the problem, we need to be proactively involved to assure that the legislature doesn't create an even bigger problem.

**Changes to the**

## **Condominium Lien Law**

**By: Jim Durham, MLTA Lobbyist**

### **Changes in Condo Lien Law**

#### **Shouldn't Affect You, If...**

The legislature passed and the Governor approved **HB 1218** which alters the priority of a condominium assessment in the event of the foreclosure of a loan secured by a condominium unit. The amendment to Section 448.3-116 was a compromise worked out between the bankers and Community Associations Institute (CAI) an association representing common-interest ownership communities, including condominium associations and boards.

**Background.** The stimulus for the bill was a Supreme Court decision interpreting Section 448.3-116 of the statutes, which had been passed nearly 35 years before. Briefly, the facts before the court were (1) a condominium unit owner refinances the purchase money loan on the unit, (2) the condominium association approves a "special assessment" on each unit, (3) the unit owner defaults on both the bank debt and the special assessment, (4) the bank forecloses on its debt and (5) the association asserts that the unit is still subject to the lien for the special assessment. On those facts, the Missouri Supreme Court concluded that since the bank's lien did not secure a purchase money interest in the unit, the condominium association's lien had priority over the bank under the current language of the statute.

**The Compromise.** The parties basically agreed to accept the originally intended language of the Uniform Condominium Act which has been adopted by about two-thirds of the States. Under the new law, all Deeds of Trust recorded after August 28, 2014, secured by a condominium unit will be subject to the association's priority lien for assessments imposed pursuant to the adoption of the annual budget by the association to the extent of six months of such assessments. In English, what that means is that the bank or purchaser at foreclosure must pay up to six months' worth of

past-due monthly assessments in order to acquire "clean" title to the unit.

**How This Affects You.** *CAVEAT: Ask your underwriter before relying on any of the following.* For the vast majority of your transactions involving condominium property, this should not change anything you are presently doing. It also should not change anything about the policy terms or exclusions since the association's lien is based on the recorded Indenture (which you have hopefully included on your Schedule B-or the lien will be the least of your worries), and the lien only arises as a result of events occurring after closing.

However, if the unit you are insuring is being sold following a foreclosure, your situation may be more complicated, particularly if the condo association indicates that there is an arrearage on condo fees. While you will hopefully be able to leave it to the seller (or your underwriter) to resolve, there is some very important information you should obtain. You should ask the following:

? Does the arrearage include any condominium fees which came due prior to the date of the foreclosure sale?

? If so, did the condo association receive any payment on those past due fees from the purchaser at foreclosure and, if so, what amount was paid and what were the regular monthly assessments for the six months prior to the date of foreclosure?

? Does the arrearage for the period prior to foreclosure include any "special assessment", any attorneys' fees or any other collection costs? These amounts are not entitled to any priority unless, perhaps, if the foreclosed Deed of Trust was a refinancing recorded prior to August 28, 2014, in which case, PLEASE! Call your underwriter!

? If there is a current arrearage, but none of it predates the date of the foreclosure sale, you may still want to inquire whether any post-foreclosure payments in excess of the six-month limit were applied by the association against a pre-foreclosure arrearage and, if so, what the amount was.

Finally, in the process of amending this statute, we missed an opportunity to make it a little easier and quicker to obtain

information on the status of a unit owner's condo fee payments. However, the current and new law each provide that a unit owner must be provided, upon written request, a recordable statement binding on the association and specifying the amount of any unpaid assessments; the biggest problem with this requirement is that the association has ten business days in which to respond.

However, there are other problems with this requirement, including the following:

? It only applies to condominiums; there is no comparable requirement for other forms of common-interest ownership communities.

? It has no teeth. A condominium association could simply fail to respond and still have a viable lien.

? It doesn't require that condominiums and other common interest communities must provide public notice identifying the person or entity authorized to bind the owner's association on issues relating to assessments.

If you have encountered problems in obtaining information on a common interest community's assessments, I would like to hear about it. Please let me know (1) whether it was a condominium or a subdivision, (2) if you know, whether it was owner managed or had a property manager and (3) a brief description of the problem you encountered. You can e-mail that information either to me at [JLDJBA@aol.com](mailto:JLDJBA@aol.com) or to Pam at [mlta@mlta.com](mailto:mlta@mlta.com) Thank you!

**Event Photos**



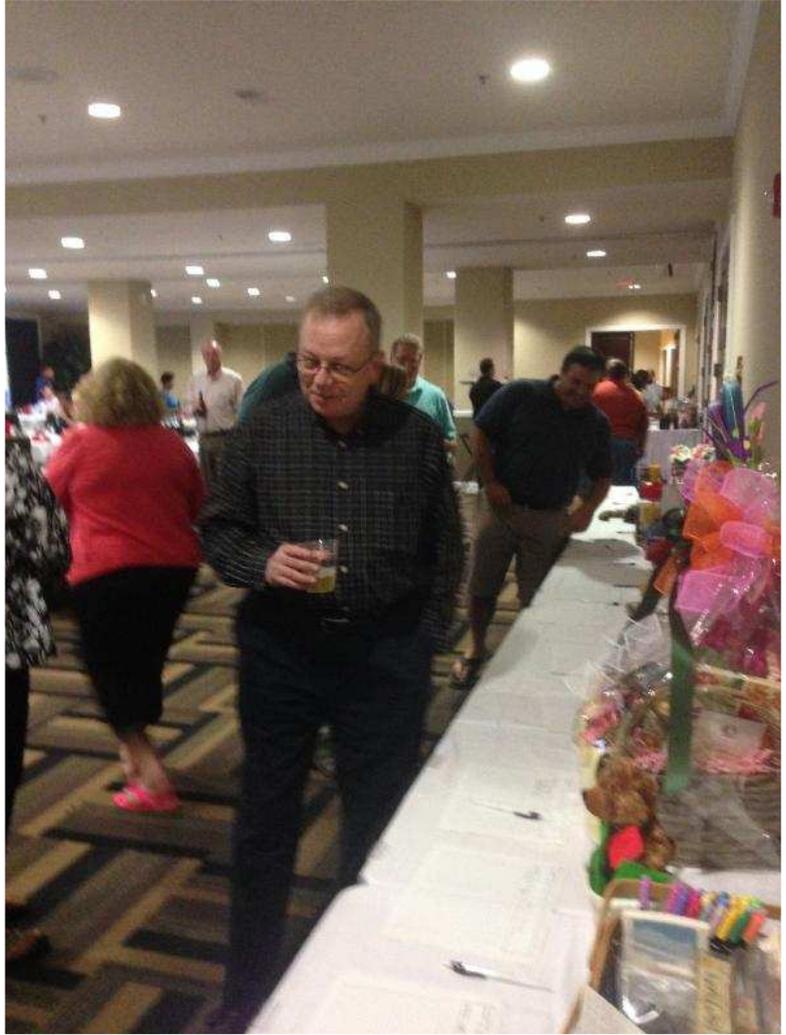
Board Meeting



Board meeting attendees



Games for Kids



Silent Auction







Big Winner!



Golf Tournament



Golf Tournament



Golf Tournament



Golf Tournament



Golf Tournament

Sincerely,

Advertising & Publicity Committee  
Missouri Land Title Association

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