

Tallahassee Report

2016
 Issue #3

Serving Title Professionals throughout Florida

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REGISTER NOW FOR THE FLTA 2016 CONVENTION IN ST. AUGUSTINE

A Message from the President

Arnold "Skip" Straus, Jr. | Enterprise Title, Inc.



Message from the President

Have you ever looked back at a letter or an article you wrote and said, "If only I knew then what I know now..... I would respond to myself?" Well, one of the few great perks of being your FLTA President (besides the fabulous salary and the free Bentley) is that very opportunity. Plus, let's face it, since elementary school, haven't you always wanted to use the 'red pen (or in computer parlance, the 'redline?'). So I looked at my January article, and used my red keyboard.

We are now TRID plus a few months OK TRID was not exactly Y2K, but honestly, did our industry ace the test??? How many of you are still teaching your lenders how to prepare the CD?, FinCen is coming Told you, now it has expanded across more cities, and three counties in Florida, we suspect it will stretch even farther across the country, and Unlawful Inducement is now official We at FLTA take great pride in having produced a Rule which proscribes improper conduct, but allows free market competition. We also prevented DFS from creating a Rule which would have drastically impacted our business models regarding estoppels. Let us not forget the Legislature is in session, and there are fifteen pending bills which may affect us! Alex (Exec. Dir.) Donna (wife) and Jim Russick (my conscience) have begged me not to say anything about the 2016 Session -here because I can be so politically incorrect!

Of course, you—our valuable Members—have not missed a beat. Our insurers prepared us so well for the CFPB changes; our agents have acquitted themselves with their usual excellent service to buyers, sellers, lenders, and real estate agents; our affiliate members have provided their services in a timely and efficient manner.

If only I did not have to keep running my credit card for the estoppel letters (more on that below)! I am very proud of the Florida title industry!

FLTA is re-committed to the Monthly Newsletter. The format will change from time to time, but our goal is to disseminate information pertinent to your business, state and national politics, and in real estate trends. Even though this is a quarterly, are you finding the information helpful? What else would you like to see?

Notes from the Board: Lisa Blythe is running strong with new ideas for Membership, but she cannot do so alone. If you are proud of FLTA, tell someone else to join!! . -Pat Hancock hasis reviseding our ByLaws which were approved -by overwhelming vote. Congratulations on a job well done. ~~Len~~Len Prescott and his Sub-Committee have completed new forms and are working with the Department for approval.is already working on new forms. Jeff Stein has outlined is pushing ahead on the Education Manual and we have solicited volunteers to write substantive chapters. Rachel McIntosh and Alex have hired a new accounting firm so that we can better evaluate our budget year to date, and make past year comparisons.

Estoppel Bill. If you can devote your FLTA time to -only one issue, please make a commitment. Passage of any Estoppel Bill in this session will be challenging. Are you willing to be a liaison with a State Representative or Senator? Are you willing to tell him or her why this concept is important to you, as a local business operator? Do you think that payment in advance is the permanent reality which we have to accept? Finally, if this or any issue is really important you, will you join us in Tallahassee before the 2017 Session during Lobby Days? .-

Data call We at FLTA are actively working with Office of Insurance Regulation (OIR). With the retirement of Insurance Commissioner Kevin McCarthy, and Title Insurance Coordinator Peter Rice, we are meeting with the new regulators to make sure they appreciate the valuable work title agents and insurers perform. We do not yet have yet have a clear chronology about when preliminary findings will be presented. .

Publicity FLTA has obtained service mark approval for “Florida Runs on Title Insurance”sm (are you wearing your shirt from the Convention?). We have learned that seeking alternatives to “brand” the Florida title industry promoting FLTA -on social media is more expensive than originally expected, so we -could use the help of anyone out there who has Public Relations contacts.

Webinars These have been highly successful. For a list of upcoming events, please check website www.flta.org.

Feedback We want to hear from you. Comment: I rarely hear from you (well, my Board members are frequent correspondents, but there are about 4000 others of you out there). Should I assume that no news is good news?

Tell us what you like, what you would like to improve, and how you can be involved.

My email is sstraus@strauseisler.com.

As my children know, I do not text, but if you send an e-mail, I will respond. Thanks

Skip

FLTA Executive Director

Alexandra Overhoff | Florida Land Title Association



We have officially entered Fall! Football games, big sweaters, and all kinds of brilliantly colored leaves to rake. Or..... football games, sweaters (highs only in the 80s!), using the pool heater, and pumpkin spice lattes (on ice).

In any case, it's time for [FLTA's 2016 Annual Convention](#). This year, 2015-2016 President Skip Straus and 2016-2017 President Karla Staker welcome you to join them November 9, 10 and 11 in St. Augustine ("Florida's Oldest City") at the Renaissance World Golf Village Hotel. As always, our speakers will deliver information on topics that touch or direct you every day. Presentations by Florida's Chief Financial Officer Jeff Atwater; the CFPB's Counsel David Friend, ALTA's Abstracters and Title Insurance Agents Section Representative William "Bill"

Burding; Florida's Department of Financial Services' Bureau Chief Ray Wenger and Analyst Matt Guy; Florida's Office of Insurance Regulation's Counsel Jeff Joseph; Lobbyist David Daniel; Karla Staker and a panel of the usual suspects; and bestselling author and "transformational" speaker Jon Gordon are just some of the highlights you can expect to keep you on your toes on the days following the election. (Make sure you stop by the World Golf Village's on premise restaurant/bar Caddyshack for the informal election party the evening of November 8th.) We're also dedicating time for you to learn about FLTA committees, which will allow you to be involved in Florida title insurance rules and regulations, and relationships with associate industries, and, of course, the ultimate consumer.

Again this year, along with earning up to 5 hours of CE/CLE credit, you can also have other fun and games at the convention. Thursday afternoon is yours! Golf, you say? YES! November in St. Augustine is generally a perfect time to enjoy the course, and the World Golf Village has a nice one. It's just right for the big comeback of the FLTA Golf Tournament. We haven't experienced the thrill of title insurance professionals roaming the course for quite a few years, and our champions are itching to Perfect their Title Game, on and off the course. You can [register now](#) for yourself or with a group. Over 50 players have registered already, but there's still time for you to get in the game.

If you would prefer to hit the road, join Pat Hancock on a fast-paced ride on your bike. Please contact [Pat](#) for more information. Would you rather swing a tennis racquet? That's available, too. You bring your racquet, and let [me](#) know how many tennis balls we need. If you find that you can't make it Thursday afternoon without shopping for the evening banquet, you can explore downtown St. Augustine, or the outlet mall just around the corner. St. Augustine itself is ripe with history, action-packed bars, delicious food and exciting tours, mystery and otherwise.

Our exhibitor slots are full, but a [few sponsorship opportunities](#) for the convention, including the golf tournament, remain. If you'd like to be a sponsor, please [drop me a line](#). If you don't see a sponsorship that fits, and you have some creative ideas, let's chat.

Along with convention planning, we've been working on our 2017 Lobby Days. Save January 24 and 25, 2017 for FLTA's ever popular Lobby Days, during which we meet with our Regulators and Legislators. Come on up! We schedule the meetings, and you speak with our Regulators and Legislators about your business and your industry. We are working on 2017's Legislative Agenda, and one of the best ways to help our government be the best it can be is by you sharing your day to day experience with those who make the rules. Details are on the way.

Coming soon is the FLTA JOB BOARD!!!! Title insurance is hot in Florida, and FLTA plans on being your source to find the best talent in the state! Contact [Jena](#) or [me](#) for more information.

Read on in this newsletter for FLTA President-elect Karla Staker's article on *Ober v. Town of Lauderdale-By-The-Sea*, a recent case from Florida's 4th District which contains troubling implications for Florida's foreclosure process. FLTA hopes to file an *amicus curiae* brief. You likely already enjoyed FLTA President Skip Straus' thoughts on past, present and future events. Also in this issue: Don't miss CLT Institute Section Chair Marcia Cameron's LONG list of who you may congratulate on earning their CLC/CLS designations. FLTA Agent Section Chair Gibbs Wilson updates you on the latest from the Agent Section.

Looking forward to seeing you in November at FLTA's 2016 convention at the World Golf Village.
Bring on the Season with FLTA!!!

Best Wishes,
Alex



FLTA FILES MOTION IN IMPORTANT CASE

A recent Florida court decision could undermine Florida's judicial foreclosure process. In *Ober v. Town of Lauderdale-By-The-Sea*, Case No. 4D14-4597 (Fla. 4th DCA August 24, 2016), the Fourth District Court of Appeal held that a lis pendens in a foreclosure case terminates when the final judgment of foreclosure becomes final (30 days after entry) and, accordingly, liens recorded after the final judgment becomes final are not extinguished by the foreclosure sale. Prior to *Ober*, the prevailing law was that a mortgage foreclosure sale extinguishes subordinate interests recorded after the lis pendens. ([For a copy of the Ober decision click here.](#))



In *Ober*, a lender filed a lis pendens in connection with a foreclosure suit. In 2008, a final judgment of foreclosure was entered. Subsequently, the Town of Lauderdale-by-the-Sea filed seven code violation liens. In 2012, a judicial sale was held and a certificate of title was issued to the lender. Thereafter, James Ober bought the property from the lender. The Town asserted, successfully, that the foreclosure did not eliminate the liens because the lis pendens expired in 2008.

The court was undoubtedly sympathetic to the Town's perceived need to impose liens against the property during the lengthy foreclosure. However, the court overlooked the impact on past and future foreclosure sales. If a lien or deed is recorded after a foreclosure judgment, prospective bidders would be wary of bidding at the foreclosure sale if they could not obtain free and clear title. If a certificate of title were issued in such circumstances, a re-foreclosure or quiet title would be required to sort out the parties' respective interests.

Mr. Ober has filed a motion seeking rehearing or certification to the Supreme Court of Florida. Because the matter is of great importance, Florida Land Title Association filed a motion to file an *amicus curiae* brief in the case. The motion was granted on September 27, 2016, and FLTA's brief is due on October 17. An *amicus curiae*, or friend of the court, is someone who is not a party to a suit but seeks to assist the court by offering information that bears on the issue before the court. Carlton Fields Jordan Burt, P.A., an FLTA agent/law firm member, has been retained to represent FLTA.

FLTA's motion for leave to file the *amicus curiae* brief states that its members have insured untold numbers of titles stemming from foreclosure sales and have extensive knowledge of the title insurance practices surrounding foreclosures. The motion makes a compelling case that *Ober*, if it stands, will have serious negative consequences for title insurers and for purchasers of foreclosed properties. ([For a copy of the motion click here.](#))

The Florida Bankers Association and the Business Law Section and the Real Property, Probate and Trust Law Section of The Florida Bar have also obtained leave to file *amicus curiae* briefs. Stay tuned. . .

[The Florida Land Title Association's 2016 Annual Convention](#)

[Wednesday, November 9th through Friday, November 11th](#)

[Make your reservations at the overflow hotel](#)

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[St. Augustine, FL](#)

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New CLT Designees

WOW, I cannot believe we are in the Autumn season already, and the convention is fast approaching!

It is with great pride that I can share with all, we have added 8 members to the CLT Institute!

The following are the names of the new members:

Joshua W. Brauerman – Certified Land Title Searcher

Craig M. Herzog – Certified Land Title Closer

James P. Houstoun – Certified Land Title Searcher

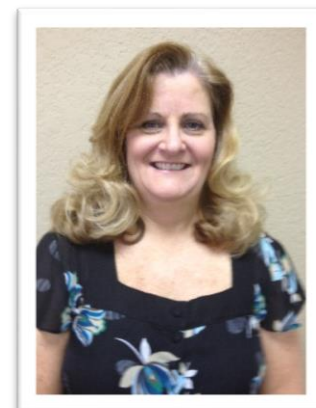
Rayelynn Ketchum – Certified Land Title Closer

Diana L. Main – Certified Land Title Closer

Joe Sayers – Certified Land Title Searcher

Melinda Voorhees – Certified Land Title Searcher

Leslie Wilson – Certified Land Title Closer



I want to congratulate each of them for this great accomplishment. It is an honor to have these individuals join the Institute and I hope to personally be able to shake each of their hands at the convention. If you know these individuals, please help me in congratulating them.

I wish we could give the exam more than once a year, but it does take time for the approval process, getting the exams together, grading, and sending the letters out to all.

For those interested in obtaining the designations, it's not too early to get started for next year. The qualifications needed to sit for exams and the outlines are posted on the Certified Land Title Institute page of the FLTA.

Hope to see you at the convention in November.

Click [HERE](#) to order The Basic Title Insurance Handbook with the Booth Supplement Chapters.



***HOPING TO FIND THE PERFECT
ADDITION TO YOUR TEAM???***
VISIT [FLTA'S CAREER CENTER!!!](#)
***CONTACT JENA@FLTA.ORG WITH ANY
QUESTIONS.***



CRI's Partner-in-Charge of ALTA Best Practices Discusses Assessment Certifications

Carr, Riggs & Ingram's (CRI) Partner-in-charge of ALTA Best Practices, Kim McConkey, prepared a comparison of the American Land Title Association's Title Insurance and Settlement Company Best Practices assessment certifications to financial statements. Read on to learn more.

While the industry is preparing to meet third-party vetting requirements from lenders, Carr, Riggs & Ingram (CRI) Partner-in-charge of ALTA Best Practices, Kim McConkey, indicated that there exists misinformation and confusion regarding assessment

certifications and CPA third-party assurances.

"ALTA Best Practices assessment certifications are similar to reports rendered regarding financial statements. For CPA's, both the assessment certification and financial statement report are intended to give lenders and other readers assurance on the information (i.e. ALTA Best Practices procedures or financial statements) they contain. With financial statements, that assurance can range from the company's self-assurance to a high level of assurance from a CPA. For example, a bank or other user might accept company-prepared financial statements (where no assurance is given by the CPA) or they may request audited financial statements by a CPA; for those that are unfamiliar, an audit is a particular type examination (where a CPA provides a high-level of assurance). Similarly, in the ALTA Best Practices arena, self-certifications (with no assurance from a CPA) exist or lenders may request an examination (a high level of assurance).

Based on the lender's risk management policies, they determine what level of assurance on financial statements they will require to mitigate that risk. If a company is perceived to be a high risk, the lender may require audited financial statements. If they are perceived to be a very low risk, the lender may only require internally prepared financial statements. In either case, management of the company is implicitly asserting that its financial statements are complete, accurate, and fairly stated when compared to generally accepted accounting standards (i.e. those standards are a suitable framework).

When performing ALTA Best Practice assessment attestation engagements, the starting point for a CPA is management's explicit assertion that they are compliant with ALTA Best Practices, where the ALTA Best Practices framework is the suitable framework.

Assurance, while not exactly the same, is similar to attestation. A CPA attests to provide assurance regarding the agent's certification or assertion that they are compliant. The CPA's attest report indicates that they are giving some level of assurance on that agent's compliance certification or assertion.

An ALTA Best Practices self-certification is the same as internally or company-prepared financial statements. In both cases, the CPA provides no assurance regarding the subject matter.

For attestations, CPA's can give three levels of assurance on the agent's assessment certification or assertion on their ALTA Best Practices compliance:

- 1) reviews (moderate level of assurance),

- 2) agreed-upon procedures (specific results of procedures performed and the results of those procedures, where lenders draw their own conclusion), and
- 3) examinations (high level of assurance)

The assertion wording provided by management is virtually the same as what is in ALTA's certification package. Then, the CPA issues their attestation report at the requested level of assurance regarding the agent's certification or assertion on their compliance.

The stronger or higher the level of assurance requested, the more work a CPA does to support that assurance level.

The appropriate level of assurance ultimately comes down to the users (e.g. lenders, management, or others). In practice this often comes down what the lender's risk management policies are or what their perception of risk is. Where an agent is deemed to be a high risk by a lender's risk management policies, then the lender may want a high level of assurance on that agent's certification or assertion regarding compliance.

In that case, the lender would ask for an examination level attestation certification. This is similar to audited financial statements, versus reviewed financial statements. Large agents can differentiate in the marketplace that they received an examination level assessment certification, versus a review level assessment certification that a small agent may receive."

You can contact Kim McConkey at CRI with any questions. His email address is kmccconkey@cricpa.com, or visit CRI's Best Practices website at www.altacompliancecenter.com.

FLTA Lobby Days -- 2017 Legislative Session

Mark your calendars for Tuesday, January 24th and Wednesday, January 25th. Join us in Tallahassee, and help decision makers learn about title!

2016 FLTA Annual Golf Tournament at World Golf Village St. Augustine



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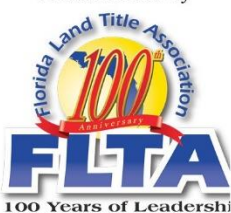
We are as dedicated as you are in placing your firm with a financially strong insurer. We have partnered with multiple major insurers who all have obtained excellent ratings from A.M. Best.

SERVICE

We know you can obtain insurance from many sources. That means we have to earn your business, not just today, but every day and every year. We offer our personal and professional commitment to simplifying the insurance process, and providing un-paralleled service. We'll work very hard to earn your trust - for today and the future.

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I want to start by thanking Skip Straus, the current FLTA President, for his excellent work in leading our organization this past year. Skip is General Counsel for Enterprise Title, Inc. His 30+ years in real estate law and in the title industry have given him a dynamic platform to lead our numerous legislative initiatives to better our industry for title insurance underwriters, agents and vendors.

Our Agent Section calls are open to all FLTA members that are title insurance agents. The calls are scheduled for the second Tuesday of each month at 10:00 am. Please add these dates to your calendar and join us by calling (605) 477-2100 passcode 781620#.

We have an added value call each third Tuesday at 10:00am using the same call in numbers listed above. This quarter, the topics have been, Increasing Profits, Teamwork and Customer

Service-Making it World Class.

The upcoming legislative session will present opportunities for Florida title insurance agents and underwriters to influence legislation that affects our industry. Please not only engage with us, but also rally title agent friends of yours to join FLTA.

Please be extra cautious and vigilant as to cyber fraud. This continues to be a major risk to our industry. I encourage you to regularly educate and warn each of your team members to trust but verify as to where you are sending money by wire and to whom. There are many techniques being used by fraudsters to attempt to divert funds from our accounts into theirs. Impersonating a party in a closing transaction has become a popular technique of theirs. Wells Fargo has sent out warnings recently signaling that this type of cyber fraud is being attempted daily throughout the country.

We are looking forward to a fabulous annual FLTA Convention in St. Augustine this November 9-11. Our incoming FLTA President, Karla Staker, together with Executive Director Alex Overhoff and staff, have invested a lot of time planning a fun and educational convention in the oldest city in America. There will be opportunities for extra-curricular activities sure to please all.

Agent Section Lobby Fund

The Florida Land Title Association is unique in retaining a political consulting firm in Tallahassee specifically to advise and represent the Agents Section. The cost of these professionals is paid from voluntary contributions to the Agent Section Lobby Fund.

Please donate to support your industry by mailing a check to:

FLTA

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Welcome New Members! We're so glad to have you with us!

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Dawn Barker
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Dream Finders Title, LLC

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Marc Hall
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Express Title Services Group

Annabel Fernandez
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Florida Community Bank

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Leading Edge Title

Lee Acker
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Title Industry of Florida - PC

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