

Exam Oversights

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SEMINAR

TODAY'S TOPICS

- CHANGES TO THE EXAM PROCESS
- Technology
 - ◆ Computerized plants replace tract books and hand postings
 - ◆ Recorded copies available on line or efolder – no more copying
 - ◆ Name run computerized replaces the “soundex” system
 - ◆ Single seat technology

- ◆ Regional production centers
- ◆ Short cuts in the examining
- ◆ Electronic distribution of commitments/guarantees/policies

- The one factor that hasn't changed is the “human factor”
- A person inputs data to create/update the plant
- A person reads the documents for content
- A person runs out legal descriptions for ownership, easements, access, etc.

- With these changes the basics of examining are being lost
- Knowledge of documents and how they affect the property
- Running out legal descriptions
- Easements

- Need for speed! Everyone wants everything *right now*
- Turn time can be hours rather than days
- *Short cuts* in place
 - ◆ The valid *assumption point*
 - ▶ Insured *warranty deed*:
 - ▶ *Arms-length* transaction w/*purchase money* deed of trust/mortgage

- Not acceptable starting points:
 - ◆ Quit claim deed
 - ▶ creating/separating *community property*
 - ▶ taking out of a *trust*
 - ▶ removing/adding a vested owner
 - ▶ with an insured deed of trust/mortgage (*refinance*)
 - ◆ *Uninsured quit claim* deeds
 - ◆ Purchaser's *assignment of contract* and *deed*

- Direct hit priors/reference priors:
 - ◆ Owner's Policy
 - ◆ Mortgagee's Policy – only if it has specific Schedule B exceptions
 - ◆ Prior commitment with specific title exceptions
 - ▶ If there are requirements – *do not assume* they've been met

- Not acceptable as priors:
 - ◆ Short form policies with no specific title exceptions
 - ◆ Limited Coverage policies
 - ◆ Guarantees
 - ◆ Warranty deeds showing Schedule B exceptions

Example 1:

- ◆ “Over limit” request that showed a **“direct hit” prior**
- ◆ No prior was in the file
- ◆ Examiner said the **vesting deed** was the prior because it had an “Exhibit B” listing title exceptions (!?)

Full search was then done – and:

Examiner found an easement for utilities that wasn't listed in the deed

Example 2:

- ***Uninsured quit claim deed***
 - ◆ Examiner vested off a handwritten quit claim deed – BUT recorded 8 years after it was signed & notarized
 - ◆ It was sent back for full property search
 - ◆ Result: Back-vested in grantor

Example 2 con't:

- Uninsured Quit Claim Deed, con't
 - ◆ Showed the \$127,000.00 against grantor in questionable deed (the timing raised question of avoidance)
 - ◆ Grantor was the son of the grantee
 - ◆ In the pending transaction, the son of the grantor was signing for his grandmother (grantee) using a durable POA
 - ◆ Too many questions – not enough consistent answers
 - ◆ We declined to insure.

Example 3:

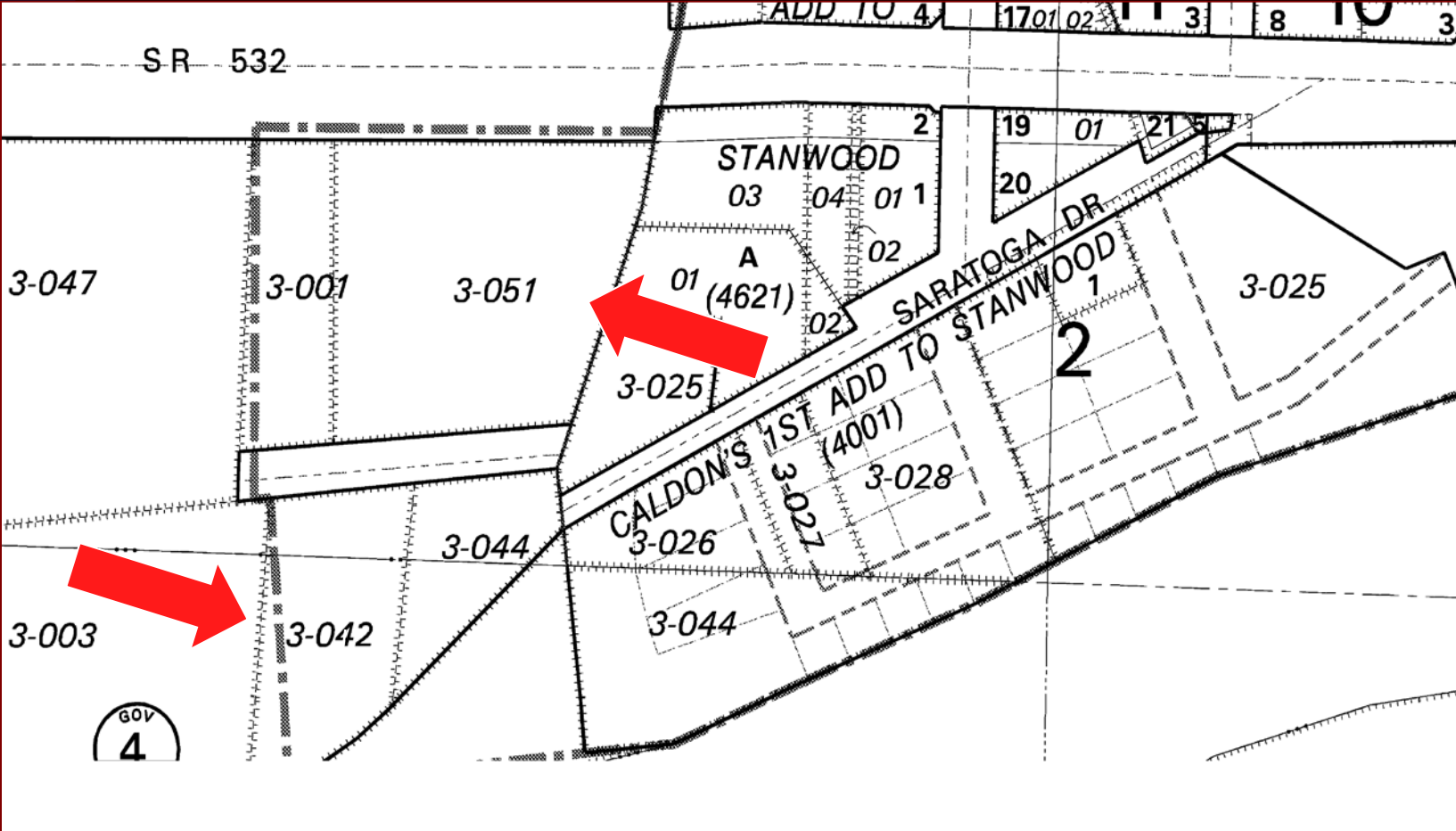
Legal description

- ◆ Request to open title on property
- ◆ No legal on the P&S – just address
- ◆ Took the legal from an insured warranty deed which covered more property (tax lots 3-042 and 3-051)

10602 Saratoga Drive



Tax Map



Example 3, con't

The commitment was prepared using the legal for Tax Lot 3-042

- ◆ There was no exception regarding access
- ◆ We closed & issued policy (Owner's and Lender's) in December 2009

In July 2011, insured applies for construction loan and building permit

Both on hold while the agent does some research

Example 4:

- **Height restriction** reserved in “breakout” deed was missed
 - ◆ Request to open title for construction loan
 - ◆ The start point was an insured WD (the “breakout” deed and a seller-back deed of trust)
 - ◆ Commitment completed and distributed
 - ◆ Fortunately the surveyor caught it

Example 5:

- Warranty deed with ***no grantee***
 - ◆ Lender requested a commitment (refinance of purchase deed of trust)
 - ◆ Borrower acquired title from a relocation company – 2 deeds were involved
 - ◆ The 2nd deed into our borrower was not completed
 - ◆ Examiner vested title off the deed of trust with no exception for the faulty deed

Other examples:

- Passing on deeds where the **percentages** do not add up to 100%
- Passing over a **life estate**
- Not checking **quiet title** court case **status**
 - ◆ Examiner assumed it was closed because “*why would he sell if he knew this court case was still going on?*”
 - ◆ The lis pendens has NOT been released

More examples:

- Not running out the legal description for ***taxes which had not yet been segg'd***
- Missing that the property being insured was ***registered land*** and what that involved
- ***Mobile home*** Title Eliminations

And yet more examples:

- Fraudulent Reconveyance
- Questionable *Land Trusts*
- Miscellaneous “odd” recording trying to *avoid foreclosures*

Summary:

The examiner is the foundation

- *Technology allows* us do perform more efficiently, faster **but** with *fewer hands* touching the file
- Our examiners still must have the *knowledge* and *resources* to accurately and effectively benefit both the insured and the insurer