



For Land's Sake

President's Report – Bill Ronhaar

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Reflecting on my term as President I find myself marveling at how easy this job can be when you have outstanding committee people that perform the vital work of this association. And our committee people are, indeed, outstanding! Sincere gratitude to Dwight Bickel and Gary Kissling for their efforts during this legislative session. Stu Halsan, lobbyist extraordinaire, again proved he is worth every penny we pay him.

Our association has a voice that is heard in the halls of the legislature because of these fine gentlemen. John Martin of Stewart Title Guaranty Company has graciously agreed to chair the Education Committee this year, and we should be hearing from him shortly with exciting new programs for our upcoming educational seminars this fall. Gretchen Valentine is getting ready to coordinate our meeting

with the OIC and staff to facilitate communication between the industry and its regulator. Financially we are again on solid ground thanks to the efforts of Past President John Lancaster. And the tireless efforts of George Peters, our new Executive Director, keeps me in line and actually looking like I know what I'm doing!

Thanks to all for your efforts on behalf of our association!

Legislative Corner – Your Association at Work for You

The Legislature is done with Bills other than their work related to the budget. This issue has an updated list of Bills with a link to the final version of the Bills as passed, and including Bills no longer active – just for tracking into next year's second-half of the legislative session.

The proposed Bill to allow deeds that become

effective upon death [HB 1117] did not get called for a vote, so it is cut off from further activity this year. The WLTA sponsored Bill to clarify that no excise affidavit is required for transfers by operation of law without recording a deed was also cut off for this year. However, two Bills WLTA sponsored were passed by both houses, all Bills that WLTA opposed

were not passed, and all changes that WLTA requested were agreed upon. This has already been a better year than most for the WLTA lobbying. Just two Governor signatures on WLTA sponsored Bills would complete this year's work.

*Dwight Bickel,
Legislative Committee
Co-Chair*

We still need your help!

There is still a small group fighting the Recon Bill. Please call the Governor's Office today – NOW

(360) 902-4111

and ask for the Governor

to sign SHB 1435

**Gary Kissling,
Legislative Co-Chair**

2013 Bills tracked by the WLTA *(see also Page 4)*

Sponsored:

HB 1035 [SB 5269]

Addressing title insurance rate filings.

Sponsors: Representatives Kirby, Ryu, Nealey

[Status](#)

Apr 12 Passed; yeas, 48; nays, 0

Link to the [Bill as Passed](#)

SHB 1435

Clarifying agency relationships in reconveyances of deeds of trust.

Sponsors: Representatives Goodman, Nealey

[Status](#)

Apr 15 Passed; yeas, 48; nays, 0

Link to the [Bill as Passed](#)

Opposing: None

Supporting:

SB 5541

Concerning the redemption of real property.

Sponsors: Senators Hobbs, Fain, Hatfield, Harper

[Status](#)

Apr 9 Passed; yeas, 93; nays, 0

Link to the [Bill as Passed](#)

Watching but neutral:

SHB 1034

Regulating the licensing of escrow

agents to include contract collection.

Apr 12 Passed; yeas, 46; nays, 0

Link to the [Bill as Passed](#)

HB 1652 [SB 5664]

Establishing a process for the payment of impact fees through provisions stipulated in recorded covenants.

Sponsors: Representatives Liias, Dahlquist, Takko, Kretz, Clibborn, Condotta, Upthegrove, Springer, Buys, Ryu

[Status](#)

[Engrossed Substitute](#) [edited as WLTA requested]

Apr 15 Passed; yeas, 34; nays, 14

Link to [Bill as Passed](#)

The court of appeals ...[noted] that there is nothing specific in state law requiring a statement of consideration... that deeds are to be construed to give effect to the intention of the parties [and]...that quit claim deeds are often used in situations where no consideration is actually paid, even though the form may say \$10 or "love and affection."

Judicial Cases of Note

Derek Matthews

Bale v. Allison, Washington Court of Appeals, Filed February 11, 2013 (Division One)

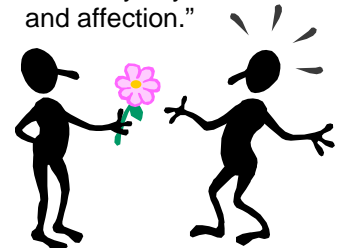
The Washington Court of Appeals has ruled, apparently for the first time, on whether a deed must state the consideration in order to be valid. Not surprisingly, the fight over the validity of the deed stemmed from a family dispute. Bob Fletcher owned a cabin in Winthrop and frequently invited his young nephews to the property. After Bob's brother (the nephews' father) died, Bob was married to the boys' mother for a short period of time before they divorced and Bob married Edna Fletcher. The nephews' visits to the cabin ceased during Bob's 28 year marriage to Edna, but resumed upon her death. When Bob was

diagnosed with terminal cancer, he informed his nephews that he wanted to leave them the cabin. A pre-printed form quitclaim deed was then executed, but nothing was written between the words "in consideration of" and "quit claims to." The deed was signed and recorded in the county records before Bob died.

After Bob died, Edna's sons challenged the validity of the deed and claimed the property belonged to them because Bob's will bequeathed it to them. They also argued they had made extensive improvements to the cabin during Edna's marriage to Bob and that Bob had an oral understanding with them that they would get the cabin.

The trial court found the deed to the nephews was ineffective to transfer

title because no consideration was stated, and thus concluded that the property passed to Edna's sons under the will. The court of appeals disagreed noting that there is nothing specific in state law requiring a statement of consideration. They also pointed out that deeds are to be construed to give effect to the intention of the parties. Finally, they noted that quit claim deeds are often used in situations where no consideration is actually paid, even though the form may say \$10 or "love and affection."



Judicial Cases of Note – continued

Courchaine v. Commonwealth Land Title Insurance Company, et. al. (Washington Court of Appeals, Division III)

This decision from December 2012 (but just approved for publication on March 12th) holds that a legal description which references the plat which created the insured lot does not constitute an exception from coverage for matters referenced in the plat.

Plaintiffs Courchaine and Voss bought a lot in Spokane Valley with the intent of building a home thereon. Neither the commitment nor the policy issued by Commonwealth took a specific exception for a 75-foot wide easement in favor of the Bonneville Power Administration (“BPA”). The easement prevented plaintiffs from securing a building permit to construct the home so they filed a claim. Commonwealth initially accepted their claim, but when responsibility for handling the claim was transferred to Fidelity, the claim was denied. The primary basis for the denial was that the BPA

easement was disclosed on the 1954 plat which created plaintiff’s lot. Since the plat was mentioned in the legal description, Commonwealth and Fidelity argued that the easement had been effectively excepted from coverage. Plaintiff sued both Commonwealth and Fidelity for breach of policy and for Consumer Protection Act (“CPA”) claims.

The Court of Appeal disagreed with Commonwealth and Fidelity, relying on *Shotwell v. Transamerica Title Insurance Co.*, (91 Wn. 2d 161, 1978) where the Washington Supreme Court held that “the description of the land in the policy was for the purpose of identifying the land covered by the policy and not...for the purpose of limiting the insurance protection purchased.” Commonwealth and Fidelity’s second argument was that the policy took an exception for “restrictions” shown on the plat and the BPA easement was a form of restriction and thus excluded from coverage. The court dismissed this argument noting that the policy definitions distinguished between easements and restrictions, and thus



an easement was not the same as a restriction.

The case highlights the need for insurers to either take specific exception for every matter disclosed on a plat, or to take a better worded general exception for matters shown on a plat, such as “all easements, covenants, restrictions, encroachments and other matters shown on that certain plat...”.



WLTA Education Committee

Bill Ronhaar announced the appointment of John Martin as Chair of the WLTA Education Committee. He will be organizing the fall Education Seminar. The WLTA will again do two sessions, one each in Western and Eastern Washington. Keep an eye out for the dates and locations. The annual Washington Land Title Association Education Seminars provide one of the most visible and valuable benefits available to its members.



More on the Legislative Session

The Legislative Committee co-chairs and Stu Halsan will continue work to ensure Governor Inslee signs our sponsored Bills. Meanwhile, the work of the Legislature related to the budget also may impact the title industry. You should be aware there is a proposal to significantly increase the B&O tax. See this provision of the House proposal:

Insurance Producers, Title Insurance Agents and Surplus Line Brokers

1. A preferential rate of 1.1% for these businesses was created in 1983; it was further reduced twice, finally to the current rate of 0.484% in 1998. Other professional businesses with agent/sub-agent models (stock brokerages, real estate firms) do not get a similar preferential rate. When creating the rate, the Legislature provided no economic or competitive justification for the lower tax rate and in its comments, the Citizens' Commission stated "no evidence was provided for why a lower tax rate relative to similar agent/sub-agent relationship in other industries is appropriate."

The WLTA Board of Directors did not give direction to the WLTA Legislative Committee to take a position or act on behalf of the industry.

Therefore each WLTA title company member should communicate about this internally and take action if it desires.



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(*Board member)



Washington Land Title
Association

<http://wltaonline.org>

PO Box 328

Lynnwood, WA 98046

Contact: George Peters

206-437-5869 (Mobile)

206-260-4731 (Fax)

execdirector@wltaonline.org