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Property Records Education Partners (PREP)

[PREP Newsletter](#)

Volume 21 - June 2011

Access to and Bulk Sales of Land Records - an excellent topic for your PREP Chapter meetings

Lawsuits and acrimonious words sprang up between recorders and the title plants and underwriters which wanted to buy copies of the recorder's documents and indexes. PRIA stepped into the breach, using "PRIA style" to reach consensus. A hot button topic was identified. Over 40 people indicated their interest in working on the project. There followed seven sessions at PRIA meetings spread over four years, offering multiple viewpoints and seeking a way to move forward collectively. Reasonable people worked together to come to consensus and fashion a responsible and rational response. Literally hours and hours of discussion, an outline, and four drafts preceded the final adopted version. The PRIA Whitepaper can be accessed at [PRIA website](#) by both members and non-members.

Its conclusions are straight-forward. Public access to the land records is a well-accepted and practiced policy. Recorders are responsible for making the documents and the indexes to these documents publicly accessible, in accordance with federal, state and local laws. The sale in bulk of land records indexes and images must comply with existing federal, state and local laws. Where there is no specific legislation or regulatory framework addressing the sale of land records, the recorder should establish a reasonable price structure. The components of a reasonable cost structure are set out in the paper.

This subject could be a prime topic for your upcoming PREP meeting. PRIA will be providing a PowerPoint presentation for PREP Chapters which you can share with your local partners, based on the Whitepaper. You too can have the conversations which lead to agreement about your state or local laws and regulations, and what a pricing policy might be. (article submitted by Carol Foglesong)



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"Thank you PREP for keeping me informed! "

At a recent PREP Meeting in Washington State, Thad Duvall, the Auditor from Douglas County made a point of telling the attendees that he was extremely grateful to PREP for keeping the Auditors and recording officials in the state so well informed about national issues. In Washington, the Auditors are in charge of Recording in addition to a wide variety of other responsibilities and he mentioned that he and other Auditors involved in proposing/writing new legislation are using the many blog posts and articles in the PREP Newsletter to inform them about current issues that they are considering turning into state legislation (ie. MERS documents recording requirements is one example). This type of information dissemination was our hope when PREP started using more communication devices such as the [Newsletter](#) and the [Blog](#), so we appreciate the feedback!

[Blog](#) with PREP participants

- Go to or subscribe to the [PREP Blog](#)
- We try to put many of the [PREP Chapter Minutes/Agendas](#) on the BLOG when we receive them, so you all can track what is going on in other PREP Chapters. We also post [daily articles of interest, and legislation](#) that may affect real property records and related industries.

Links to National News

[Reports of Mortgage fraud jump 31 percent as lenders review loans flagged by bondholders](#) - "Reports of likely mortgage fraud increased sharply during the first quarter as big banks took another look at loan documents questioned by mortgage insurers and investors, according to the Treasury Department bureau that tracks such reports."

[Thousands of foreclosures are put on hold](#) - "During the housing boom, millions of homeowners got easy access to mortgages. Now some mortgage lenders and government officials have taken action after discovering that many mortgage documents were mishandled."

[Overcharging for Records Limits Transparency](#) - "The Reporters Committee for Freedom of the Press is asking the Ohio Supreme Court to reject Cuyahoga County's extreme reproduction fees for electronic

[\(other PRIA Standards and Publications\)](#)

PREP Chapter Meetings

July/August 2011

SE Minnesota
California
Central Florida
Central Texas
North Central Texas
South Carolina

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Do you have questions or suggestions on this newsletter or any updated information on co-chairs, emails, phone numbers etc. please contact us:

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real estate records. The [friend-of-the-court brief](#) argues that the imposition of six-figure fees to access electronic real estate records will dramatically curtail valuable public-interest reporting on the Ohio real estate market."

[Mortgage Applications Decline 2.7%](#) - "The number of mortgage applications filed in the United States fell for a second week in a row, declining 2.7% as consumers backed away from new home purchases and refinancing options."

[Declines in Home Prices Ease](#) - "Home prices slowed their pace of decline in April, feeding hope that housing is near a bottom. But tens of thousands of foreclosures and faltering consumer confidence are expected to leave markets bumping near their current level for the rest of the year."

ALTA NEWS: Ailes Comments on Mortgage Disclosure Forms at Industry Conference

Justin Ailes, Vice President of Government Affairs for the American Land Title Association, called the Consumer Financial Protection Bureau's (CFPB) initial prototypes of a combined mortgage disclosure a good first step in a long process during a presentation at the 12th annual LPS SoftPro User Group Conference in Chapel Hill, N.C.

"The CFPB's first attempt at combining the TIL and GFE produced a refreshing form that presents some information in a more effective style, but is by no means perfect and does not quite achieve its goal of making the real estate transaction easier to understand for consumers," Ailes said.

He said ALTA is encouraged that the CFPB has taken a collaborative approach by working with the industry because this disclosure form needs to be created in a way that is beneficial to consumers and industry stakeholders. ALTA will continue to provide feedback on future versions of the forms.

"Together we can help consumers make educated decisions when shopping for a mortgage loan and related real estate settlement services," he said.

The CFPB expects to conduct revisions through September 2011 to select a single draft disclosure and then refine it. Changes to the draft form will be posted to CFPB's website throughout the summer in order to receive feedback. The agency also plans to test the form in six markets: Albuquerque, N.M.; Baltimore; Birmingham, Ala.; Chicago; Los Angeles; and Springfield, Mass.

Prototypes for a new HUD-1 Settlement Statement are expected in the months ahead. ALTA's RESPA Task Force will continue to work with the CFPB as the Bureau continues to modify the form

Equally as important as the CFPB's willingness to listen to constructive feedback, is their desire to work together to make sure that they get this reform right and implement it smoothly. Once a new form is settled on, the industry is going to need enough time to prepare for its use.

"It was only last year that new settlement documents became mandatory due to changes to the Real Estate Settlement Procedures Act (RESPA)," Ailes said. "This reform overturned 35 years of certainty in the form of law, practice and judicial opinions, and forced companies to spend a great deal of time and money overhauling operations in order to produce the new documents."

ALTA hopes that the CFPB will continue to seek industry feedback because it believes consumers should understand the costs of a loan and related settlement services early in the homebuying and mortgage refinance process.

"The real test will be whether the Bureau is as collaborative and open to industry input at the end of this process as it seems to be at the beginning," Ailes said.

PREP Chapter News

In this newsletter volume, we'll be highlighting the [Central Florida and the Red River Minnesota PREP](#) Chapter(s). Each PREP Newsletter will post the most recently received "minutes" from PREP Chapters. You can also always go to the PRIA/PREP Webpage - click on the [map](#), and see minutes/agendas/handouts from all the meetings held across the country.

[READ COMPLETE ARTICLE](#)

Central Florida PREP:

Co-Chairs: Government, Tomi Ings at tominsina.ings@occompt.com and Business, John Simmons at JSimmons@TheFund.com

The Central Florida PREP Chapter met last on May 17, 2011. John Simmons, Business Co-chair, made attendee introductions and introduced the agenda. Central Florida Clerk updates were given by Lake, Orange, and Volusia Counties. Resource items were shared with attendees by Dave Johnson, former Central Florida PREP Business Co-Chair, and Business Development Manager with Aptitude Solutions. Dave shared a couple of resources with us relative to the real estate industry and encouraged us to take a look at the material. One was a video entitled "Inside Job", narrated by Matt Damon, and another was a book entitled The Big Short by Michael Lewis.

This meeting's primary presentation was entitled: "Unauthorized Practice of Law" (UPL) by Barbara Burke, Ph.D., Esq., Owner of Real Estate Law Series®. Her presentation included the following highlights:
a) MARS passed "for profit" companies. b) Florida Statute 501 1377 -

Foreclosure Rescue and Bureau of Financial Regulations - Florida Statute 494.00296. Details from the presentation included the following:

Why UPL? Licensed individuals are presumed to have more knowledge, are held to higher standards and penalties. Do what you're licensed to do. If you're not licensed to give legal advice, don't give legal advice. Lawyers licensed in one state are not automatically licensed in other states. The Florida Supreme Court authorizes and regulates the practice of law (fines, penalties, etc.). What is the definition of UPL (by American Bar Association) - Practice of law is application of legal principles and judgment to the circumstances or objectives of another person or entity. The phrase "You should..." indicates a crossing of the line. A good rule of thumb is to never tell the customer they "should" do anything. As soon as you say "You *should*...", STOP. If the customer asks what form is needed, how to fill out the document, etc., refer them to an attorney. An example of UPL by recorders is telling people what to do when a spouse who is in title to real property dies. There are automatic "survivorship rights" for husband and wife in Florida who take title as tenants by the entirety. If nonmarried persons take title to property, they must take title as "joint tenants with right of survivorship" if they want survivorship rights. No death certificate or new deed or anything is needed. If title to property is in both names and if one spouse dies, the property automatically stays with the surviving spouse. If they don't want it to go to the spouse, the deed must specifically state such. Property Appraiser - changes address for tax bill-not title. Recommending a type of document such as which kind of a deed to sign, for example, is the practice of law. There are numerous and different types of deeds, all with very different effects.

PRIA and PREP updates were given by Carol Foglesong. The next meeting will be held on August 16, 2011 at Attorney's Title Company. Topic will be announced in advance.

Red River Minnesota PREP

Co-chairs: Government, Bonnie Rehder, at bonnie.rehder@co.clay.mn.us and Business, Sue Cosgriff, at scosgrif@stewart.com

The Red River Valley Minnesota PREP met on May 11, 2011. Dallen Miner, Vice President of Simplifile, was the guest speaker. Simplifile's nationwide eRecording network allows organizations that regularly file land record documents with the county-including title companies, banks, and law firms-to record in any county on the network. Highlights from Simplifile E-Recording Presentation: 1) Eliminate check writing expenses for County fees, 2) Eliminate rejection due to incorrect checks, 3) Allows for multiple bank accounts to be set up for fees to come out of, 4) Ability to track the progress of documents and get rejected documents back quickly, 5) Avoid mailing costs, traffic and wasted time, 6) Shorten the recording gap. Judi Pogatshnik from State Bank & Trust also spoke about e-recording. State Bank has been submitting documents for e-recording for some time. Judi said the first thing she does is look to see what county the docs are located in. If an eRecording county, it is more efficient and if it's a paper-only based

county there are many more steps and process takes much longer. E-Recording Stats: Clay County, MN on average for 2011 is e-recording 22% of their documents. Cass County, ND is averaging around 10-15% of their documents as e-records. Other News: The Clay County Recorder's Office is no longer accepting passport applications. The Clay County Recorder's office is planning Laredo & Tapestry training in the fall. The newsletter sent out by the Clay County Recorder's Office is now only being sent by e-mail. The next RRV PREP meeting is November 9, 2011.
