



"WORKING TOGETHER"

Property Records Education Partners (PREP)

[PREP Newsletter](#)

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Foreclosures were Caused by Antiquated Title Systems??

Mark Monacelli, Director of Public Records and Property Valuation, for St.Louis County, Minnesota (and PREP Committee Co-chair) writes the following article responding to a recent Washington Times article titled: ["Foreclose on our Antiquated Title System"](#). ALTA also responded to this article and we've included their response in the ALTA NEWS section below.

"The article written by Mr. Arnold Kling, adjunct scholar with Mecatus Center at George Mason University, makes statements questioning the need for title insurance and he takes our esteemed President George Washington on a virtual tour of what a modern title system should look like. Additionally, he even goes as far as to state that recent foreclosure scandals are a by-product of antiquated titling systems in use in the United States.

He does not mention any of the rapid, proactive changes taking place within the industry today including: electronic closing tables utilizing eMortgages and eRecording, fully automated document recording systems, on-line access to imaged records, GIS overlay programs utilizing spatial data, the use of portals to input and extract real time information, quick access to title information that has reduced mortgage loan turnaround time from months to a week or less, insurance options that protect you from fraud and any title defect, and the list goes on...

Yes, there is still more work to do. The industry, however, has come a long way in the last 10 years. Reading Mr. Kling's article I can only come to one conclusion - this is a glass-is-half-empty opinion. I'm not sure that taking the time to do industry research or visit an automated recording office or a title company is going to change his mind.

One final point needs to be made. The industry, without question, would not be where it is today without the [Property Records Industry Association \(PRIA\)](#) which provides a framework for business and government to work together to create standards, best practices and new business models to meet industry demands.

Want to be part of a winning team? Join."



Examples of PRIA's Products

["How to get Ready for eRecording"](#)

["Privacy and Land Records"](#)

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

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Links to National News

[National Home Prices Down 5.8%, Major Metros See Double Dip: Report](#) - "The November home market report from Clear Capital shows that prices nationally fell another 5.8 percent over the previous three months. The company says although the pace of decline has slowed, home prices show no signs of bottoming out yet."

[HUD Will Investigate Mortgage-Discrimination Claims](#) - "The U.S. Department of Housing and Urban Development said it will probe a fair-housing coalitions' complaint that 22 lenders filed to offer Federal Housing Administration mortgages to borrowers who should have qualified."

[Fannie Mae Survey Finds Traditional Homeownership Changing](#) - "The changing demographics of U.S. households is changing the traditional patterns of homeownership throughout the country, according to a Fannie Mae survey released Thursday."

ALTA Responds to Washington Times Article Attacking Title System

The article titled "[Foreclose on our Antiquated Title System](#)" which appeared in the *Washington Times*, fails to convey the many benefits derived from the land titling process followed in the United States. Because the land title transfer system in America works so well, most consumers never take the opportunity to learn how or why it works or the personal and societal benefits derived from this highly effective system of assurance.

However, when an individual sits at a closing table to sell one house and buy another, the main reason such a complex real estate transfer can be quickly accomplished is because an independent, third party title/settlement professional has already scoured the public record (property records, tax records, and court records) to establish legal ownership of the property being sold, cured any title or public record defects (one third of all transactions reveal a title or public record defect), accounted for and transferred all of the money intended to change hands, and insured the entire transaction against any mistake, fraud, risk or defect, whether it is known or unknown.

As a practical matter, this means that buyers are more willing to purchase property because they are insured against property fraud and defects in the public record. Lenders are more willing to make loans because ownership by the borrower of the collateral, or real

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estate, is guaranteed through title insurance. The secondary financial markets are willing to buy mortgage-backed securities because, in the event of a default, their right to the underlying collateral is assured.

The United States is able to tap the wealth locked in the ownership of property because of a system that allows people to use their property as collateral to obtain credit. World-famous economist Hernando DeSoto called this mechanism, "the mystery of capital" in his book by the same name.

The genius of the American system is that government doesn't validate or insure the transfer of property. This function is performed by the title insurance industry, which assumes any legal risk associated with the transfer of the property. When property changes hands in our county, it is done through a private contract that is recorded in the public record.

Blowing up the land recording system that the United States currently enjoys and creating a new structure would not have prevented paperwork issues stemming from the faulty foreclosure processes followed by many lenders. No system in place would.

It's the efforts of the land title insurance industry that minimizes errors in the public record and is why the United States enjoys some of the lowest costs in the world associated with purchasing property. We also benefit from the shortest timeframe in purchasing a home, typically one month. In other countries, it is very expensive and takes several months or even years to purchase property. This is a luxury we take for granted.

PREP Chapter News

In this newsletter volume, we'll be highlighting the [Colorado](#) and [Nebraska](#) chapters. ([Read complete article](#)). You can also read the minutes from any of the [PREP Chapters](#) on the PRIA/PREP website.

Colorado PREP:

Co-chairs: Business, David Floyd, dfloyd@skld.com and Government, Sherrie Swisher, sswisher@larimer.org

The Colorado PREP sponsored the first of a few Colorado Privacy Task Force meetings on November 9, 2010. David Floyd, Business Co-chair facilitated the meeting that was a combined effort by the Colorado Attorney General, Secretary of State, and County Clerks Association. The meeting mostly focused on providing background on why and how this Task force was formed, as well as the efforts of its organizers to date. The subcommittee from the PREP chapter that organized this event included: Sherrie Swisher PREP Co-chair and Recording manager for Larimer County, Jeff Wolff - Past PREP co-chair and Vice President of Fidelity national Title Company in Ft. Collins. Nancy Sotomayor - Douglas County Recording Manager

and Christopher Broekema - National Director Property Information Systems, REDVision. Reps from the Colorado Attorney General and the Secretary of State provided brief statements about privacy initiatives and concerns in their worlds. The AG's office expressed their willingness to support the efforts with guidance about existing law and proposed legislation should it occur. The SOS representative discussed their dealings with privacy advocates (the Virginia Watchdog) and resulting efforts to redact PII from their website. PREP provided real world examples of existing privacy legislation in Colorado and around the country.

The facilitators presented actual legislation and then asked if it was a Colorado statute or not. This was an eye opener for all in attendance. Carol Foglesong and Jay Sibley provided insight into the impacts of privacy legislation in other states by relating the stories of redaction in Florida and the Texas debacle when an AG opinion regarding clerks' liability with SSN disclosure practically shut down the real estate and Oil and Gas markets. Lastly the group discussed the details of reviewing legislation, and the focus of the Group going forward, which laid the foundation for the next meeting. The group in attendance agreed that the work was important and offered their continued support. Another task force meeting beyond this inaugural one will be held in December and possibly January.

Nebraska (SE) PREP:

Co-chairs: Government, Diane Battiato, diane.battiato@douglascounty-ne.gov and Business, Ellen Albrecht, ealbrecht@firstam.com

The SE Nebraska PREP met on October 13, 2010 in Omaha. Government co-chair Diane Battiato provided an update on three projects in which the register of deeds office has been involved in: 1) the financial literacy workshop, 2) Project Aristotle, and 3) Project Archive Access. Diane said that the financial literacy workshop, which primarily targeted low-income citizens, was well-received when it was presented in early summer. The workshop focused on use of credit-cards, and mortgage fraud. It was presented in partnership with both the FBI and First National Bank. Diane reported that Project Aristotle, which is the county's proposed enterprise-wide land records-management system, has made significant progress. A land records-management system vendor has been selected - Aptitude Solutions, Inc. The next step will be to secure project funding.

The final project is Project Archive Access, which is the register of deeds indexing and book-scanning project. Aptitude also has been selected as the vendor for this project which will be completed in the first quarter of 2011. A guest presentation followed this discussion, and Aptitude Solutions, Inc. provided a recap of their land-records-management system for attendees who did not see their presentation a few months ago. Aptitude also did a "real-time" demonstration of document-retrieval systems by visiting the websites of three of their

current customers - Broward, Clark and Johnson Counties. Because these counties' systems are similar to what Douglas County's system will resemble when it is completed, the demonstration gave the attendees a better idea of what to expect with final system implementation. The next SE Nebraska PREP meeting is scheduled for the second week in January 2011.
