

## **“Working Together”**

### **PROPERTY RECORDS EDUCATION PARTNERS (PREP) PREP Newsletter – Volume 1, August 2010**

#### **“Working Together” is what PREP is all about**

Welcome to the new PREP Newsletter – “Working Together”. We hope this reaches our current PREP participants and our many industry partners so we can better stay in touch with each other, share events happening in our respective worlds, and hopefully keep on top of the myriad of issues that keep coming our way in the busy world of both government and business property records.

The bulletin is intended to provide more and timely communication with all of you so you know what is happening across the country and internationally with the Property Records Industry Association’s PREP chapters, legislation, and relevant government and industry news. Additionally several of our business partners will be advertising in this newsletter so that you all can stay current with the evolving products and services available in our ever changing world. And we’ll be sending new links and reminders to information you all can use to start new PREP chapters or to enhance your meeting agendas. There is a lot happening in PRIA and in PREP, so hopefully this newsletter can keep you informed about the many tools that are there for you!

#### **PREP participation is needed now more than ever**

At the annual PRIA Conference in Chicago in late June, we were delighted to interview several of our PREP Chapter co-chairs and participants about their experiences with their PREP chapters. (We are working on making a short video on the PRIA website so you can hear these discussions first hand – [www.pria.us](http://www.pria.us)). We heard about many great ideas that have come out of our PREP chapters and were especially thrilled to hear the level of enthusiasm from our co-chairs and participants. One overriding sentiment that was supported by our PREP participants is that despite the budget cuts, and the severe economic impact we’ve all been experiencing, we need to think creatively now more than ever about how to work efficiently and in tandem. The luxury of operating independently without each other is long over.

And even though many sectors within the US economy face significant financial challenges, these challenges also create potential opportunity for PRIA and PREP to expand its level of influence. Without exception, government officials and our business partners are being asked to produce more for less, and with greater speed while striving to meet taxpayers’ demands for fast and quality service in addition to meeting new and

revised government regulations. This is no easy task. PRIA, however, has been developing standards and best practices for years to the benefit of many industry stakeholders. It seems to be an opportune time to assist others by utilizing PRIA/PREP to assist in developing new business models. Reaching out to assist industry partners can be combined with gaining insight into what new issues partners might be facing, such as how to react to disasters or other economic events. Hopefully, as a result, PRIA/PREP can pay close attention to what future products and standards might be needed. One of PRIA's major goals with PREP is to provide the tools and support to keep us working together in the best possible way as we make our way through the current challenging times. To update yourself on everything about PREP – and how to start or maintain a chapter – please go to: [www.pria.us](http://www.pria.us) and go to the PREP tab.

### **PRIA Continues to Support PREP**

At the recent PRIA 2010 Annual Conference in Chicago, **PREP became its own committee after being a workgroup under Education and then most recently a workgroup under Outreach.** The work PREP chapters are doing across the country to bring all the industry partners together, requires PRIA to support PREP at an even higher level. We have 27 states, some with multiple chapters, involved in PREP. And we have to thank the strong co-chairs under PRIA who have dedicated their time and ideas to creating a strong foundation for PREP. Primarily we owe this strong foundation to **Ardis Schmitt who has been serving as the National Coordinator for PREP for many years.** Supported in turn by PRIA's excellent Board and co-chairs, PREP provides the mechanism for wide spread participation and communication.

This summer, Ardis decided to finally retire as the PREP National Coordinator and she will be sorely missed. Ardis served PRIA (and formerly PRIJTF) well in multiple roles since her retirement as Clerk Recorder from El Paso County, Colorado over 14 years ago. A true believer in the value of grass roots participation, she established a strong foundation of tools for the volunteer PREP chapters to use to communicate with the multiple industry partners involved in property records work. The co-chairs of the PREP Workgroup/Committee – Mark Monacelli (St Louis, MN County Recorder) and Justin Ailes (Director of Government Affairs, ALTA) have been supportive and absolutely instrumental in spreading the word amongst their industry and they have many plans to strengthen PREP efforts.

**Taking Ardis' position as National Coordinator is Carolyn Ableman, formerly the Director of Records and Licensing Services in King County, Washington.** Carolyn has been a member of PRIA since its inception, and was one of the founding committee chairs that began creating the PREP concept. She also was instrumental in starting the Washington State PREP Chapter that has been in existence since 2003. Fortunately her retirement from county service has made her available to take on the important PREP Coordinator duties.

It is an exciting time for PREP. The co-chairs have devised a strategic plan that is focusing on more participants and greater communication. New tools for chapter presentations are being developed, and a bi-monthly PREP Newsletter will be issued beginning this summer to keep all the PREP Chapters connected. And connections with the PREP founding organizations, AEA, ALTA, NACRC and IACREOT, will be strengthened. “It is vital that they promote PREP participation and chapter meeting attendance to their members,” Ailes notes. “We need to have a strong communication strategy between all these associations and PRIA and PREP.”

Monacelli adds that, “Similar to the great success in our alliance with the FBI who has been providing presentations at PREP meetings to reduce mortgage fraud, we hope to add contacts and presentations about “how to start a Privacy Task Force”, GIS relationships with Property Records, dealing with misguided/inappropriate land records legislation, and HUDs involvement with mortgage fraud prevention. Whatever comes up in the world of Property Records is what we want to stay on top of so we can provide maximum education and understanding. I think PREP is the key to these efforts!”

If you are interested in becoming part of the PREP Committee, or organizing a new PREP Chapter, please contact one of the committee co-chairs or PREP **Coordinator, Carolyn Ableman** ([ableman@priamail.us](mailto:ableman@priamail.us) or 206-972-8451). Stay tuned as PREP continues to move forward!

## **PREP Chapter News**

According to PRIA’s PREP Bylaws, PREP Chapters are supposed to:

1. Provide a structure to improve local and national industry related relationships
2. Open/enhance lines of communication between local industry stakeholders and other bodies
3. Encourage local adoption of PRIA model legislation, standards and best practices
4. Expand education opportunities for property records industry participants at the local level.

**And that is what our chapters do!** In addition to the topics presented at PREP Chapter meetings below, many chapters always include the following items:

1. **Updates from PRIA** – PRIA has an incredible amount of tools for state industry partners to use and they are constantly being updated – XML Standards for eRecording, How eRecording works, a Bulk Records Sales White Paper, a Public Records Privacy and Access White paper, and Legislative Education are just a few of the tools that PRIA keeps on top of – (see <http://www.pria.us/i4a/pages/index.cfm?pageid=3281> for a complete list of products)
2. **News from the Street:** industry partners share what is going on in their world and often the PREP Meetings are the only place where this exchange of information

- happens. This sharing has been very successful and often is the catalyst for heading off potential legislative disasters in many states!
3. **Vendor Demonstrations:** many chapters utilize PREP meetings to highlight the nuts and bolts of how the variety of software for eRecording, redaction, GIS, etc. work. When government and business see these demos together, they often add value to the vendors looking to improve their software and conversely the industry partners understand exactly how they work and how they can help improve their part of the business.
  4. **PRIA/PREP Sponsored Special Projects:**
    - a. **Land Fraud/Law Enforcement Collaboration:** presentations and speakers from the FBI have been created to provide local chapters with a prepared presentation about mortgage and land fraud and what they can collectively do to be aware of and/or prevent fraud. Many chapters have asked the PREP Coordinator to arrange for these presentation and they have been very successful partnerships.
    - b. **(new) Projects:**
      - i. **HUD/RESPA and PRIA's Land Fraud Committee** are partnering to provide insight on how the new Real Estate Settlement Procedures Act can help detect and deter land fraud. This information can be turned into a presentation that PREP Chapters can use.
      - ii. **Bulk Records Sales:** an ongoing hot topic, PRIA has completed the white paper and hopes to present the basics of their research in the form of a webinar or power-point for chapters to use.
      - iii. **Public Records Access and Privacy:** Many states continue to struggle with the issue of public records and the data within those records – private or public? A presentation on how to study the issues and prepare for political and legislative impacts is in the works.
      - iv. **What else would YOU like to see?** We have had suggestions for presentations and some of them are: Notary Best Practices, and Understanding MERS. What do you think would be useful for your PREP Chapters? Let Carolyn Ableman, National PREP Coordinator know at: [ableman@priamail.us](mailto:ableman@priamail.us) or call her anytime at: 206-972-8451

Many PREP Chapters now use teleconferencing and videoconferencing when possible. This allows greater participation and often more speaker options who can present remotely.

**We are highlighting only a few of our PREP chapters in this issue, to give you an idea of what great work is happening across the country. But we'll keep giving you new information every month on the rest of the chapters.** Some chapters meet monthly, some quarterly, and some on call when issues arise! The key to a strong PREP chapter is to make it work for your state and locale!

It is always possible to go to each individual chapter on the PRIA/PREP website to see detailed minutes of their meetings and of course please contact Carolyn anytime to have her give you an update about what chapters are doing (206-972-8451 – [cableman@priamail.us](mailto:cableman@priamail.us)).

Here are a few highlights of some of the chapter activities in recent months:

### **COLORADO PREP**

Co-Chairs: outgoing business: Jeffrey Wolff, [jswolff@stgco.com](mailto:jswolff@stgco.com) and incoming business: David Floyd, [dfloyd@skld.com](mailto:dfloyd@skld.com) and Sherrie Swisher, [sswisher@larimer.org](mailto:sswisher@larimer.org)

1. PREP Chapter Develops Privacy Task Force for State: At the request of Colorado's Secretary of State and Attorney General, development and facilitation of a Privacy Task Force for the state was desired. This effort has been undertaken by the Colorado PREP Chapter, organized in June 2009. Recognizing the enormity of the project, PREP chapter members first worked to establish the goal or vision to be the driving force of the work performed.
2. Recently at the July 8<sup>th</sup> Colorado PREP meeting, the chapter had Darity Wesley as the teleconference speaker on the topic of "Privacy in the public record and real estate industries". Darity is one of PRIA's speaker's bureau members, and long time PRIA Board member and Committee Chair. She is also the CEO and legal counsel of Privacy Solutions, Inc. She is a 25 plus year veteran of the public record and real estate information industry. An attorney, California real estate broker, and nationally sought after speaker, she is the founder of Privacy Solutions, Inc. a company which creates privacy, information security and data and technology licensing options for industry, particularly focused on the public record and real estate industries.
3. Discussion on House Bill 1007 – in effect July 1, 2010: The implementation of HB 1007 (grantor/grantee) begins in Colorado counties on July 1. HB 1007 was significant because of the industry support shown in eliminating the charges in some counties for multiple entries into the grantor/grantee index. The new statute makes recording fees uniform on a state-wide basis, thereby eliminating confusion for lawyers, title companies and consumers. The Colorado PREP group is one of the primary communication groups that the Colorado recording specialists will rely on to educate the industry partners in implementing this standardization law.

### **SE PENNSYLVANIA PREP**

Co-chairs: Nancy Becker, [nbecker@mail.montcopa.org](mailto:nbecker@mail.montcopa.org) and Dallys Novarina, [dallys@dallys.com](mailto:dallys@dallys.com)

Some recent topics discussed:

1. Recording Legislation: Senate Bill 1155 that was passed by the Senate & sent to the House on 5/4/2010 concerning the Bonding of Row Officers and their staff and House Bill 2344 which might affect redaction of personal information.
2. The Pennsylvania Attorney General is looking at Title Insurance and how the premiums are distributed. Apparently there is concern over the amount of premiums going to title insurers, and a process of research and title data collection has been started

that is proving to be inaccurate. The PREP Chapter in discussing this major issue has been able to support the title partners and the Recorder's have offered to host meetings within the county so the legislators researching the issue can see what occurs prior to issuing title insurance.

3. Title industry updates: more short sales and foreclosures during this downturn in the market than in the past 23 years. The market is cyclical; however, it's predicted that it may take 1-1 ½ years to emerge from the current real estate slump.

4. The History of Land Records: speaker Chuck Proctor, Esq., a professor at Widener University Law School spoke about the history of land records from the Hammurabi Code to present day land records. He recommends reading "The Mystery of Capital" by Hernando DeSoto, an economist who wrote about the importance of property ownership and rights in relation to a vibrant economy. He also discussed the new HUD1 form and the challenges that lenders and settlement agents face in complying with the new regulations. HUD is relaxing enforcement for 60-90 days.

5. Gary Risler from American Home Bank discussed the Industry Loan Performance and default statistics currently.

### **MISSOURI PREP**

Co-chairs: Shawn Henessee, [henesha@jacksongov.org](mailto:henesha@jacksongov.org) and John Winkler, [jwinkler@us-title.com](mailto:jwinkler@us-title.com)

A recent meeting in Missouri included their ongoing practice of having a meet and greet for vendors so participants could learn about new technologies and services. Future presentations will include presentations from Manatron and Fidlar on their property fraud alert program. They also plan on having a discussion on the process of converting microfilm to digital images and the issues and pitfalls of converting any type of microfilm to digital.

### **CENTRAL FLORIDA PREP**

Co-chairs: John Simmons, [JSimmons@TheFund.com](mailto:JSimmons@TheFund.com) and Tomi Ings, [tominsina.Ings@occompt.com](mailto:tominsina.Ings@occompt.com)

Recent meetings have included the following topics:

1. eRecording & Escrow, What's going on? Update on escrow challenges and what eRecord submitters are faced with under Department of Insurance requirements.
  2. a Panel discussion about "Fraud from Different Perspectives" which included discussion between such groups as: Forensics Financial Services, the Orange County Comptrollers Office, Walczak Consulting, Mortgage Fraud Solutions Group, Florida Capital Bank Mortgage, and the Orange County Sheriff's Office – Economic Crimes Unit
- Central Florida has a PREP Chapter LinkedIn site for use amongst their participants.

### **SOUTH FLORIDA PREP**

Co-Chairs: Pam Sponem, [pat.sponem@simplifile.com](mailto:pat.sponem@simplifile.com) and Paul Ketz, [pketz@broward.org](mailto:pketz@broward.org)

Recent meetings have included the following topics:

1. ACH and escrow accounts and eRecording as a more efficient method of document recordation. Currently, Broward County is up-to-date with recording documents, but as the economy regains strength as well as the housing market, the volume of recording documents will increase.
2. eRecording Demonstrations: Demos for both the Simplifile web-based eRecording software, and the ACS Erxchange eRecording web-based software were highlighted.

### **METRO MINNESOTA PREP**

Co-Chairs: Jennifer Wagenius, [Jennifer.wagenius@co.washington.mn.us](mailto:Jennifer.wagenius@co.washington.mn.us) and Darlene Missler, [dmissler@firstam.com](mailto:dmissler@firstam.com)

Recent presentations included:

1. Notary Requirements on Real Property documents. There are currently issues with documents notarized in California, as they can not notarize marital status if they are married. Many are using the "Martin Dale Hubbell International Digest of Laws" for reference.

### **MISSOURI PREP**

Co-chairs: Shawn Hennessee, [henesha@jacksongov.org](mailto:henesha@jacksongov.org) and John Winkler, [jwinkler@us-title.com](mailto:jwinkler@us-title.com)

Recent meetings have focused on:

1. Discussion of the portal system and the advantages/disadvantages of using a portal vs. direct system for eRecording. With a portal you have one interface for several counties and one ACH, but not all counties want to participate probably because of software fees or misunderstanding about the ease of set up.

### **NEBRASKA PREP**

Co-chairs: Diane Battiato, [diane.battiato@douglascounty-ne.gov](mailto:diane.battiato@douglascounty-ne.gov) and Ellen Albrecht, [ealbrecht@firstam.com](mailto:ealbrecht@firstam.com)

Recent meeting topics included the following:

1. Financial-literacy: the Douglas County Register of Deeds office organized and presented, along with the FBI and First National Bank, a session at the Juan Diego Center, in South Omaha. This session was a result of the PREP/FBI Land/mortgage-fraud presentation that was made a few months ago. The financial-literacy session, which had three components--land/mortgage fraud, credit, and identity theft, was aimed at Latinos in the community. Currently, the group is attempting to present a similar program in North Omaha in June or July.

2. “Questionable” Recordings: Register of Deeds offices have seen attempts to file questionable or bogus documents. According to legal counsel, the Register of Deeds is not required to file these documents. A few questionable or bogus documents were handed out for review and discussion; a variety of opinions and concerns were expressed.

### **ARIZONA PREP**

Co-chairs: Cathy Lucero, [clucero@risc.maricopa.gov](mailto:clucero@risc.maricopa.gov) and James Stamas, [jpstamas@atsaaz.com](mailto:jpstamas@atsaaz.com)

Recent meeting topics have included the following:

1. Definition of PREP meetings: a PREP Meeting is not a Recorder’s meeting, it is a stake holders meeting.
2. Legislation recently passed
3. Market conditions and discussion about what happens to title records when a company goes out of business.
4. Presentation of implementing “Recording” Kiosks (Maricopa County)
5. Overview of Optical Character Recognition
6. Discussion on document titles and cover sheets and the challenges with document titles and related recording issues.

### **ALTA Warns Private Transfer Fees Pose Threat to Secure Transfer of Property, Harms Consumers**

The American Land Title Association (ALTA) continues to increase awareness and promote legislation that would prevent the continued use of private transfer fees, which is a relatively dangerous new trend that began a few years back to generate revenue for builders and developers.

Private Transfer fees require consumers to pay thousands of dollars to third parties that hold no ownership interest in the property for the right to buy or sell real estate. “These fees lower home resale values, steal equity homeowners have built in their home and add another layer of difficulty to selling a home,” said Kurt Pfothauer, CEO of the American Land Title Association.

Developers, in consultation with Wall Street advisers, are attempting to add language to home purchase contracts requiring that a percentage of the sales price be paid to the original corporate owner of a property every time the property is sold, typically for 99 years. These corporate owners are then attempting to securitize the right to collect these fees and sell them to enrich Wall Street investors. Meanwhile the fees steal equity from homes, and force homeowners to pay a large fee when selling their property.

ALTA has worked in conjunction with the National Association of Realtors to create model legislation that bans the future use of PTFs. “Over the last couple of weeks, governors in North Carolina and Louisiana signed legislation to restrict the use of private transfer fee covenants, bringing the number of states that have taken action to limit or ban use of private transfer fees to 16,” Pfothenhauer said. “We're still waiting on Illinois to pass their ban, and we expect additional state legislatures to address the issue when they come back into session in 2011.”

Other states banning PTFs include Arizona, Florida, Hawaii, Iowa, Kansas, Maryland, Minnesota, Mississippi, Missouri, Ohio, Oregon, Texas and Utah in banning these fees. California mandates disclosure of the fees.

ALTA's Board has voted to oppose PTFs, noting that these fees cost consumers money and result in increased costs of underwriting, claims, escrow services and compliance for the land title industry.

“The Board agreed to engage in stopping private transfer fee covenants because they increase risk for lenders, homeowners, land title professionals and limit the transferability of property by making it more costly,” Pfothenhauer said. Finding these in the public record can be difficult because they are disguised as CC&Rs and can incur an 18 percent penalty if left unpaid. Another issue is identifying the parties that need to be paid. The documents of record may not contain all the information necessary to properly and effectively address the prescriptions of the encumbrance created by these covenants. Signaling the growing concern of the fees at the federal level, Finance Agency (FHFA) Acting Director Ed DeMarco has said he was very troubled by what he was learning about transfer fees and expected Fannie Mae and Freddie Mac would issue a stance on these in the near future.

Answering a joint letter sent by ALTA and the National Association of Realtors, the U.S. Department of Housing and Urban Development clarified its position on the use of private transfer fees (PTFs).

HUD said it recognizes the growing concern with the impact of PTFs on real estate and consumers and said its general counsel confirmed that PTFs “clearly violate HUD’s regulations (24CFR 203.41), which prohibit “legal restrictions on conveyance.” HUD requires lenders to convey clear marketable title for FHA-insured products.

“HUD agrees that this fee unnecessarily increases the cost of homeownership, and in most cases the homebuyer is unaware of its existence,” HUD stated in its letter.

You can [go here](#) for further background information on private transfer fees and to read the model legislation that ALTA has developed along with NAR.

For more information on PTFs or if you know of an example where a PTF has been attached to a property, send an email to [Justin Ailes](mailto:Justin.Ailes@alta.org) at [Justin@alta.org](mailto:Justin@alta.org)