

# TITLE NEWS

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**OFFICIAL PUBLICATION**

**American Land Title Association**



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# A MESSAGE

*from*

## THE PRESIDENT

**Fellow Members:**

It is not too early to begin making your plans to attend the fifty-eighth annual American Land Title Association Convention to be held in Philadelphia September 20-24.

Your ALTA officers are crusading for a record attendance. Firmly convinced that to receive the full rewards of your business and of your title association, one must partake of a larger vision than that of his local community and his daily job, I urge each state president and secretary to endeavor to, at least, double the number attending from your state over last year. Can we do it? Start by shooting for a larger attendance at your state convention (if it is still to be held)—then promote the idea there.

Philadelphia has such an abundance of historical riches that Patriotic pride alone should draw every loyal American who can possibly arrange to attend, to say nothing of the attraction of the splendid convention programs being planned for you.

Those at the recent state conventions in California, Oklahoma, Iowa, Washington and Arkansas have already heard my plea for greater participation at every level by an increased number of members. (I trust that these states are letting no grass grow under their feet.)

Let's constantly seek "new blood." This is a campaign year. Your national officers are campaigning for ALTA—both state and national. Are you?

Sincerely,

President



# TITLE NEWS

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# Highway Reservations

## And Land-Use Controls Under The Police Power



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*Acceleration of the highway program under the Interstate and other Federal-aid programs has heightened the problems of advance planning. Time lags between the planning of a highway project and its execution require intermediate control devices to protect the right-of-way before its acquisition. Although some police power controls are available for this purpose, they are largely centered at the municipal level and have not proved fully adequate. A more flexible control over land use adjacent to proposed highways, and based at the State level, deserves serious consideration.*

National Planning for the Interstate highway system has projected highway needs considerably into the future. The rough outlines of the system have already been mapped, and at the State level a substantial portion of the highway network has been completed or is well into the planning

stage. In the planning and construction of highways, however, to use an ancient maxim, time is of the essence. A considerable period often elapses between the planning of a segment of the Interstate system and its construction.

This paper explores some of the

problems that must be faced when using police power techniques to protect highway right-of-way during this interim period. The effectiveness of these techniques has been curtailed by their limitation to the local government level, and by their fragmentation into specific and sometimes unrelated implemental devices. A new method of police power protection will be proposed, which will gain in effectiveness by treating the right-of-way problem functionally and by combining at the State level the best features of existing methods.

### **PROBLEMS OF POLICE POWER REGULATION**

The problems of interim protection of highway rights-of-way are posed most dramatically by new locations for limited-access highways. An example of the most common difficulty is that of the developer who wants to build in the right-of-way. But other interim development decisions also affect the new highway. A large shopping center may locate at an interchange, potentially crowding the highway beyond its planned capacity, and distorting the development of land uses in the immediate area. Speculation may also occur in land within and adjacent to the right-of-way, bringing about a dramatic increase in land prices and thus in acquisition costs.

What protective devices are available to the State or the city at the time the highway is planned, assuming that the route is definite enough to warrant interim protection? Of course, highway right-of-way can be purchased in advance, and held until the time for construction. Is there an alternative under the police power? When considering the burdens and benefits of a police power approach, the relative advantages and disadvantages both to the public and to the private landowner must be carefully considered.

What is needed from the public's point of view is a police power control that can bar any incompatible development both within and adjacent to the right-of-way, pending its acquisition. The community should also

be authorized to control any interim speculation in land. Substantial advantages should derive from a regulation of this kind. Not only will acquisition costs be kept down, but the purpose of the highway will not be defeated by the growth of conflicting development. On a broader level, interim control over land use can help integrate the highway with the general community plan.

From the perspective of the private landowner, however, a control of this kind may appear to have several disadvantages. Compensation is delayed until the highway agency decides to condemn his land; in the meantime, he is forced to hold his property without realizing its full development potential. By the time of acquisition, the highway may have had a depressing effect on the value of his property.<sup>1</sup> The individual landowner also stands to gain. If his property adjoins the highway, in all probability it will increase rather than decrease in value. If his property is to be acquired for the highway, the statute can be drafted to discount both depreciation and appreciation due to the taking. In addition, an escape procedure can be devised that will take care of cases of real hardship. When public advantage is weighed against possible private disadvantage, effective interim highway protection under the police power appears well within the realm of constitutional possibility.

### **EXISTING POLICE POWER TECHNIQUES**

Municipal and county governments possess an accumulation of regulatory powers that have been used, with varying degrees of effectiveness, to reserve street and highway rights-of-way in advance of acquisition. These powers have grown up historically, however, and their dispersion among governmental authorities has been uneven. In very few States has reservation power been given to the State highway department. Most of

<sup>1</sup> See *City of Planfield v. Borough of Middlesex*, 69 N. J. Super. 136, 173 A. 2d 785 (L. 1961), applying the well-established rule that restrictive zoning to hold down property values in advance of acquisition will be held unconstitutional.

this authority has been conferred on municipalities, and on counties in some States, with the result that coverage of the State highway network is uneven. If authority has not been conferred on counties, the highway network will not be covered outside municipal limits, and in some communities the authority that has been conferred may remain unexercised. In metropolitan areas, where planning and zoning authority may be exercised by dozens of municipalities, a patchwork of ordinances and regulations may inhibit effective controls.

Highway reservation powers also have diverse substantive origins, with the result that though their impact may be quite similar, their judicial treatment may be very different. These policy power controls are briefly described.

#### **Setback Ordinances**

Municipal regulatory ordinances setting the distance of building setback from the curb line have a well-established history, and in many States antedate the adoption of comprehensive zoning. They have now been made part of the zoning structure and enjoy a secure constitutional position. Although early judicial decisions were unfavorable to setbacks, they have been approved everywhere, usually on safety considerations, since the favorable U. S. Supreme Court decision of *Gorieb v. Fox*.<sup>2</sup> For example, setbacks may be upheld because they preserve a line of sight, or because they are thought to aid in fire fighting, by keeping buildings apart. Although setbacks are held constitutional when they advance safety considerations, they are struck down if the courts think that they are being used to reserve front yard areas for possible street widenings. Nevertheless, these objectives are difficult to disentangle, and a setback that has been imposed for safety purposes may incidentally preserve future right-of-way in many communities.

Still, there are limitations on the

2. 274 U. S. 603 (1927).  
3. *Schmalz v. Buckingham Township Zoning Bd.*, 389 Pa. 295, 132 A. 2d 233 (1957).

use of setbacks for right-of-way reservation that inhibit their usefulness. If the setback is really being used with highway widening in mind, it will be deeper than usual so that the front yard after the widening will not be too shallow. This extra depth may alert the court to the setback's true purpose and may lead to a holding of unconstitutionality. In rural areas, where the urban safety Administrative problems may be presented, especially at corner lots, where the imposition of setbacks on both frontages may so unduly restrict the remaining buildable area that the ordinance, as applied, is held unconstitutional. Finally, a setback is useful only for street widenings. It cannot be applied to new locations, where construction on adjacent frontages is not contemplated until the highway is acquired.

#### **Subdivision Control**

Practically all States now confer enabling authority on municipalities, and often counties, to regulate new subdivisions. Commonly, the subdivider is required to dedicate land for internal streets as one of the conditions to official approval of his subdivision plat. He may also be asked to donate right-of-way for street widenings, whether internal or adjacent to the subdivision.

The extent of the subdivider's obligation to dedicate is not fully clarified by the cases, however, and his liability to donate right-of-way for major highways is open to question. Most cases have upheld the imposition of reasonable dedications on the subdivider. In the case of internal streets, the dedication requirement codifies the common-law responsibility to afford means of egress, which the subdivider would have had to provide in any event. Dedications for street widenings are more difficult, but the suggestion has been made that the subdivider can be required to dedicate to the extent that his subdivision adds to traffic flow.<sup>4</sup> This last consideration limits the effectiveness of subdivision dedications in a highway program. Expressway dedications by in-

4. *Ayres v. City Council*, 34 Cal. 2d 31, 207 P. 2d 1 (1949).

dividual subdividers are dubious, as the subdivision contributes only part of the traffic for which the expressway is designed.

The subdivider may be asked to reserve rather than dedicate right-of-way. In a typical instance, for example, a reserved strip will be deducted from the allowable building area, and this land will have to be held in private ownership until the highway agency is ready to proceed. A subdivision reservation imposes the uncompensated burden of delay on the individual lot owner, and has the same effect as a dedication on the developer because it effectively deprives him of part of his buildable area. Yet highway reservations under subdivision controls have been judicially upheld when they have been considered, on the ground that they are a necessary implement to effective planning.<sup>5</sup>

Although subdivision controls can be useful in requiring either the dedication or reservation of highway right-of-way, they face some administrative limitations. Subdivision regulations are not self-operating, and depend for their implementation on an application by the developer. In rural areas, where subdivision activity is low or non-existent, subdivision control will be too effective. Furthermore, subdividers in many areas escape the subdivision law through metes-and-bounds conveying and other techniques. Also, the owner of a large tract who can develop it without subdividing can escape regulation. Thus the man who divides a small tract to build two bungalows may need to have approval of his plans, whereas the builder of a large motel on a ten-acre tract may escape control altogether.

Yet there are many strengths in the subdivision control process. As it is particularly useful in undeveloped areas, where much new highway mileage will be built, it is an effective method for coordinating new development with the highway program. Some communities have made very good use of their subdivision control

powers in undeveloped areas, combining dedications, reservations, and outright purchase of right-of-way in a manner that is fair to the affected landowner.

Furthermore, the constitutionality of subdivision controls is enhanced by the fact that they require the subdivider to apply for approval. Although the argument cannot be supported analytically, the courts have been impressed with the fact that the subdivider is asking for a privilege, which may then be granted on conditions that could not otherwise be imposed. The legal strengths inherent in this procedure could be incorporated into other control processes.

### Official Maps

Something more than one-half of the States now have regulatory legislation authorizing the official mapping of streets and their protection from encroachment before acquisition. These statutes derive from early American townsite legislation under which commissioners were enabled to plot the town and its streets and to take back deeds of trust from private owners, who by this method consented to the street dedications.<sup>6</sup> These methods proved cumbersome with advancing urbanization, and were supplanted in some States by 19th century statutes under which the municipality was authorized to reserve right-of-way in advance of construction and to prohibit any building in the street bed. No escape from these regulations was provided, and no compensation was payable for a structure built in the street in violation of the law.

With the birth of the planning movement, official map enabling legislation was adopted as implementary to the plan for streets, although under some statutes a street plan is not explicitly made a prerequisite to official mapping. Under the modern statutes the municipality, and sometimes the county, is authorized to adopt a precise plan of its streets (or

<sup>5</sup> *Krieger v. Planning Comm'n.*, 224 Md. 320, 167 A. 2d 885 (1961).

<sup>6</sup> The classic treatment of official map laws is Kucirek and Beuscher, "Wisconsin's Official Map Law: Its Current Popularity and Implications for Conveyancing and Platting," 1957 Wis. L. Rev. 176.

highways). Following adoption of the plan, no building or improvements may be erected within the bed of the street without permission having first been secured from the adopting agency. Permits are not to be issued except in cases in which a failure to authorize the improvement would impose a hardship on the applicant.

Although the constitutionality of official map laws was questioned at first, and though there were some unfavorable decisions on official map legislation during the 19th century, all of the recent decisions have been favorable. No official map law that has been challenged has been held unconstitutional in the past 50 years.<sup>7</sup> The key to this change in judicial attitude lies in a change in the nature of official map laws. As no hardship provisions were contained in the early statutes, this fact often influenced the courts to hold them unconstitutional, on the ground that the law as written entirely deprived the owner of any beneficial use of that part of the property contained within the mapped street. With the addition of the hardship provision, however, this line of attack was blunted. The availability of relief in hardship cases foreclosed a frontal attack on the statute if a hardship variance had not been requested. At the same time, the authority to issue variances permitted a loosening of the prohibition on building whenever that prohibition would be unduly restrictive.

At the same time, opportunities for hardship variances might conceivably weaken the official map in practice. Although official maps have not been widely adopted, enough experience has accumulated in communities that have used them to demonstrate the effectiveness of the law.<sup>8</sup> Compliance has been high, and hardship variances have been rare. At the same time, official maps also have their limitations. Though hardship variances have not been widely granted, the few court decisions on the point have in-

dicated that municipalities may be forced to be more lenient than the available evidence of existing practice indicates.<sup>9</sup> Especially in the case of highway reservations, which require large amounts of land, the chances of success for proving a hardship variance are considerable. To the extent that variances will have to be granted, they will defeat the purpose of the reservation, because a variance is simply a licensed encroachment on the reserved right-of-way. Another limitation on the official map is that it protects only the right-of-way of a proposed street. Interim regulation of adjacent land uses may be just as important in the period before the construction of the highway.

### State Highway Reservation Laws

Very few States have given their highway departments the power to protect highway right-of-way before construction. In Michigan and Wisconsin, State highway departments have been given the authority to control new subdivisions along State highways, and in Michigan at least this authority has been used to compel dedications for highway rights-of-way.<sup>10</sup> Several other States have passed more comprehensive statutes, authorizing State highway departments to reserve land for highway purposes.<sup>11</sup>

Unlike the municipal and county official map acts, the State highway reservation laws are not based on the hardship variance principle. There are considerable differences in these laws, but most of them afford relief to the affected property owner by requiring the highway agency to purchase restricted property if a petition is filed requesting it to do so. Many of these laws contain a time limitation on the reservation as well. Though the constitutionality of these laws has not yet been conclusively tested, the purchase notice escape provision should be as

9. See 59 Front St. Realty Corp. v. Klaess, 6 Misc. 2d 774, 160 N. Y. S. 2d 265 (Sup. Ct. 1957).

10. Mich. Stat. Ann., sections 26.451 - 26.467 (1953); Wis. Stat. Ann., sections 236.12 (2) (a), 236.13 (1) (e) (1961).

11. A good recent example is Wis. Stat. Ann., section 84.295 (Supp. 1962).

7. State ex rel. Miller v. Manders, 2 Wis. 2d 365, 86 N. W. 2d 469 (1957).

8. Davis, Official Maps and Mapped Streets in the United States, July 1960 (unpublished thesis in Georgia Institute of Technology Library).



effective as the variance in insulating the statute from attack. These laws are comparatively new, however, and little administrative experience has accumulated in their operation.

### **THE NEED FOR AN EFFECTIVE HIGHWAY RESERVATION STATUTE**

Although existing police power techniques can be very helpful in reserving highway rights-of-way in advance of acquisition, none of them is singly effective in carrying out this objective. How can highways be effectively protected at the State level?

A prerequisite to effective highway reservation is a State highway plan. Many of the existing police power techniques that are used in the reservation of highway rights-of-way have been judicially supportable because they have implemented comprehensive planning at the community level. The courts can more readily see the necessity for imposing temporary burdens of delay and inconvenience on the individual property owner when control is warranted by community well-being, as expressed in a community plan. Likewise, a State highway plan can support the necessity of reserving highway rights-of-way.

On the basis of a highway plan, the State highway department should be authorized to establish highway conservation zones. These zones are the key to effective control of the right-of-way during the interim period before acquisition. Unlike the official map of streets, however, they would not be limited to the protection of the bed of the highway, but would cover adjacent areas on both sides of the right-of-way as well. A prototype for this kind of zone can be found in the statutes giving State highway commissions control over subdivisions along State highways. In most cases, the conservation zone would extend a reasonable distance on both sides of the highway, perhaps one-half mile each way, and would thus enable the highway department to control effectively the area in which the new highway could be expected to have an influence on land use.

The highway conservation zone would be a form of subdivision regulation, but it would accomplish much more. The permit requirement of subdivision control would be used as a means of enforcement, and no new development within the conservation zone could be carried out unless a permit for that development were obtained from the highway department. As the "development" subject to control would include any building, structure, or change in the use of land, the restrictions of the highway conservation zone would not be limited to new subdivisions.

Not only does the permit requirement give the highway agency a supervisory authority over the development of land within the conservation zone, but it secures a constitutional advantage for the law. An official map prohibits all development immediately on its establishment, and so the constitutional burden appears more severe. But no development is prohibited merely by the establishment of a conservation zone. A permit need only be applied for, and as the zone covers more than the projected right-of-way, absolute refusal of a permit could be expected only in a minority of cases. Even in these cases, the landowner can be given an escape device that will insulate the statute against charges of unconstitutionality. Another advantage of the permit requirement is that, as in subdivision control, the permittee can be made to make reasonable land dedications and reservations as a condition to approval.

Existing escape devices all have limitations. The hardship variance of the official map laws is potentially self-defeating, even if administration has so far been stiff. Under the State highway reservation laws now in effect, the State highway department has no alternative but to purchase the land once a notice purchase has been served by an affected landowner. An alternative approach is to couple the purchase requirement with a hardship test, and to compel the highway department to purchase restricted property only if the land-

owner suffers hardship because he has been prohibited from building in the highway conservation zone.

Hardship can be validated by relying on the market as a guide. A landowner who serves a purchase notice could be made to show that he has in good faith attempted to sell his property, but that he is unable to sell it for a sum comparable to the price offered for property similarly located, and which is not subject to restriction by a highway conservation zone. If there is a substantial discrepancy between the price offered for the restricted land and that offered for similar property located elsewhere, the department would have to purchase the property affected by the highway restriction. A test of market value depreciation is fair to the landowner, and finds ample judicial support in cases that have imposed a similar inability to sell requirement as the basis for hardship variances that are requested under zoning ordinances.<sup>12</sup>

The landowner who is subject to a building restriction in a reserved right-of-way may suffer uncompensable losses. The highway may not be built, or if it is built, his property may decline in value by the date of acquisition. None of the existing reservation techniques take account of this loss problem, although the potentiality for uncompensated losses is one of the factors that influences the courts against the constitutionality of a highway reservation law. Although adjustments to take care of interim losses may be difficult to make, they could be built into a State highway reservation law. For example, the law can provide, when the property subject to the reservation is condemned, that no account shall be taken of any depreciation in value which is attributable to the highway project. Conversely, any appreciation in the value of the property would similarly be discounted. And as an added protection against land speculation, which has an inflationary effect on

## ON THE COVER

Andrew Sheard (the man on the cover) has assumed a big responsibility. He is General Chairman for the 1964 Annual Convention of the American Land Title Association in Philadelphia, September 20-23.

Andy is also Vice President of the Title Insurance Corporation of Pennsylvania in Bryn Mawr. Those who have worked with Andy in the past tell us that we can expect big things from the convention chairman. He has already demonstrated an eagerness for the job, which has resulted in the appointment of committees, selection of entertainment, arrangements for post-convention activities, etc.

Since Andrew Sheard is going to do so much of the work, it seems only fitting that he should be honored in this manner.

land values, the highway department can have an option to buy any property that comes on the market after the conservation zone is established.

A control over new highways that is as comprehensive as the conservation zone will have a substantial impact on local land-use planning. Cooperation between the State highway department and local planning authorities will be needed, and though the requirements of local consent to highway location will vary, the suggestion is made that the State highway plan should be binding on municipalities and counties. In this way, the State highway network can be protected from local influences which

<sup>12</sup>Forrest v. Evershed, 7 N. Y. 2d 256, 164 N. E. 2d 841 (1959).

(Continued on Page 19)

# WRITE BY HAND

... or any other way



William \_\_\_\_\_  
his wife \_\_\_\_\_  
Robert \_\_\_\_\_

Know all men by these presents that I William  
and Betsey his wife of the town of Poughkeepsie County of Monroe  
and State of New York in consideration of One hundred Dollars to me  
in hand paid by Robert \_\_\_\_\_ of the town aforesaid the receipt  
whereof is hereby acknowledged have bargained sold and quit claimed  
and by these presents do bargain sell and quit save unto the said  
Robert \_\_\_\_\_ and unto his heirs and assigns forever all my right  
title and interest claim and demand in and to all that certain parcel  
or parcel of land situate in the town of Poughkeepsie of said (City) fifty  
acres of land to be taken off from the South end of the South east divi-  
sion of lot number one hundred in said town and bounded on the  
East South and West by the lines of said division and on the north  
by a line parallel with the South line of said division and so far  
distant therefrom as will include fifty acres of land also one other  
piece of land a part of South east division of number fifteen in  
said town and bounded as follows commencing at the North east  
corner of said division and running South by the East line of  
said division six rods thence East eight rods thence North six rods  
thence West six rods to the place of beginning containing forty  
eight rods of land including all Highways if any that be abate  
able and including the head branches streams belonging in Robert  
whereof I have hereunto set my hand and seal the day and year  
first above written.

Sealed and delivered  
In presence of Charles Gibson Jr  
on the 14<sup>th</sup> day of April 1855.

William \_\_\_\_\_ J.P.  
Betsey \_\_\_\_\_ J.P.

Monroe County ss  
On this 14<sup>th</sup> day of April 1855 personally came before  
the above named William \_\_\_\_\_ and Betsey his wife known to me  
the undersigned \_\_\_\_\_ and they acknowledged to me  
the above written \_\_\_\_\_

Original records come in all ages and every conceivable condition. One may be a land grant, handwritten on sheepskin . . . another a slick piece of microfilm. There is only one way to get perfect copies from any existing record—photographically. And the best way is with a PHOTOSTAT® Photocopier!

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# The Scope and Financing of Urban Renewal and Development

By Peter Wagner

*The following article has been adapted from a report published by the Business Committee of the National Planning Association. The report, *The Scope and Financing of Urban Renewal and Development*, was written by Dr. Peter Wagner, NPA staff economist. In releasing the report, the NPA Business Committee expressed its confidence that "a broadly conceived urban renewal program for America's cities and suburbs is not only feasible but an urgent necessity and that, once Americans are determined to tackle urban renewal on a comprehensive basis and in accordance with a well-planned schedule of accomplishments, it will be possible to secure the physical and financial resources for success. However, the groundwork for all plans must be laid now. There is no time to waste!"*

A comprehensive 20-year program of urban renewal and development is urgently needed not only for its own sake but also for the sake of achieving a satisfactory level of economic growth in the United States. Urban renewal, by a widely accepted definition, comprises the total of all the private and public actions necessary in order to provide for the continuous maintenance and development of urban areas. To be truly successful, a program of urban renewal would have to incorporate slum clearance, housing, transportation, and educational, welfare, and recreational services. It would involve urban renewal planning for a longer time-perspective than has been the case with most programs to date.

For all too many years, the terms "public housing" (the most conspicuous and readily identifiable part of urban renewal efforts) and "urban renewal" were regarded as almost interchangeable. From slum clearance and public housing, the concept advanced to the redevelopment of entire communities. Then the recognition grew that true redevelopment cannot stop at municipal boundaries but

must form a part of an integrated metropolitan or regional plan.

Gradually, it was realized that building codes and zoning regulations were not enough, that the private automobile had swamped our cities, and that a host of other problems called not only for slum clearance and public housing but also for a comprehensive program of urban renewal which would deal with every aspect of urban life. The changing population mix in our cities, the flight of large segments of our urban middle class to suburbia—often beyond the administrative boundaries of the city—and an influx of large numbers of people displaced from the countryside created a multitude of new problems of such magnitude that it was soon realized they could never be solved by the isolated action of each city and suburban community. If the problems created by the "new urbanism" of today are to be attacked, administrative boundaries cannot mark the limit of our efforts, but plans covering a whole metropolitan area or even a larger region are needed.

True redevelopment cannot stop at

municipal boundaries since many factors other than the most often discussed housing and transportation problems enter the renewal picture. The nation's needs for improved educational facilities, improved health and welfare services, and better opportunities for recreation have been well publicized. The need for better utilization of water resources and the necessity of combating water and air pollution have also been attracting much attention. No pattern of renewal would be meaningful unless adequate provision is made for the expansion of employment opportunities with a balanced distribution among factory, office, and service jobs in preference to establishing broad zones where one or another type predominates.

Comprehensive urban development must deal with all of these, in addition to the more humdrum services which the citizen has come to expect from his municipality: the provision of sewers, garbage and refuse disposal, fire and police protection, libraries, recreational amenities, and many others.

#### **The Importance of a New Approach**

Any dispassionate observer must acknowledge that the accomplishments to date in the field of urban renewal are many and significant. Many slum areas have been replaced by huge public housing projects, often set in park-like surroundings. Public parks and recreation facilities, college housing, and many other achievements testify to the effectiveness of urban renewal.

Why, then, has there been dissatisfaction with the way the programs have operated, and why has there been uneasiness—even among many of the programs' staunchest supporters—about their efficacy in curing blight and decay?

Underlying much of the current criticism of urban renewal efforts is one disturbing fact: as the programs have become bigger, they have become more and more institutionalized. In many instances, this has obscured their basic justification—to assist in creating better living conditions for the individual and his community.

One criticism has been that the administering authorities, both Federal and local, have become all too preoccupied with the physical aspects of urban renewal, paying but scant attention to the problems of the people affected. In its extreme form, this criticism is obviously unfair. Urban renewal programs, however, can succeed only if they are concerned not merely with physical renewal but with human renewal as well. They are bound to fail if they create a body of spiritless citizens, satisfied to remain the dependent wards of some government authority.

An important element of a comprehensive approach would be the integration of suburban and exurban development with metropolitan or regional development. In housing, there should be less emphasis on mass tearing down and reconstruction and considerably more encouragement of "spot" rehabilitation, which would preserve neighborhoods wherever possible.

It would be desirable if reliance on municipally owned public housing gave way to a more balanced mixture of privately owned, cooperative, and municipally owned housing. Indeed, greater emphasis on the rehabilitation of existing structures and facilities would automatically result in a much greater proportion of privately owned buildings. This is all to the good. Unless effective avenues for profitable private investment are provided, urban renewal as a broadly based concept will always remain on the drawing board.

#### **How to Achieve Area-Wide Planning**

There are about 16 000 independent local authorities in the nation (some 1,400 in the New York metropolitan region alone), and most of these are likely to be concerned with some aspect of urban renewal. This fragmentation of authority, found in nearly all our metropolitan areas, is one of the main obstacles to translating major urban renewal plans into practice.

The best way to reduce local reluctance to participation in a metropolitan or regional plan is for the Federal

government to provide meaningful financial inducements. These need not involve current payments out of the Federal budget but could take such forms as assistance in financing bond issues or direct loan guarantees. The Federal government would not infringe upon the autonomy of the responsible metropolitan or regional administering authorities but would facilitate the planning and financing of development. At the same time, binding assurance against the danger of annexation by the central city could be given in appropriate cases. The over-all metropolitan or regional planning functions could be concentrated in the hands of a professional group of municipal civil servants in order to minimize the danger of domination by political machines. Many other safeguards could be provided to ensure that local independence would be subordinated to the common good only where absolutely necessary in the interests of a broadly conceived urban renewal program. The proposed Department of Urban Affairs could help overcome the problems caused by local fragmentation of authority and could provide the vital spark needed to ensure that urban renewal would be imaginatively conceived and effectively carried out.

### **Transportation**

The one factor that all urban renewal programs have in common is the urgent need to improve transportation. In almost every metropolitan area, downtown congestion has reached such dimensions that relief measures are imperative if the center is to fulfill its functions effectively in the future. There is every indication that, during the next generation, our population will continue to become increasingly urban, with especially rapid rates of growth in the larger metropolitan areas.

To meet this situation, a broad array of measures is called for. In addition to conventional improvements, such as the installation of electronic traffic control devices and more "scientific" traffic management, mass transit facilities should be emphasized. The space savings of rapid

transit are so considerable and the more convenient private car will impose social costs of such magnitude that more and more communities will be driven to redress the balance by enforcing more sensible pricing policies between the two modes of transport. To encourage such a solution, mass transit should be relieved of real estate, franchise, and other special taxes and imposts. In appropriate cases, consideration could be given to subsidies for the acquisition of rights of way, as well as for the building of special facilities and the purchase of equipment. The Federal government should be fully aware of its responsibilities to share the costs of such subsidies with local authorities, provided that these have agreed to cooperate in an area-wide transit agency.

While doctrinaire solutions, whether favoring the automobile or rapid transit, are to be avoided, it is clear that the preservation of existing transit facilities and, in appropriate cases, their extension and even the building of entirely new facilities would be a part of any approach. However, it must be stressed that the private automobile has become such an integral part of American life that its needs will always have to be taken into consideration when future transportation requirements are estimated. Any solution will undoubtedly consist of a mixture of the two modes of transportation.

### **The Cost of Urban Renewal**

Comprehensive urban renewal, however defined, requires large resources. A grasp of the commitments, both in financial terms and in terms of allocation of resources, is essential for the proper understanding of what can be accomplished and during how long a period of time.

A number of estimates of urban renewal costs have been made showing figures of widely divergent magnitudes. It is evident that many of these estimates, particularly the ones for smaller outlays, attempt to measure only the amount of public money needed for urban renewal, not the total costs involved. Also, most of

the definitions of what these estimates represent vary so widely that it is impossible to adjust them sufficiently to iron out differences and arrive at meaningful comparisons.

Urban development must be viewed as a continuing process. The most realistic period for achieving total urban renewal, in light of current requirements and anticipating improving standards, would seem to be 20 years. Total requirements for urban renewal, other than investments in private industrial plants, may be estimated at around \$2,150 billion over a 20-year period. If plant expenditures in urban areas are included, the total would rise by another \$500 billion. These figures make an allowance for some rise in minimum standards over the 20-year period.

How attainable are these figures? Without economic growth, the task would be hopeless. However, if we achieve the reasonable goal of an economy of \$800 billion by 1970, approaching \$1,250 billion by 1980, we have much greater leeway. The aggregate GNP during the 20 years 1960-80 would reach almost \$16,800 billion, so that the proportion of expenditures to be devoted to urban renewal would be slightly over one eighth (12.7 percent). Even including urban industrial plants, the total investment required would be less than one-sixth of GNP. If we realize that we are currently spending around 9.5 percent of our GNP for urban renewal, again exclusive of industrial plants, the additional 3.2 percent of GNP required appears much more manageable. Indeed, some increase in urban renewal expenditures could be assumed in any event, even in the absence of a special drive to obtain greater priority for such spending.

How meaningful are these over-all figures, and how realistic are they? In order to check, a comparison with regional and metropolitan cost estimates has been attempted. Unfortunately, most of these define urban renewal more narrowly than does this report. In the one case where the definitions are similarly broad, the Greater New York regional plan,

the figures are strikingly compatible, though they have been arrived at quite independently.

It is one of the great merits of a comprehensive urban renewal program that it can have a considerable amount of flexibility in accordance with varying political and economic conditions. If the Cold War subsidies in the next 20 years and we should be able to reduce our defense expenditures, large-scale urban renewal programs could serve as one of the main outlets for absorbing part of the resources no longer needed for defense. In such a case, the program could well be stepped up somewhat, and the 20-year period may be regarded as too long or, alternatively, the scope of the program could be further enlarged. Conversely, a worsening of international relations would have adverse consequences for urban renewal and might necessitate a stretching out of the period.

#### **The Resources Required**

There remains the question of whether enough labor and physical resources would be available to accomplish so ambitious a program over a 20-year period. Since urban renewal as we envisage it would not be a crash program but could be planned to rise in volume gradually during the period, there would be less difficulty in making the resources available.

Some economists have held that devoting resources to urban renewal would slow down growth since investment in this field does not usually bring a high economic return. Superficially, and leaving noneconomic factors entirely out of account, this criticism appears justified. However, it does not take into consideration the fact that urban renewal would employ labor resources, some of which would probably remain unemployed in its absence. The program would create many employment opportunities for low-skilled male workers, the type of labor which has great difficulty finding employment. It could create an additional three million jobs. Also, the program would have a considerable multiplier effect

and, in turn, would stimulate economic growth in the United States. For this reason, such criticism of urban renewal and development appears to be unjustified even on economic grounds. On the contrary, the program is a necessity if we want to achieve the level of economic growth that will enable us to realize our national goals.

### **Financing Urban Renewal and Development**

Any comprehensive urban renewal program requires funds of such a magnitude that their provision is a task of major importance.

By far the greater part of all funds that will be absorbed in urban renewal and development will be used to finance the private portion of the program. Much of the necessary money will continue to be raised without the benefit of government assistance or guaranty. However, in a greatly expanded program, the traditional sources for providing private credit for these purposes and the traditional inducements which have channeled investment into this field are unlikely to prove sufficient.

This does not mean that existing instruments for providing assistance to private real estate and construction financing should be abandoned. The facilities provided by the Federal Housing Administration, the Federal National Mortgage Association, and other agencies in guarantying and providing funds for investment in new and existing housing of all kinds would continue. In addition, it would be highly desirable to liberalize their limitation and lending provisions, so long as this does not seriously endanger the investments which they are designed to protect. New programs would have to be provided for the financing of mass transit facilities. Certainly, existing Federal, state, and local taxes, excepting only taxes on income, should be waived for mass transit facilities. Beyond this, there is a good case for assistance in financing improvements in plant and equipment and, in appropriate cases, for an outright subsidy.

A liberalization of depreciation pro-

visions in the tax laws would perhaps be most effective incentive that could be devised for private investment in industrial and commercial facilities—and to a certain extent also in residential real estate built for investment purposes. As an additional incentive for channeling investment into the desired areas, such liberalized treatment could be given only in urban renewal areas for investments made strictly in accordance with the provisions of approved local or regional plans.

In residential housing, more use could be made of the trend toward cooperative apartments, possibly by offering a rent subsidy for a limited period. This would cover part of the difference between the cost of financing a cooperative apartment and the rent costs in public housing.

Given suitable safeguards, there would seem to be no bar to employing a temporary subsidy method also for private housing accommodations. Where rehabilitation by private owners is not commercially feasible, a temporary subsidy for interest payments would often make it so.

For many years, suggestions have been made to introduce a type of mortgage security that would be reasonably uniform throughout the nation. Such an instrument would enjoy much freer negotiability than the existing conventional mortgage.

A considerable element of negotiability has already been created for FHA-backed mortgages. With greater security and ease of handling for conventional mortgages as well, a significant decline in interest and servicing costs could be achieved. The establishment of a national mortgage market would naturally follow such a development. Previous attempts to create such a market have failed, principally because of uncertainties surrounding the underlying security and because of local laws limiting the transferability and marketability of mortgages. Such limitations would disappear with the introduction of a reasonably uniform type of mortgage security.

Doubts about the inherent value of the real estate underlying any par-



ticular mortgage security could be assuaged by having the local banks and savings and loan associations that make these loans guarantee them by affixing their endorsement to the mortgage instrument. In case of loss, the mortgage holder would in effect have the right of recourse against the underlying real estate and the principal debtor as well as the endorser, in most cases the financial institution that originated the mortgage loan. The principle involved here would not be very different from the basic idea of banker's acceptances, though these are essentially for short-term lending only. As a further stimulus to investment in this field, the establishment of a central mortgage bank might be considered.

The underlying purpose of all these proposals is to make mortgages and other types of loans secured on real estate a more flexible and more secure form of investment. To this end, the market for primary mortgages has to be broadened. Equally important, a genuine secondary mortgage market has to be created since the difficulties involved in the resale of existing mortgages, particularly conventional mortgages, make mortgages an investment of very low liquidity and restrict their appeal.

### **Financing Public Investment**

Present sources of financing for public investments are many and varied and depend on the nature of the program. For many purposes, private funds can be attracted through bond issues and by other means. However, without Federal participation in some form, local authorities are unable to raise the necessary funds. Demands for state and local outlays in all fields will continue to increase sharply during the next two decades, and in the overwhelming majority of cases, the local tax base will not increase proportionately with these demands. Consequently, state and local authorities will find themselves in financial straits even without the addition of an ambitious urban renewal program. Federal aid could take many forms, from the direct assumption of bur-

dens now in the province of state and local government to a greatly extended system of Federal grants-in-aid. Other measures could entail some type of tax sharing or the relinquishing of some tax sources by the Federal government in favor of local government.

A great many of the investments to be financed through the public sector will consist of bridges, tunnels, and mass transit facilities, such as subways and in some instances even suburban commuter lines where such facilities cannot be provided by private enterprise. Most of these investments, as well as some of those connected with public housing, could be suitably made through the establishment of local semiprivate authorities which would be run on business lines without political interference. These authorities could issue their own bonds, or even fixed dividend stock, and would be responsible for their service. In cases of necessity, a Federal subsidy could be given, but as a general rule, these bodies should be strictly self-supporting. Their securities would, as now, enjoy tax-exempt status unless some substitute for tax exemption should be developed. In addition, they might be given a Federal guaranty, whereas at present the security is usually tied to the revenue-producing power of the public authority concerned. Obviously, the lower risk factor provided by the Federal guaranty would help establish a more advantageous interest rate for these securities, which would result in significant savings. The issuing of such bonds could also be used as a countercyclical device.

A combination of inducements will be needed to stimulate the flow of private investment funds into the urban renewal field. Tax preferences, interest inducements, and in certain cases even outright grants all have their place. If comprehensive urban renewal is to become a reality within a reasonable period, sufficient funds must be forthcoming, and they must be attracted in competition with other outlets for investment funds.

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Service is the rent we pay for the space we occupy on earth.

# Historic Philadelphia-The Cradle of

ALTA Convention September 20-23 in the City of "First"

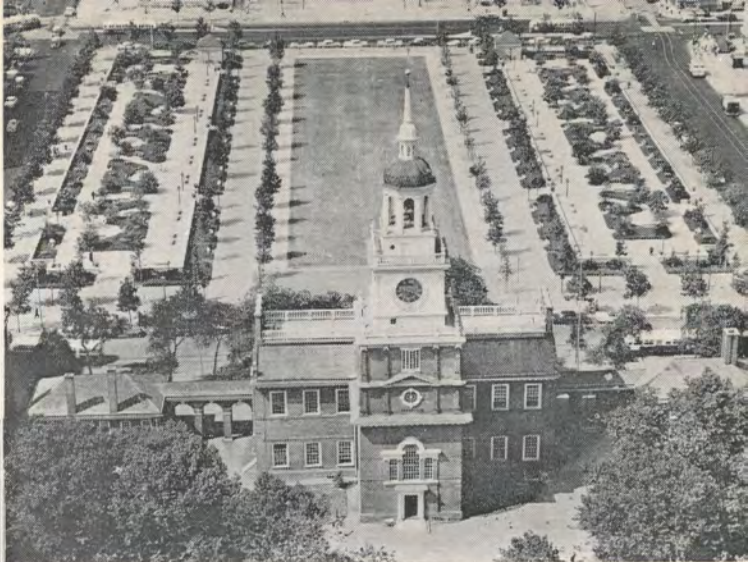
The 58th Annual Convention of the American Land Title Association will open Sunday evening, September 20, with a traditional ice-breaker, a reception sponsored by the Pennsylvania Land Title Association.

There is much to attract the title man to this convention; not the least is the city itself. Historic Philadelphia is every American's heritage. It was in Independence Hall that the U.S. Constitution was written and it is here that the famous Liberty Bell, symbol of freedom throughout the world, is kept. Here is where the first Continental Congress met, and it was here that the first American flag was adopted by congress.

Philadelphia is the third largest city in the United States and one of the greatest industrial centers of the world, but the city still maintains



# Liberty



its warmth and friendliness—a contrast of skyscrapers, parks and rivers in a 300 year old setting.

William Penn, founder of the city, referred to it as the Greene Countrie Towne, “The City of Brotherly Love.” Delegates to the Annual Convention will wish to plan an extra day or two to visit some of this historic sights. Among the most interesting of these are Independence Hall, the home of Betsy Ross, Benjamin Franklin’s grave, the original home of the Saturday Evening Post, the Museum of Philadelphia History, Rittenhouse Square and literally hundreds of other significant sights.

General Convention Chairman, Andrew Sheard, has announced appointment of the following committee chairmen: **Reception and Hospitality**—Gordon M. Burlingame, **Registration and Arrangements**—Lawrence A. Davis, Jr., **Entertainment**—Joseph J. Hurley, **Finance**—Lewis C. Anderson, **Publicity**—Fred B. Fromhold, **Toastmaster**—Oliver S. Twist, **Ladies’ Entertainment**—Sara Sheard and Joyce Davis, Co-Chairmen.

IN LAND  
•  
ASSOCIATION  
•  
1907

# Unrecorded Contracts of Sale

By **EARL J. SACHS**

**Vice President,  
Title Insurance and  
Trust Company**



*Unrecorded contracts of sales have plagued the title man for generations and in all areas of the country. California is no exception. In a recent issue of "Building Contractor of America", Earl J. Sachs made unrecorded contracts the subject of his short article. It is passed along to you with permission of the author and of the editor of that magazine.*

Quite often a builder will call to ask how he can get a title company to ignore an unrecorded interest in a contract of sale.

Usually, a builder who sells for a small down payment will use the contract of sale method rather than give a deed to the buyer and take back a deed of trust for the balance due.

When land is sold in this manner, the buyer many times records a declaration of homestead or some other instrument, which instrument will disclose an unrecorded interest in a contract of sale. By reason of the disclosure of such interest, a title company will show as an encumbrance, the following:

"Any interest of John Doe and Mary Doe in said land by reason of an unrecorded contract of sale as disclosed by a declaration of homestead, executed by John Doe and Mary Doe and recorded on such a date."

When an encumbrance such as this one appears in a preliminary report of title, the builder (known as the vendor) usually calls the title company and states that the buyer abandoned the property several months to several years prior thereto, as the case may be, and that the contract was in default under its terms and he has declared a forfeiture.

It was formerly the rule in this

state that the vendor had a right to declare the buyer's right forfeited without refunding to the buyer any part of the purchase price paid. However, later court decisions have modified this rule, and the courts now permit even a willful defaulter to recover such portions of the payments as are in excess of the vendor's actual damages. The basis of the decision in the latter case is that to enforce a forfeiture would result in the unjust enrichment of the vendor. Also, the opinion has frequently been expressed that the courts "abhor a forfeiture."

\* Where the contract is disclosed of record, it cannot be ignored for title insurance purposes on the basis of an asserted breach and forfeiture of the vendee's interest in accordance with the terms of the contract. A

quiet title action is the appropriate remedy to establish the fact of forfeiture and to eliminate the contract interest of record. A deed from the purchaser, or a cancellation agreement between the vendor and the purchaser will, of course, be sufficient to eliminate the contract interest of the vendee. An election of a remedy by the buyer, such as an action of rescission and for damages, that is inconsistent with a further claim of interest under the contract, may be sufficient to eliminate the vendee's interest. On rare occasions, contracts of sale may be disregarded for title insurance purposes on the basis of factors such as lapse of time, purchaser out of possession, small value of land, long continued breach, very small equity, and similar considerations indicating little or no risk.

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### "HIGHWAY" — (Continued From Page 8)

may be narrowly based. Cooperation between State and local authorities should be possible and desirable, however, both in the planning of the highway network and in the administration of conservation zones. For example, the statute could authorize agreements of delegation under which the State highway department could delegate its responsibilities in the administration of the conservation zones to local planning authorities. Local administration would have to be subject to State standards, however, and State control over local administration would be reserved by giving the State highway department the authority to set the terms of the delegation and to terminate the delegation if local administration becomes unsatisfactory.

#### CONCLUSION

The Interstate highway system can make a positive contribution, not only to the transportation network, but to the planning and development of rural and urban areas. Much of this impact will be blunted, however, if ways are not found to protect highway right-of-way before its acquisi-

tion. Regulatory measures under the police power have a considerable role to play in providing this protection, and historically a variety of measures have been made available for this purpose, primarily at the local level.

Unfortunately, existing police power techniques have their limitations. In most States, authority to employ protective measures is limited to municipal and county governments. Additionally, many of these devices contain administrative limitations that hinder their effectiveness. A highway conservation zone is proposed, which would be implemented at the State level and which would permit strict control over land uses both within the highway right-of-way and in adjacent areas. Interim regulatory authority of this kind would make a positive contribution to the effectiveness of highway planning.

#### ACKNOWLEDGMENTS

This paper is a summary of a report on the problems of highway reservation under the police power. The report was prepared under a research contract with the Bureau of Public Roads.



IN THE  
**ASSOCIATION**  
SPOTLIGHT

## MBA Nominates C. C. Cameron New President

C. C. Cameron, President of the Cameron-Brown Company, Raleigh, North Carolina, will be the next President of the Mortgage Bankers Association of America as a result of his nomination by the Association's Board of Governors. Presently serving as Vice President of the Association, Cameron, who will succeed Carey Winston, President of The



**C. C. CAMERON**

Carey Winston Company, Washington, D.C., will be officially elected President at the Association's 51st Annual Convention in Washington, D.C., next October.

Nominated for Vice President was Ewart W. Goodwin, President of the Percy H. Goodwin Co., San Diego, California. For Second Vice President the Board of Governors nominated John A. Gilliland, First Vice President, Stockton, Whatley, Davin & Company, Jacksonville, Florida. Howard E. Green, President, Great Lakes Mortgage Corporation, Chicago, was nominated for re-election as the Association's Treasurer.

In addition to being President of the Cameron-Brown Company, Cameron is also President of the Cameron-Brown Investment Co., the Cameron-Brown Capital Corporation, the Cameron-Brown Insurance Agency, and the Cameron-Brown Management and Development Co.

A graduate of Louisiana State University, Mr. Cameron has previously served MBA as Second Vice President; Chairman of the G.I., Conference, Legislative, and Ethics and Standards of Practice Committees; as Vice Chairman of the Urban Renewal Committee; as a regional Vice President; and, for many years, as a member of the Board of Governors. In addition to being the Association's Vice President, Mr. Cameron is also Chairman of the Executive Committee, and a member of the MBA Re-evaluation Committee.

He is also a member of the Na-

tional Association of Real Estate Boards, and has served that Association as First Vice President. He has been President of the Raleigh Board of Realtors and the North Carolina Association of Realtors. He is currently a member of the Realtors' Washington Committee. As a member of the American Institute of Real Estate Appraisers, he has obtained the M. A. I. designation.

In addition to his participation in mortgage banking and real estate trade associations, he is actively engaged in other endeavors. He is Treasurer of the North Carolina Business Development Corporation, a member of the Board of Trustees for Meredith College, a director of the Carolinas United Community Services, director of the Raleigh Chamber of Commerce, and a member of the Membership Committee of the United States Chamber of Commerce. He has served the City of Raleigh and the State of North Carolina by working with many civic ventures such as the Raleigh High Boosters Club, the United Fund, the North Carolina symphony Society, and the Army Advisory Committee. He is also a member of the Raleigh City School Board. He belongs to Theta Xi social fraternity, Tau Beta Phi, Phi Lambda Upsilon, and Omicron Delta Kappa honorary societies, and Alpha Chi Sigma Chemistry fraternity.

Vice President nominee, Ewart W. Goodwin, is head of a mortgage banking firm founded by his grandfather 89 years ago in 1875. A graduate of Standard University and a lecturer on appraising and real estate management at the University of California and University of Southern California, Goodwin has been a director and member of the Executive Committee of the First National Bank of San Diego since 1940. In addition, he is director of Solar Aircraft, a subsidiary of International Harvester; the San Diego Transit Company; and the Stanley Andrews Sport Goods Co. A former President of the San Diego Chamber of Commerce, he is presently a director of the California State Chamber of Commerce, and Vice Chairman of the State-wide Water

Resources Committee. A member of the Board of Trustees and Chairman of the Executive Committee of California Western University, Goodwin is a member of the Society of Industrial Realtors with an S.I.R. designation; a member of the Institute of Real Estate Appraisers with an M.A.I. designation; and a Certified Property Manager of the National Institute of Real Estate Management.

Presently MBA's Second Vice President, Goodwin is also Chairman of the Ethics and Standards of Practice Committee, and a member of the Executive, Farm Loan, and Re-evaluation Committees. Formerly an associate governor-at-large, he has also been Chairman of both the Farm Loan and the Conventional Loan Committees.

## New Officers for Petroleum Landman

Art Berger, Sun Oil Company, Denver, will take office as President of American Association of Petroleum Landmen following that organization's annual meeting in Dallas. Named as officers of the association with Berger in a recent mail ballot by the members were James W.



**Art Berger**

Beavers, First Vice President, Hunt Oil Company, Dallas; W. E. Farrar, Second Vice President, Union Oil of Canada, Calgary, Alberta; and G. E. Gotschall, Third Vice President, U.S. Oil of Louisiana, New Orleans. Named as the organization's treasurer was Joe Hildebrand, Pan American Petroleum Corporation, Jackson, Mississippi.

Notice of the election of officers was in an announcement by the association's headquarters at Fort Worth, Texas.

Named as Directors to serve two-year terms were E. J. Kilburn, Moun-

tain Fuel Supply Company, Salt Lake City; Darrell N. Canfield, El Paso Natural Gas Company, Farmington; W. G. Rogers, Humble Oil & Refining Company, Corpus Christi; Wayne L. Adams, Midwest Oil Corporation, San Antonio; James E. Etheridge, Michel T. Halbouty Company, Houston; William L. Moore, Humble Oil & Refining Company, Ardmore; H. F. Boles, APCO Oil Corporation, Oklahoma City; Floyd T. Gates, Sun Oil Company, Tulsa; James J. Frazier, Pan American Petroleum Corporation, Liberal; M. S. Ermev, CRA, Inc., Wichita; W. E. Golden, Midwest Oil Corporation, Fort Smith; Robert K. Riddle, Humble Oil & Refining Company, Los Angeles; J. Q. Snell, Tidewater Oil Company, Bakersfield; Marvin R. Mace, The Pure Oil Company, Pittsburgh; J. A. Dellacca, Marathon Oil Company, Jackson, Michigan; and Herbert G. Garvie, Phillips Petroleum Company, Evansville, Indiana.

## Executives Appointed

William J. Rooney, Jr., and Irv J. Kibodeaux have been appointed to executive posts in the Bankers Title Guaranty Company, Sacramento, Calif. Rooney, for 11 year office manager of a Sacramento realty firm, has been appointed assistant Vice President and manager of the title firm's downtown office at 918 8th Street. Kibodeaux, formerly downtown manager, has been promoted to assistant vice president and appointed escrow supervisor in the main office at 21st and J Streets.

## Bachman Made Manager

R. F. "Tony" Bachman has been named manager of Title Insurance and Trust Co.'s San Diego office.

Bachman began his career in 1934 with Union Title Insurance Co., which merged with TI in 1958. He was named a TI vice president in April, 1961. He is a director and treasurer of LaJolla Federal Savings and Loan Assn., and a director of the San Diego Building Contractors Assn.

J. Edward Morrow has been named assistant manager of the San Diego office of TI.

## California Admits New Members

California Land Title Association admitted three new members at its 57th Annual Convention held in Palm Springs it was announced recently by Robert H. Morton, Vice President and Manager of Western Title Insurance Company, San Francisco, and newly elected President of the Association.

New companies admitted are: Sequoia Pacific Title Company, Visalia, P. C. Patey, President; Western Title Guaranty Company, Placer County Division, Auburn, Jay Harris, Vice President and County Manager; and Western Title Guaranty Company, Riverside County Division, Riverside, Douglas D. Paterson, President.

"Because of our continuing efforts to raise and maintain the standards of the industry for the protection of the public who buy real property, we are always pleased," Morton said "to welcome new members into the Association that have met the membership requirements of CLTA."

## Title Firm Moves Office

The Sonoma Title and Guaranty Company has moved into new quarters at 546 Broadway, Sonoma.

The ST&G has been operating since last June at 222 West Napa St., according to Robert Morotto, manager.

The title company is a branch of Sonoma Title and Guaranty Co., Santa Rosa, California.

## Branch Office Opens

A branch office of the Central Title and Trust Co. has opened in Chandler, Arizona, President Jack Cummard announced.

Harley Kelley, experienced in all phases of the business, will manage the Chandler branch.



## Mendenhall Predicts Real Estate Demand

The demand for real estate will be strengthened by the expansionary forces in the economy which have been dominant the first quarter of the year, Ed Mendenhall, High Point, N.C., president of the National Association of Real Estate Boards, predicted recently.

But the speaker cautioned his audience, members of the Lansing Board of Realtors, that this expansion will at the same time bring a greater disparity in the price of properties, rent levels, and yield, dependent upon quality.

"Differences between the market for well-located, carefully maintained commercial buildings and that for neglected properties have been widening in recent years," he said. "Prices in the housing market, as well, have reflected a strong buyer interest in quality. Attractive older homes have sold well in most areas, while ill-maintained, though sound, ones have often been hard to move even at reduced prices."

The NAREB leader, in surveying the market outlook, said indications are that construction will slightly top the 1963 rates, and the sales volume of existing structures should be better than that of last year.

A rising income will permit more buyers to be more selective, Mr. Mendenhall said. "We now expect that disposable income will reach a level of \$435 billion (seasonally adjusted annual rate) by midyear, and possibly \$450 billion by year-end."

The volume of single family starts will increase, the Association president predicted, but he repeated a warning expressed earlier this year that apartment construction may have outdistanced demand in some



areas and said the rate of such building, which has been rising for some time, will probably level off in the second half of the year.

He told the Lansing Realtors that businessmen and home buyers will be coming into the market in greater numbers than were foreseeable three months ago because of "the sense of well-being currently abroad."

"Added to the optimistic frame of mind is a haunting thought that inflation may not be as well under control as hoped," he said. "Equity investment under these circumstances always assumes a favorable competitive position compared to fixed yield securities. Coupled with the continuous demand for land, particularly for urban development, the possibility of inflation will draw a greater volume of capital to real estate," he predicted.

"The current pace of expansion may revive the wage-price spiral," Mr. Mendenhall cautioned, "and the threat of inflation, dormant — or at least quiescent for several years—is once again a somber topic of discussion."

## Title Company Building Planned in S. B.

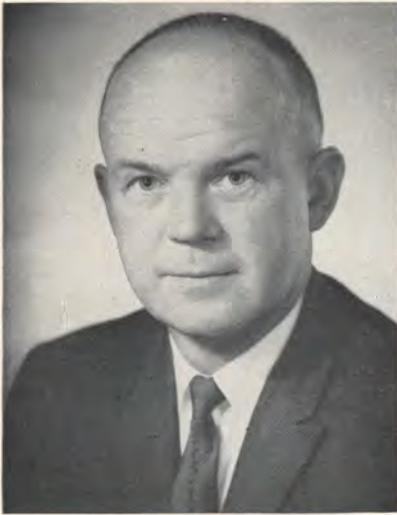
Construction of a four-story office building by the First American Title Co. of San Bernardino, California, has been announced by C. Wayne Wood, President of the firm.

The construction will combine architectural concrete and glass panels.

An outstanding architectural feature of the building is a five-story tower. Alternating panels of white brick and gray glass are to further add to the impression of a taller building.

## Elected Officer

Arthur G. Spoerl, manager of the Milwaukee office of Title Insurance Company of Minnesota has been elected a title officer of the firm.



**ROBERT H. MORTON**

## Officers Elected in California

Robert H. Morton, Vice President and Manager, Western Title Insurance Company, San Francisco, was elected President for 1964-65 of the California Land Title Association at their 57th Annual Convention held in Palm Springs.

Morton succeeds William Breliant, President of the Association for 1963-64 and Chairman of the Board and President of Security Title Insurance Company, Los Angeles.

Other officers elected were Ernest J. Billman, Executive Vice President, Security Title Insurance Company, Los Angeles, as First Vice President; Richard H. Howlett, Senior Vice President, Title Insurance and Trust Company, Los Angeles, elected Second Vice President; and Briant H. Wells, Jr., President, Title Insurance and Trust Company, Los Angeles, as Treasurer of the Association.

## Paul J. Kennedy

Lawyers Title Insurance Corporation has named Paul J. Kennedy chief title officer in the Chicago office.

## Position First for Woman

Miss Frances (Frankie) Murphy, has been put into a job never before handled by a woman. She has been added to the sales force of the Land Title Company, San Diego, California, and will devote most of her attention to contacting other women.

"There are many women in escrow, in financial institutions, and in real estate offices. Why not a woman business development and sales representative for a title insurance company?" she asked.

Thomas Clarkson, company president, could think of no particular reason to say no, so he hired Miss Murphy.

"The work is rather intangible," she explained. "It is a service job. I will be contacting women in mortgage companies, banks, escrow and real estate, to interest them in our services in title insurance."

A dedicated career woman, Miss Murphy worked 15 years for United Airlines in Seattle, both as a sales representative and in public relations. She left the job, and Seattle, some three and one half years ago for marriage.

## New Vice Presidents

Jack M. Jones, a title officer and assistant manager of the Home Title Company, Fresno, California, has been elected first vice president of the company. He succeeds Dr. Neil J. Dau.

Earle M. Jones, manager of the foreclosure department, was named second vice president. He is a former city commissioner and onetime adjutant general of the California National Guard. Jones is a retired army major general.

## Lund Appointed V. P.

**R. Eugene Lund**, 702 North Nanini Drive, has been named Vice President, in charge of Public Relations for Tucson Title Insurance Company, by the Board of Directors of the company.

Prior to joining Tucson Title, Lund was a partner in Herbert V. Jones & Company, a prominent real estate firm in Kansas City, Missouri. Lund specialized in commercial sales and leasing.

He has served the Kansas City Real Estate Board as Chairman of the Associate division, and has been local Board representative of the National Institute of Real Estate Brokers as well as a salesman affiliate of the Society of Industrial Realtors.

Lund was a member of the Advertising and Sales Executive Club of Kansas City and is a member of the Phi Kappa Psi Alumni Association (University of Kansas). He is a Marine Corps veteran with service in China during the 1940's, and was recalled during the Korean War.

He and his wife, Sue, have three children: Karen, Kristofer and Kerry.

## **Title Firm Merger**

Thomas H. Quinn, President of Inter-County Title Guaranty and Mortgage Company of New York, reported that this company has completed the purchase of all of the capital stock of Inter-County Abstract Company of Columbus, Ohio, from Ohio Title Corporation, a Cleveland firm. Inter-County Abstract Company was formerly an agency of Inter-County Title Guaranty and Mortgage Company of New York City.

Mr. Quinn also announces that Mr. Robert H. Farber, who was the former title officer of Inter-County Abstract Company has been elected a vice-president of Inter-County Title Guaranty and Mortgage Company and is to be in charge of the New York company's office in Columbus, Ohio. The Inter-County office will continue in its present location at 40 South Third Street, Columbus, Ohio.

Mr. Farber, who was with the Abstract Company for eight years, is a resident of the Columbus area and has been active in the title insurance business since 1925. The new Inter-County Title Company executive is a graduate of Ohio State University and was admitted to the practice of law in 1933.

## **Title Firm Moves to New Quarters**

The Title Insurance and Trust Company has moved its Belmont Avenue escrow office from 1469 East Belmont Avenue to 1342 East Belmont at the corner of San Pablo Avenue, Fresno, California.

Victor Quick, the manager, said the staff has been increased to include two escrow officers and two escrow secretaries.

## **Arizona Company Promotes Three**

Thomas DeFouw, Executive Vice President of Lawyers Title of Phoenix Division, Arizona Land Title & Trust Company, has announced the promotion of three employees.

Evelyn Wermes, formerly Manager of the North side Branch Office of Lawyers Title of Phoenix, has been promoted to Manager of the Scottsdale Branch Office at 719 North Old Scottsdale Road, Scottsdale. Mrs. Wermes, a native of Beausejour, Manitoba, Canada, attended the University of Manitoba and business college in Winnipeg, Manitoba. In 1954 she moved to Phoenix and started working for Lawyers Title of Phoenix in 1955. Mrs. Wermes and her husband, Willard, have two daughters and reside at 3609 South Terrace Road in Tempe, Arizona. She is a member of the Womans Council of the National Association of Real Estate Boards and the Executive Secretaries Association.

J. D. Eaton, former escrow officer in the Downtown Office of Lawyers Title of Phoenix, has been promoted to Manager of the North side Branch Office of Lawyers Title of Phoenix at 110 West Camelback in Phoenix. Eaton is a native of Iowa. He attended Webster City Junior College in Iowa, moving to Arizona in 1960. He has been in the title business since 1962. Eaton and his wife, Kay, reside at 6833 North 14th Place in Phoenix.

Stanley Mathisen, former Manager of the Scottsdale Branch Office, has been promoted to Manager of Escrow Operations for the Downtown Office of Lawyers Title of Phoenix. Mathisen is a native of Wyoming and moved to Arizona in 1949 where he attended Arizona State University, in Tempe. He joined Lawyers Title of Phoenix in August of 1962. Mathisen and his wife, Lois Lynne, reside at 6115 East Hollyhock in Phoenix.

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## Title Firm Moving Plant To Nogales

The Arizona Land Title and Trust Co., with main offices in Tucson, has announced plans to move the Santa Cruz County title plant (land title records, maps, etc.) from Tucson to Nogales. The announcement was made by Harry V. Cameron, President.

The Nogales branch office of the title company has been established for many years. It is under the management of Martha Guerrero.

## In Memoriam



### John Henry Minton

Owner of the member company of J. H. Minton, Abstracter, Mr. John Henry died December 11, 1963, at his home in Hemphill. He was a native of and a longtime resident of Sabine County. A graduate of Baylor Law School, he had been a practicing attorney for 38 years. He had served as an officer of the Sabine River Authority continuously since its inception.



Survivors include his widow, Mrs. Bobbie Minton, a daughter, two sons, five grandchildren, two sisters and two brothers.

### Ivan D. Thomas

Ivan D. Thomas, 47, vice president of the Title Guaranty Co. and Jefferson County, Colorado, civic leader, died Monday afternoon at St. Anthony Hospital of cancer.

Thomas, 13000 Willow Lane, Applewood, was born at David City, Neb. He was a graduate of the University of Michigan and in 1942 received his law degree from the University of Nebraska.

#### WAR VETERAN

After serving in the Army in World War II, Thomas moved to Denver and in 1946 became affiliated with the Title Guaranty Co. In 1955 he was named manager of the firm's Lakewood office.

He was active in the Jefferson County YMCA, Boy Scouts of America, Jefferson County Board of Realtors, Lakewood Rotary Club, United

Fund, March of Dimes, Jefferson County Mental Health Society and Red Cross.

Thomas was the treasurer of the Jefferson County Democratic party; chairman of the County Planning and Zoning Commission; treasurer of the East Jefferson Chamber of Commerce; vice president of Industries for Jefferson County; a member of the YMCA board of directors, and finance chairman for the Boys Scouts.

He was a director of the Jeffco Knife and Fork Club, a member of Rolling Hills Country Club, El Jebel Temple of the Shrine, Scottish Rites Masons and was an elder and board member of the Lakewood Christian Church.

#### WON C OF C AWARD

He was a former president of the Denver Exchange Club and past governor of the Exchange Club of Colorado. In 1960 he was awarded the distinguished service award of the East Jefferson Chamber of Commerce.

Thomas is survived by his widow, Betty; two daughters, Sally Ann, 9, and Jean, 18, and a son, David J. Thomas, 14, all of Applewood; two sisters, Mrs. Eleanor Mahlin, Columbus, Neb., and Mrs. Hazel Olson, Glendale, Ariz; three brothers, Donald, Kansas City, Mo., Edgar, David City, and K. C. Thomas, Canton, Ill., and his parents Mr. and Mrs. A. V. Thomas, Phoenix, Ariz.

## W. Boyd Smith

Former President of Texas Title Guaranty Company, Mr. W. Boyd Smith of San Antonio died in the hospital on December 26, 1963, at the



age of 61. He was a Past-President of TLTA Association, having served as its executive chief during 1932-33.

He had parted with his interests in Texas Title Guaranty Company and devoted himself to the private practice of

law in San Antonio. A native of Parker County, he received his law degree from the University of Texas School of Law and was admitted to the bar in 1924, and joined Guaranty in 1925.

When the title industry in Texas came under the regulation of the State Board of Insurance for the first time, Boyd was one of those instrumental in formulating the regulations under which the industry was to operate.

Survivors include his wife, Aileen, a daughter, two brothers and four sisters.



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## Delinquency Survey

Reversing the steady climb in mortgage delinquency rates, the number of mortgage loans delinquent 30 days or more dropped from 3.30% of all loans held or serviced by MBA reporters at the end of 1963 to 3.01% at the end of March, 1964. A decline between year-end delinquency rates and first quarter figures for the following year has occurred in 8 of the past 11 years; nevertheless, the current ratios represent the first decline from the year-ago quarter since December, 1962. A part of the decline in delinquent loans is reflected in a higher rate of loans "in foreclosure," 0.41%

in contrast to 0.34%. The apparent contradiction in the continued rise in the "in foreclosure" category is the result of cumulative additions of mortgages that remain in this category until equity of redemption periods run out and foreclosure actually takes place.

MBA's National Delinquency Survey analyzed over 3 million mortgage loans on 1- to 4-family residential properties that were held or serviced by more than 400 member respondents, including mortgage bankers, commercial banks, and savings banks. The results are:

|                                      | Serviced<br>or Held | Number of Mortgage Loans |         |         |         |       | InFore-<br>closure |
|--------------------------------------|---------------------|--------------------------|---------|---------|---------|-------|--------------------|
|                                      |                     | Delinquent               |         |         |         |       |                    |
|                                      |                     | Total                    | 30-days | 60-days | 90-days |       |                    |
| (Per 100 mortgages held or serviced) |                     |                          |         |         |         |       |                    |
| <b>ALL LOANS</b>                     |                     |                          |         |         |         |       |                    |
| Mar. 31, 1964                        | 3,125,059           | 3.01                     | 2.12    | .56     | .34     | .41   |                    |
| Change from:                         |                     |                          |         |         |         |       |                    |
| Dec. 31, 1963                        |                     | — .29                    | — .20   | — .04   | — .04   | + .07 |                    |
| Mar. 31, 1963                        |                     | — .02                    | — .02   | + .01   | same    | + .07 |                    |
| Previous High (12/63)                |                     | — .29                    |         |         |         |       |                    |
| <b>GI</b>                            |                     |                          |         |         |         |       |                    |
| Mar. 31, 1964                        | 1,156,773           | 3.37                     | 2.35    | .62     | .39     | .42   |                    |
| Change from:                         |                     |                          |         |         |         |       |                    |
| Dec. 31, 1963                        |                     | — .42                    | — .33   | — .06   | — .04   | + .08 |                    |
| Mar. 31, 1963                        |                     | — .08                    | — .09   | same    | same    | + .07 |                    |
| Previous High (12/63)                |                     | — .42                    |         |         |         |       |                    |
| <b>FHA</b>                           |                     |                          |         |         |         |       |                    |
| Mar. 31, 1964                        | 1,413,267           | 3.18                     | 2.23    | .60     | .36     | .54   |                    |
| Change from:                         |                     |                          |         |         |         |       |                    |
| Dec. 31, 1963                        |                     | — .31                    | — .21   | — .06   | — .04   | + .09 |                    |
| Mar. 31, 1963                        |                     | — .03                    | — .01   | + .01   | — .01   | + .09 |                    |
| Previous High (12/63)                |                     | — .31                    |         |         |         |       |                    |
| <b>CONVENTIONAL</b>                  |                     |                          |         |         |         |       |                    |
| Mar. 31, 1964                        | 555,019             | 1.83                     | 1.33    | .31     | .18     | .08   |                    |
| Change from:                         |                     |                          |         |         |         |       |                    |
| Dec. 31, 1963                        |                     | — .05                    | — .02   | + .01   | — .05   | + .01 |                    |
| Mar. 31, 1963                        |                     | + .08                    | + .03   | + .02   | + .02   | same  |                    |
| Previous High (9/53)                 |                     | — .30                    |         |         |         |       |                    |

### MBA Sees Little Cause for Pessimism

"There has probably never been another time when so many institutions were lending so much money and feeling less comfortable about it," states the latest Quarterly Economic Report of the Mortgage Bankers As-

sociation of America. "A sense of uneasiness pervades the market at the same time that both building and mortgage financing proceed at peak levels," the MBA Report continues. "The situation is like that of a man

with a sense of indigestion, but one too indistinct to discourage the allure-ment of rich food."

However, the MBA Report is quick to point out, "the quality of the evi-dence" to support this uneasiness "leaves much to be desired".

"The home mortgage structure is probably in better shape than the current foreclosure rate would in-dicate," the Report explains. "The volume of new construction activity is, after the 1959 bulge, well in line with current demand, considering both the number of potential home buyers and the amount of demolition. Moreover, the number of houses built in advance of sale seems to be close to a postwar low."

In addition, the MBA Report be-lieves that "concern over the apart-ment situation also is exaggerated. The current phase is in response not only to a distribution of age group-ings in the population conducive to high demand for apartment living, but also to a long period in which relatively few apartments were built. According to the Census of 1960, over two-thirds of the rental units had been built before 1940. By and large, the pre-existing apartments, where vacancies are heaviest, are character-ized by a great degree of obsolescence as to neighborhood, appearance, ar-rangement, and equipment, which makes for weak competition with the newer buildings. Many are beyond a state of practicable rehabilitation and are not likely again to be significant to the market."

While office building financing "is exposed to much the same type of risk" as apartment financing, this, the MBA Report emphasizes, is less-ened "if lenders insist on a substan-tial proportion of pre-leasing. More-over," the Report continues, "obsole-scence is as characteristic of the older office buildings as it is of the older apartments, and is at least as diffi-cult to remedy, so that, under con-ditions of over-supply, the pre-exist-ing stock may be more vulnerable than the new. The hotel-motel-shop-ping center sectors seem to have developed sufficient weakness to dic-

tate that further development for the time being should proceed only in especially favored situations.

"A further point", the MBA Quar-terly Economic Report concludes, "is that the volume of private construc-tion generally promises to advance at a calmer pace this year than last, so that weaknesses now incipient may not increase, unless lending in-stitutions fall into a greater reckles-sness than their present apprehensions seem likely to permit. Much of course, depends upon the economic prospect. If only the more moderately optimis-tic of the current forecasts of future business expansion and household formation are borne out, any tempor-ary oversupply will be survived with-out any serious disruption."

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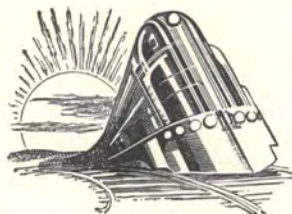
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# Meeting Timetable



## **JUNE 5-6**

South Dakota Title Association  
Inn Motor Hotel  
Huron, South Dakota

## **JUNE 11-12-13-14**

Idaho Land Title Association  
Ponderosa Inn  
Burley, Idaho

## **JUNE 12-13**

Montana Land Title Association  
Yogo Inn Lewistown, Montana

## **JUNE 17-18-19**

Illinois Land Title Association  
Pere Marquette Peoria, Illinois

## **JUNE 17-18-19-20**

Oregon Land Title Association  
Eugene Hotel Eugene, Oregon

## **JUNE 25-26-27**

Land Title Association of Colorado  
Stanley Hotel Estes Park, Colorado

## **JUNE 28-29-30**

Michigan Land Title Association  
Shanty Creek Lodge Bellaire, Michigan

## **JULY 15-16-17-18-19**

New York State Title Association  
Whiteface Inn  
Lake Placid, New York

## **AUGUST 27-28-29**

Minnesota Land Title Association  
Ruttger's Birchmont Lodge  
Bem Idji, Minnesota

## **SEPTEMBER 11-12**

Kansas Title Association  
Town House Hotel Kansas City, Kansas

## **SEPTEMBER 11-12**

Utah Land Title Association  
Ramada Inn Salt Lake City, Utah

## **SEPTEMBER 10-11-12**

North Dakota Title Association  
Holiday Inn Motel  
Bismarck, North Dakota

## **SEPTEMBER 20-23**

ANNUAL CONVENTION  
American Land Title Association  
Bellevue Stratford Hotel  
Philadelphia, Pennsylvania

## **SEPTEMBER —**

Louisiana Title Association  
Roosevelt Hotel New Orleans, Louisiana

## **OCTOBER 18-19-20**

Ohio Title Association  
Commodore Perry Hotel Toledo, Ohio

## **OCTOBER 22-23-24**

Wisconsin Title Association  
Uphoff's Motel Lake Delton, Wisconsin

## **OCTOBER 25-26-27**

Missouri Land Title Association  
Belair East Motor Hotel  
St. Louis, Missouri

## **NOVEMBER 8-9-10**

Indiana Land Title Association  
Claypool Hotel Indianapolis, Indiana

## **NOVEMBER 12-13-14**

Florida Land Title Association  
Lucayan Beach Hotel Freeport, Bahamas

## **NOVEMBER 13-14**

Land Title Association of Arizona  
Phoenix, Arizona

