

# Title News

*the official publication of the American Land Title Association*



Shooting ALTA  
Television  
Film Footage

April, 1974



## A Message from the Chairman, Title Insurance and Underwriters Section

APRIL, 1974

The 1974 Mid-Winter Conference in New Orleans has focused the attention of our membership on the basic problems that face our industry.

There is little that we can do as an industry to alter the economic conditions which control the real estate industry, but knowledge of the factors affecting these economic conditions does help us in planning for sound growth and future development.

The problems affecting our industry and evidenced by Congressional attempts to regulate the title insurance and related closing costs—and even the growing regulation of our industry by state insurance commissioners—really arise because the public in general does not understand our industry nor the true value of the services performed. The public relations program of the American Land Title Association will help to clear up many of these misunderstandings, but the Association alone cannot accomplish this task. Each of our members must participate in the programs and give them support.

The staff of the Association is available to all members, and is more than willing to give time and advice and help in undertaking programs to explain our industry and the value of our services. We should make better use of our facilities.

The success of the Mid-Winter meeting indicates very clearly that all should attend the ALTA Annual Convention September 29-October 3, 1974, at the Americana Hotel in Bal Harbour, Florida.

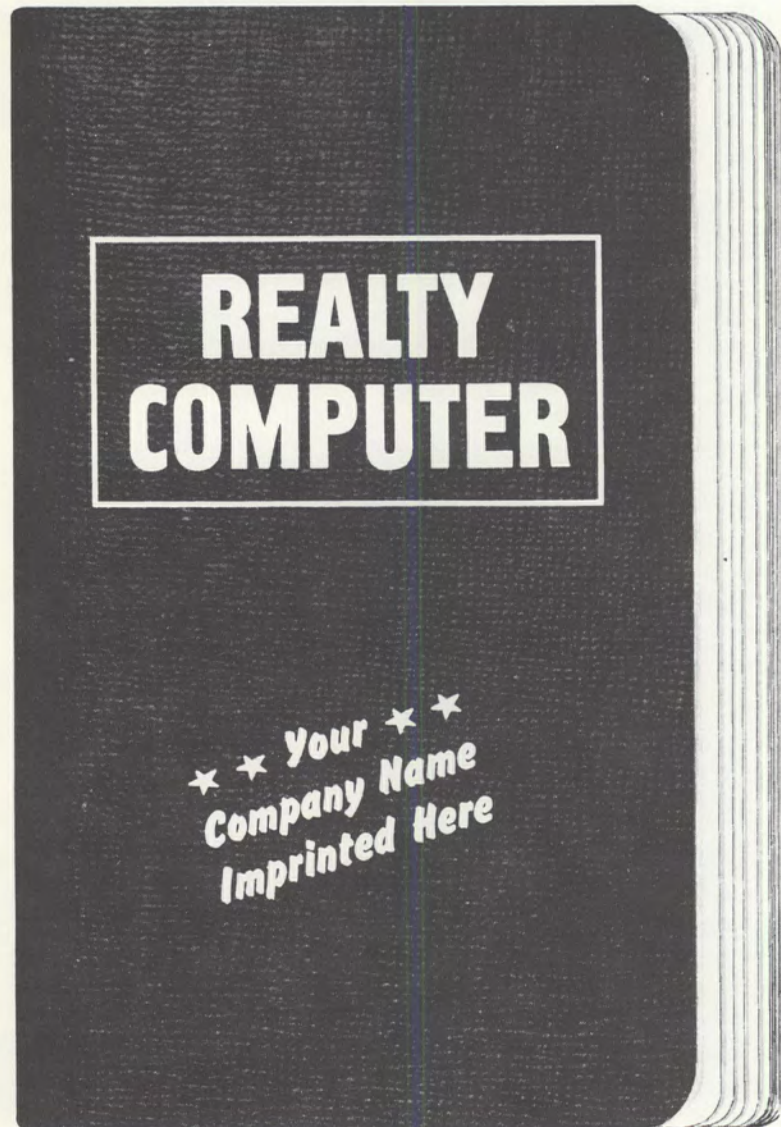
The officers and staff of the Association look forward to seeing you there.

Sincerely,

Richard H. Howlett

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Two prominent titlemen have been appointed to the newly-formed ALTA Liaison Committee with the United States League of Savings Associations. They are James W. Robinson, senior vice president, American Title Insurance Company, and Bruce H. Zeiser, Massachusetts state manager for Lawyers Title Insurance Corporation.

\* \* \*

Current endeavor of the ALTA Research Committee includes mailing forms to Association members for two projects—the Annual NAIC Form 9 operational study of underwriters and the annual claims report. Work is proceeding under Committee Chairman John E. Jensen, senior vice president, Chicago Title and Trust Company, and ALTA Director of Research Michael B. Goodin.

\* \* \*

The Educational Committee of the ALTA Abstracters and Title Insurance Agents Section is assembling a library of materials used in education programs of ALTA-affiliated land title associations. Plans are to use this resource to assist regional and state title associations desiring to implement new educational activity. Committee chairman is John R. Cathey, executive vice president, American-First Title & Trust Company, Oklahoma City.

\* \* \*

Members of the ALTA Board of Governors have approved March 22-25 as the dates for the 1977 Mid-Winter Conference of the Association, which will be held at the Camino Real Hotel in Mexico City, Mexico. The Board also approved October 4-8 as the dates for the 1980 Annual Convention of the Association at the Hotel Bonaventure in Montreal, Canada, subject to a favorable report by ALTA staff upon inspection of the hotel premises. And, the Board approved September 18-23 as the dates for the 1981 ALTA Annual Convention, which will be held at the Broadmoor Hotel, Colorado Springs.

\* \* \*

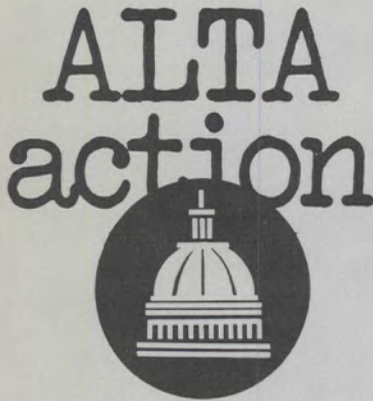
Recently, ALTA Executive Vice President William J. McAuliffe, Jr., met with staff of the Federal Reserve Board to discuss a Board study of ownership of title insurance companies by one-bank holding companies. McAuliffe and ALTA General Counsel Thomas S. Jackson met with U.S. Department of Agriculture officials concerning possible legislation that would permit the Secretary of Agriculture to issue title insurance in rural areas. ALTA previously has opposed such legislation as unnecessary and department personnel have indicated similar views.

\* \* \*

A new three-minute ALTA home buyer education film for television was premiered for the membership on March 7 during the Mid-Winter Conference in New Orleans. The live-action 16 mm color sound film, designed for local women's and general interest shows, covers preparation for settlement and provides information on land title services. It is being distributed to selected television stations in 39 states. Interested ALTA members whose communities are not included in this initial distribution may purchase the film through the Association for \$25 and can encourage telecasting of the film in their home areas. Those interested in purchasing the new film are invited to write ALTA Director of Public Affairs Gary L. Garrity in the Association's Washington office. He will advise on which communities are already covered by initial distribution of the film. (Please see story on page 4.)

\* \* \*

A model consumer speech covering important aspects to consider before purchasing higher density housing—townhouse, condominium, and cooperative—as well as the related need for land title protection has been developed by the ALTA Public Relations Committee and staff. It will be distributed to Association members for local adaptation and use. William H. Thurman, president, Gracy Title Company, Austin, Tex. is committee chairman.



# Title News

*the official publication of the American Land Title Association*

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ON THE COVER: The camera rolls in recent shooting of a 1974 ALTA 60-second public service film clip for television. For the story of ALTA film activity that makes it possible to reach a nationwide audience of millions with positive messages on home buying and land title protection, please turn to page 4.

*VOLUME 53, NUMBER 4, 1974*

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*GARY L. GARRITY, Editor*

# ALTA Public Service Films Reach Television Audience of Millions

**P**ositive messages that identify the land title industry with serving the public interest are reaching a nationwide television audience of millions this year through the ALTA Public Relations Program.

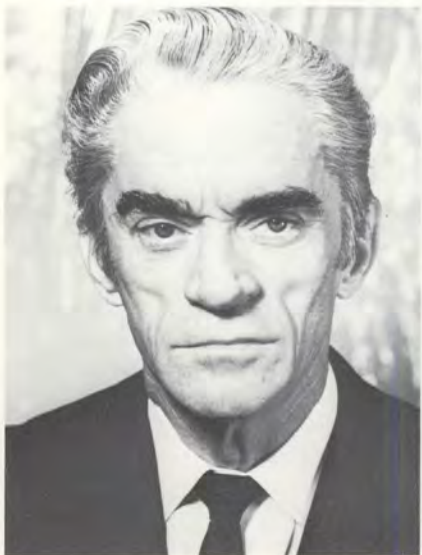
Since the beginning of 1974, a steady flow of ALTA home buyer education announcements has continued to reach viewers from coast to coast in free public service time donated by stations. These messages call public attention to the importance of learning the facts on purchasing real estate—including land title protection—in advance. The ALTA announcements keep accurate information about the land title industry before the public and help offset occasional misleading criticism from political sources.

Starting in January, three 30-second ALTA television celebrity film announcements were distributed nationally for telecasting that includes use by more than 180 stations. They feature Julie London, star of NBC's, "Emergency"; Lloyd Haynes, recently starring in ABC's, "Room 222"; and Jim Boles, an actor who appears in costume as a vampire warning about the purchase of a home haunted by land title hazards. Each celebrity suggests that viewers write for a free copy of the ALTA educational booklet, *Blueprint for Home Buying*.

In February, a package of ALTA television public service slide announcements was produced for national distribution. Local station announcers read the copy against cartoon slides, advising home buyers to check into the facts on purchasing real estate before closing. These announcements also suggest writ-



Pictured here is shooting of a scene for one of ALTA's 60-second television public service film clips scheduled for distribution this year. A soap-opera setting depicts a pleasant elderly lady selling her home without disclosing land title problems that exist—including a mechanic's lien filed by the painter.



ing for free ALTA literature.

In March, a new ALTA television activity was launched when a three-minute film on preparing for the closing of a home purchase was sent to stations across the country for use on local women's interest and general interest talk shows. Accompanying each film print sent to stations is a postpaid response card through which station personnel can request ALTA assistance in setting up a talk show on which local land title industry experts and others explain closing costs and practices in a particular locale. A talk show forum of this type provides an opportunity to explain land title services—to emphasize that a great deal more than title company charges is included on the bottom line of a typical settlement sheet.

The new three-minute television film was premiered March 7 at the opening General Session of the 1974 ALTA Mid-Winter Conference in New Orleans; interested members whose communities are not already on the initial distribution list ordered prints (for \$25 each plus postage) at the Conference—which they will offer to stations in their respective home areas.

And, national distribution is scheduled for April on the first of two 1974 60-second television public service film clips that are mini-dramas emphasizing the need for land title protection. The first clip tells about the plight of a home owner who drives home from work one day to find a fence across his driveway—erected by a neighbor when a new survey disclosed part of the first home owner's driveway was on the neighbor's real estate. In the second clip, slated for distribution this fall, a soap-opera setting is presented for a pleasant elderly woman selling her home—without disclosing land title problems that exist.

An idea of the impact made by these ALTA television messages can be obtained by listing a cross-section of the communities in which the first announcements released in 1974—the 30-

second celebrity film offerings—already have appeared. Since virtually all stations using ALTA material telecast announcements a number of times, the total audience is increased accordingly. Here is the partial list of communities in which the celebrity television announcements have been aired in free public service time:

Washington, D.C.; Boston; Philadelphia; Atlanta; Miami; New Orleans; Indianapolis; Columbus, Ohio; and Minneapolis. Nashville; Dallas; Houston; Los Angeles; San Francisco; and Honolulu. Burlington, Vt.; Buffalo, N.Y.; Baltimore; Richmond, Va.; Charlotte, N.C.; and Tallahassee, Fla.; Greenville, S.C.; Montgomery, Ala.; Savannah, Ga.; Jackson, Miss.; Cincinnati; and Champaign, Ill.; Battle Creek, Mich.; Madison, Wis.; Lincoln, Neb.; and Wichita, Kans.; San Antonio, Tex.; Cheyenne, Wyo.; Boise, Idaho; Helena, Mont.; and Reno, Nev.; Yuma, Ariz.; Salt Lake City; Great Falls, Mont.; Sacramento, Calif.; Tacoma, Wash.; and Fairbanks, Alaska. Syracuse, N.Y.; Providence, R.I.; St. Petersburg, Fla.; Baton Rouge, La.; Birmingham, Ala.; and Charleston, W.Va.; Dayton, Ohio; Ft. Wayne, Ind.; Port Huron, Mich.; Rapid City, S.D.; Fargo, N.D.; and Little Rock, Ark.

In addition to the aforementioned material produced for use in 1974, annual television distribution of the ALTA film, "A Place Under The Sun", continues this year. Despite the film's irregular 21-minute time length for the video medium, a television audience of more than half a million normally is reached with this offering in a given year.

Maintaining a positive public awareness of the land title business is an ongoing task. The nationwide audience of persons interested in real estate investment—and in closing costs and practices—is continually changing. Critics of the title industry stand ready to publicize misleading allegations as the opportunity arises.

Through the cooperation of television stations, ALTA announcements are encouraging the best possible consumer response to the related lack of public understanding with regard to real estate investment and land title protection. That response is development of an informed public awareness.

Celebrities featured in 1974 ALTA television home buyer education announcements are shown at left. Pictured, from top to bottom, are Julie London, Lloyd Haynes, and Jim Boles.

# FHA: Then and Now

Sheldon B. Lubar

Assistant Secretary  
And FHA Commissioner

U.S. Department of  
Housing and Urban Development



(Editor's note: The following remarks were prepared for delivery earlier this year at the twentieth annual Mortgage and Finance Conference in New York City.)

\* \* \*

In discussing "The FHA—Then and Now," I will address three basic topics. First, what the role of government in housing *has* been; second, what the role of government *should* be; and finally, what we are proposing to get from where we are to where we believe we should be.

In addressing these matters I want to emphasize that the Administration's proposals for a thorough overhaul of housing and housing finance represent a shift from policies created to serve the needs of the 1930s, to policies and approaches required to meet the complex changing times of the 1970s.

The main thrust of all of our proposals is a logical extension of the President's New Federalism concepts

to housing and housing finance. The underlying thesis is that the individual is responsible for himself in all matters that are within his power to control. Those things for which he cannot exercise individual responsibility, or in which private business initiative cannot serve the purpose, should be undertaken wherever possible by the level of government that is closest to him and his problems. Those areas that are beyond the scope and capability of local government are the responsibility of the state. And only what is left, after the individual citizen, the private sector and local and state governments have accepted their proper responsibilities, should be the province of the federal government.

The concept is simple enough: responsibility—fixed at the level closest to knowledge and prompt response. In practice, of course, it becomes too easy, when a responsibility vacuum appears, for the federal government to jump in. And once in, it is very difficult for the

federal government to jump back out.

Let us now consider the case of our national housing programs. With the great depression of the early 1930s, accompanied by severe unemployment and the need for housing, the establishment of the Federal Housing Administration was a natural assumption of federal responsibility; no other level of government, no combination of individuals and businesses, could have achieved the goal for which FHA was created. Confidence was needed—and in the context of home mortgages, 100 per cent mortgage insurance was the means of convincing lenders that they could make loans without fear of catastrophic losses.

There is no question but that the objectives of FHA were achieved with outstanding success. Over the 40 years of its lifetime, FHA has provided almost \$200 billion in purchase mortgages to house many millions of Americans. It has contributed heavily to sound home financing practices, the expansion of the



housing inventory, and the maintenance of an active national mortgage market. All of this without costing the taxpayers a single penny.

If you factor in the "economic multiplier" effects—added confidence for the entire mortgage market, stimulation of conventional mortgage lending, the rise of private mortgage insurance and the rest—the benefits have been truly incalculable.

It is clear that the FHA began as an actuarially sound business enterprise. In accomplishing the things I have outlined, it served as a prime example of what the role of the government in housing *can* and *should* be—in terms of what was needed *at that time*.

But perhaps success succeeded too well, and by the mid-1960s attempts were begun to make FHA do more and more good things—until finally it has ended up doing very little well. From an economically sound mortgage insurance operation, FHA was handed additional duties, including the enforcement of a broad host of social objectives. It progressed accordingly from "prudent business risks" to "acceptable risks" to "calculated risks." It was ordered into the declining central cities, where the risks were *incalculable* and almost impossible to administer.

Then came socially motivated housing and rental subsidy programs, in various forms, sizes and varieties, and, along with them, the legislated goal of building 6 million low and moderate-income units within a 10-year period. In short, the federal government found itself up to its ears in the retail housing business. Needless to say as night follows day, so did scandals, exploitation of consumers by some builders, lenders and FHA employees, and endless documentation and processing delays follow FHA into this retail activity. As a result, the once proud FHA has become the instrument of last resort—having to deal with the marginal lenders and builders, and serving only a very small proportion of our citizens.

In addition FHA also became the enforcer of environmental standards, affirmative marketing, equal opportunity, Davis-Bacon compliance and a host of other socially positive measures. This is not to say that these causes should not be vigorously pursued; sheer justice and the national conscience *demand*

that they be done. But clearly, those things that are genuinely desirable and necessary must be made desirable and necessary for *everyone*—not just for housing financed with FHA mortgage insurance. By heaping so many different requirements upon the original concept of the FHA, the agency has been overloaded and its basic usefulness undermined. FHA no longer performs.

That is what the role of the federal government has been, or at least what it has become. Let us now examine what the role of the government in housing *should* be—in terms of today.

The first question which must be considered is: do we still need the FHA, or have the private mortgage insurance companies filled the need? *We believe the government must maintain the FHA.* As we view private mortgage insurance companies, they are not focused on home buyers with less than a \$20,000 annual income. Thus, low and moderate-income households must look to FHA or public housing. At the same time, middle-income buyers need FHA during periods of disintermediation, or when interest rates exceed state usury limits, both of which are times when conventional money is not available.

Furthermore, for at least the near term, a steady flow of mortgage money from the secondary mortgage market is going to depend upon a healthy FHA, GNMA and FNMA.

Looking to the future, we see the role of government not as an inefficient housing *retailer*, trying to police every builder and banker and pass upon every minor decision, but as a force concerned with the *wholesale* direction of housing. To function on the scale required the system must be structured on a basis that is self-policing by the participants and operated on the principle of self-interest. What I am saying is that the government should provide *not* houses, *but the policies and leadership for private capital and free enterprise to supply decent housing for everyone.* The object of these policies would be to achieve:

- A steady adequate supply of mortgage money which would even out the traditional boom or bust nature of home building and lead to a stable, ample number of housing starts;
- Lower housing costs to the consumer; and

- Provide an efficient allocation of housing finance for the effective turnover and re-use of the existing housing supply.

The most important aspect of a regular flow of mortgage money is to keep the housing industry on a steady and even keel, so that it avoids the disastrous cycles it has suffered through the past eight years. No industry can operate effectively when it must shift from feast to famine every two or three years and finds itself unable to plan or maintain trained employees. We must eliminate these inflationary, cost-escalating ups and downs, and I believe we can, if we start now.

The final topic I want to discuss are those specific actions we propose, to move from where we are to where we should be. To make FHA perform again.

As I stated, one of our primary goals is to broaden the secondary mortgage market, thereby moderating the wide swings which the residential mortgage picture has been subjected to over the years. As one method of achieving that goal, we propose to make use of co-insurance programs which would be offered in addition to existing full-coverage FHA programs. Obviously when risk is shared, those who share in it are motivated to recognize their responsibilities—and to carry them out. Let's call it enlightened self-interest. If the originator of a mortgage assumes a small portion of the risk, we would expect improved underwriting quality and more constructive servicing. In return the originator would be delegated all loan processing, and probably a share of the mortgage insurance premium, for the extra risk he is assuming.

*We know* that co-insurance works. In 1954, our Title I property improvement and mobile home loan programs were a disgrace. But since adopting co-insurance for these programs, we have had excellent results. The loss ratio on these programs—covering almost 13 million loans of more than \$14.5 billion—has been less than nine-tenths of one per cent; while on some of our unsubsidized home mortgage programs without co-insurance, the loss ratio has been as high as 20 per cent.

Certainly another co-insurance success story is the record of the VA system of home loan guarantees. Furthermore,

co-insured loans can be the underlying security for GNMA mortgage-backed securities as they are in our Title I mobile home loan program.

Another way to create a more stable flow of funds into the mortgage market is by broadening the base of acceptability of private mortgage insurance to investors other than savings and loans. We propose to promote that kind of acceptability by a program of inexpensive federal guarantees of private mortgage insurance, a system much like the FDIC or FSLIC. This system would provide investors the same kind of confidence today that FHA provided in the 1930s and would also establish national standards for this industry.

Still another, and potent, way to attract greater and steadier flows of credit into home mortgages is by means of a mortgage interest investment tax credit. We feel that this proposal, which is part of the general restructuring of our financial institutions, would not only help to stabilize the thrift industry—but would also provide incentives for others, such as commercial banks and private groups of investors, to contribute to the supply of home mortgage credit.

Having attracted a larger and more dependable flow of credit into the mortgage market, the other facet of our federal approach is to make home ownership more accessible for our citizens. Among the improved programs for individuals, we include:

- Increased loan amounts on FHA-insured mortgages, to meet the realities of today's market, together with higher loan-to-equity ratios;
- Experimental financing, which would allow flexible terms to accommodate changing levels of income and life styles;
- Free or market rates for federally-backed mortgages, along with the elimination of discount points; and
- Administratively we seek to serve the consumer by such measures as updated minimum property standards aimed at thermal conservation, truth-in-housing, full disclosure to buyers, and encouragement of measures such as the National Association of Home Builders home construction warranty program.

To sum up, the federal government, over the past 40 years, has become ever more directly involved—on a retail, loan-by-loan, condition-by-condition basis—with almost every problem in every community. The trend has accelerated over the past 10 years, making the government the biggest landlord and slumlord in history. Our housing programs have become too costly, too inefficient, too inequitable, and in many cases too demeaning to those they have sought to help.

President Nixon has therefore proposed, under the principle of the New Federalism, to assign responsibility to that level that can best carry it out. The federal government—as wholesaler—will make it possible for state and local levels of government, for private businesses and private financial institutions, and for individual citizens, each to do best what it best knows how to do.

For example, local citizens, bankers, builders and officials know better than anyone else what is needed in their own communities. Through general and special revenue sharing, particularly the proposed Better Communities Act, the federal government will make the *means* available for community development and improvement. *Not* as riders and restrictions of FHA insurance, but as *entitlement* money for the local people to spend as they see best for *their* community.

At the same time, the housing situation will be improved by measures which improve the condition of the mortgage market in general, and the interests of the consumer in particular. I believe the keys are FHA co-insurance and guarantee of private mortgage insurance; the mortgage interest tax credit; free FHA and VA rates; elimination of discount points; and the other proposals I have covered.

Finally, for those low-income persons that are not reached by any of these measures, we have identified a system of direct cash assistance as the most promising approach. As an interim program until direct cash assistance is thoroughly tested, we are moving ahead with a new Section 23 leased public housing program as a means of making the best use of decent existing housing, as well as providing new construction where the supply of existing units is inadequate.

The emphasis in Section 23 is upon private developers and owners, privately financed, making a portion of their units available for lower income residents. The federal government would then pay the developer the difference between the fair market rental on such units and what the low income families can afford to pay. And if our direct cash assistance experiments prove out, these low income families will have the money in hand to find housing of their own choice, where *they* choose to live. The result would be to take the government out of the business of building, owning and operating public housing and away from the role of telling people where to live.

In short, it all adds up to getting the federal government out of the retail housing business—and into meeting the *wholesale* needs of all the people on a broad scale. Or—in two words—New Federalism.

## USLIFE Relocates Queens Office

USLIFE Title Insurance Company of New York announces that its office serving Queens County, N.Y., has been moved to a new location in Jamaica, N.Y.

Stanley A. Shirreffs continues as manager of the office.

## First American Opens New Houston Office

Official dedication ceremonies were held recently at First American Title Company of Houston's new headquarters. The seven-story structure in southwest Houston, known as the First American Title Building, presently houses 35 of the company's employees.

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# Inflation Slowdown After Mid-Year?

**Arnold C. Schumacher**

**Vice President and  
Economist**

**Chicago Title  
And Trust Company**

**W**e have never been one to underestimate the consistent worsening of inflation. As far back as 1967, we deplored the excess in government fiscal and monetary policies which were weakening capital markets, destroying savings and pension plans, encouraging speculation and limiting returns on investment. Over the years we were among those who repeatedly warned that inflation could only get worse and would eventually wipe out the supports to economic growth. But Congressmen and Washington bureaucrats continued to deceive the public by policies designed only to push prices ever higher. Both monetary and fiscal programs have been a national disaster for years. Nevertheless, a case can be made for a temporary slowing in inflation in the last half of 1974.

It was foreordained that the unprecedented outpouring of money and credit would eventually move with great force into one or more of three major investment markets, either the stock market, commodities or real estate. The stock market was not a good candidate because of the imposition of price controls and dividend restrictions in August, 1971. This was a direct attack on profit margins and rates of return to investors and effectively eliminated common stocks as a vehicle providing an inflation hedge. Real estate was something different. It was not subject to price control and could be easily financed. It also presented certain tax advantages. So, it is not surprising that massive chunks of government created money went into commercial real estate projects, vacant land and farm property.

Commodity markets were waiting in the wings to sop up another huge portion of the excess liquidity. But before commodity markets can move it is necessary for shortages to begin to develop, as they were certain to do. The spark was provided by world-wide shortfalls in food production in 1972. Metals and fibers followed suit and prices of all raw materials skyrocketed. The Reuter's Commodity Price Index has risen from 110 (1968=100) in mid-1972 to a current level of 285, an increase of 160 per cent. And it will undoubtedly move higher in the short run.

Despite the sorry record of money mismanagement on the part of governments and central bankers, 1974 may

be the year when the engine of inflation slows down. We are not suggesting it will stop but that it will lose some of its steam. As consumers struggle to control their spending and maintain their liquidity, they will reduce their demands for goods. This can produce adjustments in certain segments of commodity markets. Commercial real estate projects burdened by heavy debt and high interest costs are already encountering problems. Severe strains will probably not develop in the immediate future. On the contrary, inflation forces will remain potent in the first half of the year and may mask underlying weaknesses.

While there are a few early signs of possible congestion in industrial commodities and real estate, the major test in these areas may not come until mid-summer. Between now and then we may see rapid increases in prices, particularly in agricultural prices. Violent inflation compressed into a short time interval and fed by a degree of speculative fever sets in motion corrective forces. The resulting deflationary impact does not take place immediately but when it strikes, it can produce shock waves. Unfortunately, monetary policy cannot be very effective in such a situation because, again, the time lag between making new credit available and its impact on market decisions can be several months.

What are we suggesting in specific terms? We believe some areas of commodity markets are vulnerable and that these prices may undergo a correction. It would be foolhardy to predict any precise date, but we would guess trends may be reversing themselves by the middle of the year. Such price adjustments in combination with softening consumer outlays and increases in unemployment may serve to slow the rate of inflation in the latter part of the year. We would emphasize however, that we are not predicting any permanent inflation cure. Rising prices are a way of life. However, a lowering of the inflation rate from 7.5 per cent-8.0 per cent to 4.0 per cent-5.0 per cent would be a welcome change.

A period of hyper-inflation, such as has been experienced in the past year, contains the seeds of its own correction. The problem becomes acute when new

*Continued on page 14*

# Part II: ALTA Judiciary Committee Report

(Editor's note: Members of the ALTA Judiciary Committee have submitted over 450 cases to Chairman John S. Osborn, Jr., of the Louisville law firm of Tarrant, Combs, Blackwell & Bullitt, for consideration in the preparation of the 1974 Committee report. Chairman Osborn reports that 98 cases have been selected for publication in this year's report. For the initial installment of the report, please see the February 1974 issue of *Title News*.)

\* \* \*

## CONVEYANCING & TITLES

*Eitel v. Schmidlapp*, 459 F. 2d 609 (Va. 1972)

A complicated scheme to defraud a German heiress resulted in a contest between her and an apparently innocent purchaser over title to a large tract of land in Virginia. The fraud was perpetrated by the American agent of the heiress acting in league with the local branch manager of a New York bank. It was clear that the bank's branch manager knew that the American agent was exceeding his authority. The bank's branch manager, nevertheless, induced the innocent purchaser to buy the land. Finding that the branch manager acted as the purchaser's agent in the transaction, the Court of Appeals considered whether this fact impaired the purchaser's claim.

The Court found Virginia law controlling and cited the general rule that an agent's knowledge is imputed to his principal. There is an exception to this general rule which makes it inapplicable where the facts to be imputed are deliberately concealed from the principal because their revelation would defeat the agent's fraudulent enterprise. However, Virginia recognizes an "exception to the exception" which prohibits the principal from repudiating the imputation of facts

known to his agent while simultaneously claiming the fruits of the agent's acts. Consequently, as between the two innocent principals, both victimized by unscrupulous agents, the purchaser loses. He must reconvey the land to the heiress, recovering from her only such sums as he may have paid for taxes and assessments on the land while he held title.

*Duke, et als v. Hopper, et als*, 486 S.W. 2d 744 (Tenn. 1972)

Upon instruction from the two designate grantees, the closing attorney prepared the deed to them as husband and wife, which - if true - would create an estate by the entirety with right of survivorship between the grantees, when, according to the facts in this case, the grantees were not married.

Upon the death of the male grantee, the woman grantee conveyed the property by warranty deed to an innocent purchaser for value. Confronted by the claims of the heirs of the deceased grantee to an undivided one-half interest in the property in accordance with the law heretofore established in Tennessee, the purchaser brought suit to quiet title to the entire fee in the property against the heirs.

The Chancellor dismissed his bill and granted the counter-claim of the heirs, but upon appeal by the purchaser, the Court of Appeals reversed and remanded, holding that while the deed not create a tenancy by the entirety, the male grantee would have been estopped to deny that the two grantees in the deed were husband and wife and, as the heirs could not have a greater right than the decedent, they, too, were estopped in the same manner.

Certiorari was denied by the Supreme Court.

*DiCristofaro v. Beaudry*, 293 A. 2d 301 (R.I. 1972)

A testatrix left all her property to two sons, one of whom was the executor of her estate. The record before the Court failed to disclose a determination whether the devisees were specific or general. Under a statute authorizing a sale for a prompt and efficient settlement, but which required written consent of specific devisees, the devisee who was executor conveyed to the other devisee.

Held: Despite this joinder of the two devisees, the statute requiring consent in writing was not complied with and a new trial would be needed to determine whether the devisees were specific or general.

Decision indicates a strict interpretation under circumstances where many title attorneys might have felt the devisees estopped to complain.

*Willard v. First Church of Christ, Scientist, Pacifica* (1972) Sup., 102 Cal. Rptr. 739

In this case, the grantor, who permitted defendant church to use one of her lots for parking during services, conveyed it to Petersen, the deed reciting that the conveyance was "subject to an easement for automobile parking during church hours for the benefit of the church on the property at the southwest corner of the intersection of Hilton Way and Francisco Boulevard . . . such easement to run with the land only so long as the property for whose benefit the easement is given is used for church purposes." Petersen sold the lot to plaintiffs, the deed to whom did not mention the easement in favor of defendant.

In this quiet title action, plaintiffs relied on the common law rule that a grantor cannot reserve an interest in property to a stranger. The Supreme Court of California recognized that the California courts no longer feel constricted by feudal forms of conveyancing but rather, that their primary objective in construing a conveyance is to try to give effect to the intent of the grantor. On this basis, the reservation of an easement in favor of a stranger was sustained, especially where there was no evidence of plaintiff grantees and title insurers having relied on the common law rule; nor was this a case of an ancient deed where the reservation has not been asserted for many years.

Plaintiffs also asserted that a grant "subject to" the defendant's easement did not effectively reserve the easement. In construing this provision, the Court looked to the clause as a whole which states that the easement "is given" and concluded that substantial evidence supported the Trial Court's finding that the parties to the deed intended to convey the easement to defendant.

*Mamalis v. Bornovas*, 297 A. 2d 660, Supreme Court of N.H. (1972)

Administrator of estate of deceased divorced husband sued surviving ex-wife to recover possession of real property which they had held as joint tenants before the divorce. The divorce decree had incorporated a stipulation which provided that "the equity in their real estate shall be equally divided between said parties hereto and the [wife's] share shall be paid to her either through a loan or by sale of said real estate." On exceptions, held that especially in view of the stipulation, the divorce dissolved the joint tenancy and made the parties tenants in common.

Chief Justice Kenison, who wrote the majority opinion, based his conclusion in part on "the idea [which] began to emerge that the termination of a joint tenancy [like its creation] should be controlled by the parties' intention as manifested by some overt act or express agreement." Possibly because New Hampshire does not have a tenancy by the entirety (*Clark v. Clark*, 56 N.H. 105), the Court did not cite *Bernatavicius v. Bernatavicius*, 259 Mass. 486, which had held that even in the absence of property disposition in the divorce, the divorce changed a tenancy by the entirety into tenancies in common.

*The First National Bank of McCook v. Ronald W. Hull a/k/a R. W. Hull and Delores A. Hull, husband and wife*, 204 N.W. 2d 90, 189 Neb. 581, (1973)

The filling in of blanks in a written instrument is not, strictly speaking, an alteration of the instrument. Where a blank is filled in after the execution and delivery of a written instrument, it is a question of authority to do so. The right to fill blanks in written instruments after execution and delivery is based upon an assumption of consent, in the absence of specific instructions, and the leaving of such blanks considered to imply authority to fill them and creates an agency in the receiver to do so in the way contemplated by the maker.

## COVENANTS - EASEMENTS

*Dailey v. Alarid*, 486 S.W. 2d 620, Ref. Nre. (CCA Texas Tyler 1972)

This was a suit to enjoin the owner of land from interfering with Plaintiff's use of a roadway running across the owner's land. Plaintiff alleged that the general public had acquired an easement by prescription based on public use of the road for a period of 10 years. The jury found that the public had not adversely used the road in question. The owner had used road and members of the general public had used the road more than 10 consecutive years. The Plaintiff did not own any land abutting the road, but did own some land about a mile away from the road and he had used the road.

The Court affirmed the judgment of a Trial Court denying the injunction on the ground that so long as the use of the roadway was consistent with the rights of the owners, it

may never ripen into a prescriptive easement regardless of the length of time. In other words, mere use will not create an easement. The use has to be adverse.

*Fone's v. Fagan*, 196 S.E. 2d 916 (Va. 1973)

Fagan claimed an easement by necessity over a "pipe-stem" driveway that was a portion of Fone's lot. Although Virginia recognizes the rule of "reasonable" necessity rather than "absolute" physical necessity, the Supreme Court held that Fagan's difficulty in entering his garage was insufficient where Fagan had ample road frontage and could construct a driveway on his own property.

## DEEDS

*Lazenby v. F. P. Asher, Jr. & Sons Inc.*, 296 Atl. 2d 699, 266 Md. 679 (1972)

Stockholders, principals, officers and directors of a former body corporate, which had been the grantee under a Deed executed and recorded in 1956, brought suit in 1970, against the corporate grantor, seeking reformation of the Deed.

Held: That where the Deed precisely described by metes and bounds a certain amount of property and where the description corresponded exactly with a survey plat which was attached to and recorded with the Deed and where neither the grantor nor the grantee knew that the grantor owned additional adjacent land, the fact that the title reference contained in the Deed following the description stated that it was "all of the conveyance from George McGuckian, et al, to F. P. Asher, Jr. and Sons Inc.," did not entitle the grantee to reformation of the Deed to include the adjacent property.

*Place v. Trent*, App., 103 Cal. Rptr. 841 (1972)

The Court held that a conservatee, acting alone and without the consent or approval of the Court or the conservator, could not execute a valid conveyance by deed of gift of conservatorship property even though the order appointing the conservator contained no finding of mental weakness of the conservatee. The deed to the defendant-grantee was held to be void and that it would be within the Probate Court's power to confirm plaintiff conservator's act of successfully quieting title.

*Meyers v. Meyers*, 81 Wn. 2d 533, 503 P. 2d 59 (Wash. 1972)

In an action by the true owners against the notary on a forged deed, the owners have established a prima facie case of negligence upon proving the failure of the notary's identification and that the notary's certificate was false. The burden of persuasion then shifted to the notary to show that he was deceived through no lack of reasonable care on his part which he must "prove by a preponderance of the evidence that he exercised reasonable care in ascertaining the identity of the person whose signature he notarized." The Court adopted a reasonable man standard for the notary, would allow evidence of custom of other notaries even though it not

meet this standard, and would allow evidence of business practice "by other than self serving testimony."

*Scanlon v. Farrayeh*, 304 A. 2d 898 (R.I. 1973)

Suit brought by sisters to set aside a conveyance from their father to their brother made in July, 1957. By a subsequent deed the father conveyed in June, 1958, the same property to the sisters and the brother. The father could neither write nor speak English. The first deed was drawn by an attorney who was a linguist and could speak the father's language. The second deed was drawn by an attorney who admitted that there had been a language barrier. The trial justice entered judgment upholding the July, 1957, deed; and, on appeal by one of the sisters, the Appellate Court sustained this judgment.

The plaintiff laid great stress on the argument that an illiterate's deed is ineffectual to pass title unless the language is read to him, word by word. The Court's comment was as follows: "We have little doubt that a reading of such legalese would have added nothing to the father's understanding of what he was doing. What is important is an explanation, not a recitation! The trial justice observed that the July, 1957, deed was executed by the father with full knowledge and understanding of its effects and consequences."

## ECOLOGY

*Friends of Mammoth v. Board of Supervisors*, 8 Cal. 3d 1 (1972)

Construction of a high-rise apartment building was begun in the Sierra Nevada Mountains in an area where only single-family cabins had previously been constructed. No impact studies had been made prior to its approval by the various bodies. In an action to halt construction of the building because no such impact had been made,

Held: California's environmental protection laws required that the state, county and city agencies had to report on the environmental impact of any construction project that might have significant impact on the surrounding area and release the report to the public before the agency could approve of the same. Any private citizen can sue and stop any "significant" construction that does not have an impact study.

Previously the California environmental protection requirements have required impact studies prior to the approval of such public works as highways. This decision is the first time that these environmental protection requirements have been applied to private construction. Presumably, it applies to all major construction in this state which is deemed to have a "significant" impact on the surrounding area.

Next:

Ecology (Continued)  
And Eminent Domain

# names names in the news names

Pioneer National Title Insurance Company has announced the following organizational changes in its central region.

The company's new east division, comprised of Indiana, Kentucky, Michigan, and Ohio, has division headquarters in Detroit. Division manager is **Philip Mangiaracina**, vice president.

The states of Illinois, Minnesota and Wisconsin compose the company's new north division, which is headquartered in Chicago. **Roger Manley**, vice president, is division manager.

The west division is comprised of Colorado, Iowa, Nebraska, New Mexico and North and South Dakota and has headquarters in Denver. **James Nolan**, vice president, is division manager.

**Jack McAninch**, vice president, is division manager for the south division, which includes Arkansas, Kansas, Louisiana, Missouri, Oklahoma and Texas. Division headquarters are in Dallas.

\* \* \*

Sixteen persons were recently elected to office by the boards of directors of Title Insurance and Trust and Pioneer National Title Insurance. Elected to office in TI were: senior vice president: **Robert L. Hanson**, senior trust officer and manager, trust operations; assistant vice president: **Philip Zehngebot**, associate division counsel, state of New York; trust officers: **Noel C. Montrucchio**, trust representative, San Diego County; **Gregory N. Seguin**, trust representative, Orange County; and **H. Peter Shepard**, assistant trust officer, San Diego County.

Elected to office in PNTI were: vice presidents: **William R. Barnes, Jr.**, major account representative, east central division, central region; **Raymond O. Hagerty**, counsel, west central division, central region; **John E. Schuberth**, special account representative, Chicago area, central region; **Arthur G. Spoerl**, agency and branch operations, state of Wisconsin; assistant vice presidents: **Jewell R. Franklin**, business development representative, Cook County, Illinois; **Melvin H. John**, assistant area



MANGIARACINA



MANLEY



NOLAN



McANINCH



PUDLO



HOOVER



ROSENBAUM



KEE



VILLA



BIRKEY

manager, Dallas, Texas; **Russell Kasper**, associate division counsel, southeastern division; **Philip Larkin**, manager, Milwaukee, Wisconsin operations; **David H. Morton**, manager, escrow department, Pima and Cochise Counties, Arizona; **Ben Reilly**, national account representative, north central division, central region; **Herbert R. Walton**, agency and branch operations, state of Pennsylvania; and **Philip Zehngebot**, associate division counsel, state of New York.

\* \* \*

**Frank J. Kroemer** has been elected to the newly created office of vice president—planning of USLIFE Title Insurance Company of New York; **Joseph H. Rooney** has been elected vice president—administration. **Gustave S. Klestinec** has been appointed vice president and treasurer for the company.

\* \* \*

Commonwealth Land Title Insurance Company has appointed **Warren N. Pope** as assistant vice president and assistant regional counsel, Louisville.

\* \* \*

**William J. Pudlo**, Boston, has been elected a senior title attorney of Lawyers Title Insurance Corporation.

\* \* \*

**Payson D. Hoover** has been appointed as agency representative for the agency division of American Title Insurance Company and will move to the company's Miami office. **Manuel Rosenbaum** has been retained by the Michigan division of the company as state builder consultant.

\* \* \*

**James H. Kee**, Memphis, has been appointed manager of the Clark Tower

Continued on page 14

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\* \* \*

**Peter D. Villa**, Walnut Creek (Calif.), has been named manager of Contra Costa County for Transamerica Title Insurance Company; **Roger J. Birkey** has been appointed manager of the company's Pueblo County (Colo.) office.

INFLATION—Continued from page 9

credit cannot be created fast enough to sustain bloated markets. If it were likely that the Federal Reserve were to embark on a program immediately of increasing the money supply at a 20 per cent-25 per cent annual rate, then price adjustments might be avoided. But this kind of utter destruction in money is not probable. The roaring fires of inflation now consuming a number of markets require more fuel than they will get. In other words, inflation is now proceeding independently of monetary policy, a situation which can persist for a while but must eventually come to an end.

Regarding the longer term, the prospects would seem to be for a resurgence of the inflation monster in 1975 and 1976. There is nothing to suggest that monetary or fiscal management will become more responsible. On the contrary, recent actions by the Federal Reserve authorities and the budget message of the President indicate moves laying a new base for further destruction in money values.

### Rattikin Purchases Cates Title Company

Rattikin Title Company of Fort Worth, Tex., recently has purchased Cates Title & Abstract Company of Decatur, Tex.

Cates, the oldest continuously operating business in Wise County, will be operated as a Rattikin branch office with former owner Charles Cates continuing to serve as manager.



Ray Frohn (above, left) and his associates at Nebraska Title Company, Lincoln, celebrated his twenty-fifth anniversary in the abstract and title insurance business recently. On hand to join in the celebration were 500 friends and business associates. Frohn originated the business as the Ray Frohn Company 25 years ago and changed the company name to Nebraska Title Company in 1973.

## Transamerica Acquires Everett Abstract

Transamerica Title Insurance Company has acquired the title and escrow operations of Everett Abstract & Title Company of Everett, Wash. The newly-acquired office is managed by Arthur

DeGroot, former manager of title and escrow operations for Everett.

Everett has been an agent for Transamerica and its predecessor companies for 44 years.



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## Commonwealth Adds Subsidiary

Title Insurance Company, Mobile, Ala., has been acquired by Commonwealth Land Title Insurance Company and will be operated as a wholly-owned subsidiary with present officers and staff.

Harold G. Goubil is president of the Mobile-based concern, which has a main office and two branch offices. Title Insurance Company, incorporated in 1903, is the oldest corporation insuring land titles in Alabama; the company qualified to do business in Mississippi in 1964.

The two title plants of Title Insurance Company have operated under a data processing system since 1967. Title indices begin with the recorded history of land from the time the area was under the rule of French, Spanish, and British governments.

Commonwealth assets currently are reported in excess of \$50 million.

## Kratovil Completes Sixth Edition

The sixth edition of *Real Estate Law*—by Robert Kratovil, vice president, Chicago Title Insurance Company—has recently been published by Prentice-Hall as part of its real estate series.

Kratovil also serves as chairman of the special ALTA Committee on the Commission on Uniform Laws and is an adviser to a committee of the National Conference of Commissioners on Uniform State Laws that is developing a Uniform Land Transactions Code.

## Goubil Elected As Honorary Fellow

H. G. Goubil, president of Title Insurance of Mobile (Ala.), along with 34 other prominent Mobile business and professional men, has been elected by the Mobile College board of Trustees into the honorary fellows of that college.

The honorary fellows is comprised of business and civic leaders who have demonstrated outstanding interest and support for the college.

## Energy Shortage to Affect Building Trends

In a study made for the Producer's Council, a national organization of building product manufacturers, 32 experts concluded that the energy shortage will produce legislation during the next two years that will force a reduction in energy consumption by commercial buildings. During that same period, "ecology groups are expected to slow the growth of at least 20 to 30 per cent of the nation's fast-growth population areas."

The study also predicts that by 1980:

- Multifamily housing starts will rise from 45 to 60 per cent of all new conventional housing.
- Heating costs will increase by 50 percent, meaning that builders will have to spend up to 50 per cent more for insulation products to conserve energy.
- National building codes will encourage the use of modular residential construction.
- Increased land and construction costs will mean smaller houses. And mobile homes will proliferate, making them subject to the same taxing, building codes, and quality specifications as conven-

tional housing.

- Commercial buildings will be designed with removable heating, ventilating, and air conditioning systems, with water, phone, and electricity systems built into easily removed walls to permit older buildings to be economically rejuvenated.

And by the next decade, most of the experts predicted, the top 500 homebuilders in the industry will be responsible for half of the new homes in the country.

Among the new building techniques anticipated for the 1990s:

- Building materials light as magnesium but strong as steel.
- Wireless transmission of energy.
- More widespread use of solar energy collectors.
- Plastic tubing as the standard plumbing material, with brass no longer used for fixtures and bathroom accessories.

Systems design, the use of prefabricated sections, will increase in importance in commercial construction, particularly on buildings of up to 8 stories, the experts said.

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# meeting timetable



## April 18-20, 1974

Oklahoma Land Title Association  
Lincoln Plaza Inn  
Oklahoma City, Oklahoma

## April 24-28, 1974

Texas Land Title Association  
Hyatt Regency Hotel  
Houston, Texas

## May 5-7, 1974

Iowa Land Title Association  
Holiday Inn of the Amana Colonies  
Amana, Iowa

## May 9-11, 1974

New Mexico Land Title Association  
Four Season Motor Inn  
Albuquerque, New Mexico

## May 9-11, 1974

Washington Land Title Association  
Quay Inn  
Vancouver, Washington

## May 22-24, 1974

California Land Title Association  
Hotel Del Coronado  
Coronado, California

## May 31-June 1, 1974

South Dakota Land Title Association  
Phil-Town Inn  
Sturgis, South Dakota

## May 31-June 1, 1974

Tennessee Land Title Association  
Riverside Motel  
Gatlinburg, Tennessee

## June 2-4, 1974

New Jersey Land Title Insurance Association  
Seaview Country Club  
Absecon, New Jersey

## June 6-8, 1974

New England Land Title Association  
Sea Crest Hotel and Motor Inn  
North Falmouth, Massachusetts

## June 9-11, 1974

Pennsylvania Land Title Association  
Seaview Country Club  
Absecon, New Jersey

## June 14-16, 1974

Illinois Land Title Association  
Stouffer's Riverfront  
St. Louis, Missouri

## June 14-16, 1974

Wyoming Land Title Association  
Douglas, Wyoming

## June 20-22, 1974

Michigan Land Title Association  
Boyne Highlands  
Harbor Springs, Michigan

## June 20-22, 1974

Land Title Association of Colorado  
The Lodge at Vail  
Vail, Colorado

## June 20-22, 1974

Oregon Land Title Association  
The Inn at Otter Crest  
Otter Rock, Oregon

## June 27-29, 1974

Idaho Land Title Association  
Shore Lodge  
McCall, Idaho

## July 21-24, 1974

New York Land Title Association  
The Otesaga Hotel  
Cooperstown, New York

## August 15-17, 1974

Montana Land Title Association  
Miles City, Montana

## August 22-24, 1974

Minnesota Land Title Association  
Holiday Inn  
Anoka, Minnesota

## September 12-13, 1974

Wisconsin Land Title Association  
Pioneer Inn  
Oshkosh, Wisconsin

## September 13-15, 1974

Missouri Land Title Association  
Marriott Hotel  
St. Louis, Missouri

## September 22-24, 1974

Ohio Land Title Association  
Sawmill Creek Lodge  
Huron, Ohio

## September 29-October 3, 1974

ALTA Annual Convention  
Americana Hotel  
Bal Harbour, Florida

## October 27-29

Indiana Land Title Association  
Rodeway Inn  
Indianapolis, Indiana

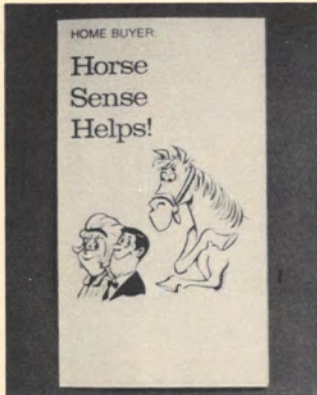
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New Orleans, Louisiana

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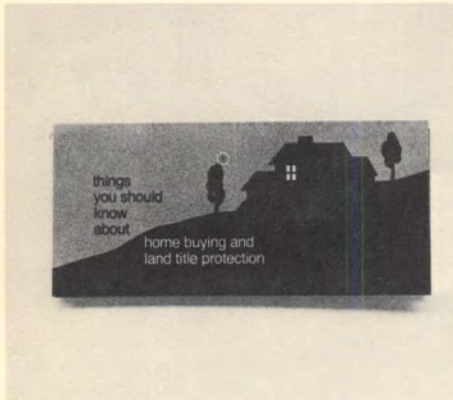
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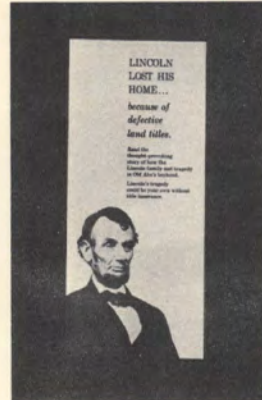
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# American Land Title Association

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