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## FEATURES

**On the cover:** *The Flower Garden at Farmer's Market offers a wealth of natural beauty in an urban setting that characterizes the attractive diversity of Dallas, site of the 1995 ALTA Annual Convention. For a preview, please turn to page 13. (Cover design by Halford Design and Graphics)*

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*By Leigh A. Vogelsong*

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# ALTA Backs Administration Initiative Designed to Increase Home Ownership

**A**LTA President Mike Currier and Executive Vice President Jim Maher recently were on hand for President Clinton's White House announcement of his Administration Home Ownership Strategy targeted on increasing the national home ownership rate to an all-time high of 67.5 percent by the year 2000.

The announcement came at the culmination of preparatory work by the Administration with more than 50 key private and public sector organizations including ALTA. As designed, the initiative is focused on three main strategies:

- Reducing the costs of home ownership including financing, production and transaction costs and fees to make ownership more affordable, make financing more available, and simplify the home buying process
- Opening markets for home ownership to increase choice and remove discriminatory and regulatory barriers, making homes, financing and insurance available and affordable for more households
- Expanding opportunities for home ownership to make ownership a reality for millions of additional families through education and counseling, information technology, communications media, and community involvement

Earlier, the ALTA Board of Governors approved specific participation by the Association in four areas of the

initiative, specifically those designated by the Administration as Alternative Approaches, Technological Improvements, Standardization of Settlement Instructions, and Bulk Purchase of Settlement Services.

In the announcement, the Administration pointed out that home ownership, in spite of its numerous benefits, has slipped away from many Americans. From 1940 to 1980, it was noted that ownership rates rose steadily, from

43.6 percent of all households to 65.6 percent. Since 1980, the ownership rate has declined to about 64 percent. While the ownership rate began rising again in 1993, it remains well below its historic peak.

According to the announcement, the initiative is based on the belief that much more can be achieved toward increasing home ownership through a collaborative effort involving industry participants. No new government programs or new funds from Congress are required.

Other participating real estate industry organizations in

addition to ALTA include, in part, the American Bankers Association, America's Community Bankers, Appraisal Institute, Fannie Mae, Freddie Mac, Mortgage Bankers Association of America, Mortgage Insurance Companies of America, National Association of Home Builders, National Association of Real Estate Brokers, National Association of Realtors, and National Bankers Association.



**ALTA President Mike Currier, right, is greeted by President Clinton at the White House Home Ownership Strategy briefing. Also pictured is HUD Secretary Henry Cisneros, at President Clinton's left.**

## Congressional Developments Bring ALTA Representatives to Hill Hearings



**D**evelopments in Congress recently brought two members of the ALTA Government Affairs Committee to Capitol Hill for testimony at committee hearings on legislation of nationwide concern to the title industry.

Pictured here with House Financial Institutions Subcommittee Chairwoman Marge Roukema (R-NJ), left, and ALTA Legislative Counsel Ann vom Eigen is Committee Chairman and Association Immediate Past President Parker Kennedy (First American Title). The conversation took place during subcommittee hearings on H.R. 1362, the Financial Institutions Reform Act of 1995.

Chairman Kennedy told the subcommittee consumers will benefit if Congress leaves RESPA regulatory and enforcement authority at HUD, continues to exclude third party fees from calculation of the finance charge under Truth-in-Lending, and exempts mortgage lenders and title insurers from liability for hazardous waste cleanup under Superfund. Subsequently, the parent Banking Committee agreed to leave RESPA Section 8 enforcement authority at HUD rather than move it to the Federal Trade Commission as proposed in the Regulatory Relief Act of 1995, rejected a proposed cap of \$50 for

*continued on page 31*



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## A MESSAGE FROM THE PRESIDENT

### National Conventions, Hotels and Call Girls



**C**atchy headline if I do say so myself. Without boring you with a long story, I will tell you that my wife, Linnie, and I had a great deal to do with selecting Dallas and its Anatole Hotel for this year's Annual Convention. Because of that involvement, we have wanted to be as active as possible in planning the Convention.

I might add that this desire for an excellent Convention was enhanced when I overheard a good friend from Austin (who has a lovely wife named Ann) ask, "Why in the world are we going to the Anatole in Dallas? We have been to the Princess in Scottsdale and Disney World in Florida, where all we had to do was step outside and enjoy wonderful scenery and excitement? Now, we are going to a hotel that is surrounded by freeways?"

If a Texan was going to say that, what would the other Convention attendees from around the country say when they arrived? Consequently, Linnie and I met the very able ALTA convention planner, Leigh Vogelsong, in Dallas and worked with the staff and the tour planner for two days.

What a wonderful, relieved feeling we have after that visit! With all candor, we can tell you that—from the comfortable rooms to the many shops and restaurants, to the multi-million dollar exercise facilities on the manicured grounds and the extremely friendly and competent staff—it is a hotel you won't soon forget!

Along with the Anatole, there will be shuttle service to a splendid shopping center and some of the best tours offered to Convention goers in many years.

No president wants his Convention to be remembered in a negative manner, and I am confident this will not happen in Dallas. Among the speakers, Roger Staubach is as good a speaker as he was NFL football player. You won't want to miss him at the opening General Session.

That takes care of the first two subjects in the headline. Now let me address the last. During my year as president of our Association, I have seen and heard some wonderful ideas concerning our business. On the other hand, I have encountered some that weren't so great. For instance, I received a call one day asking if it were my opinion that buying newspaper ads for real estate brokers would be a RESPA violation. Without going to the legal issue, I asked that—if you paid for broker advertising and then stopped—how long would that "customer" stay with you?

I cannot go to a seminar or state title convention without hearing the speakers on the program talk about change. As I have said before, the only one who likes change is a wet baby. While all of us must be ready to adapt when necessary, change for the sake of change can be as bad as a lack of flexibility. Sometimes, it seems that our industry becomes so wrapped up in attracting business that our perspective suffers.

And, when that occurs, I wonder if we don't resemble a call girl who might be nice to look at but seldom if ever has any respect!?

See you in Dallas!

Best regards,

Mike C. Currier



“To err is human...  
To omit is human, too.”

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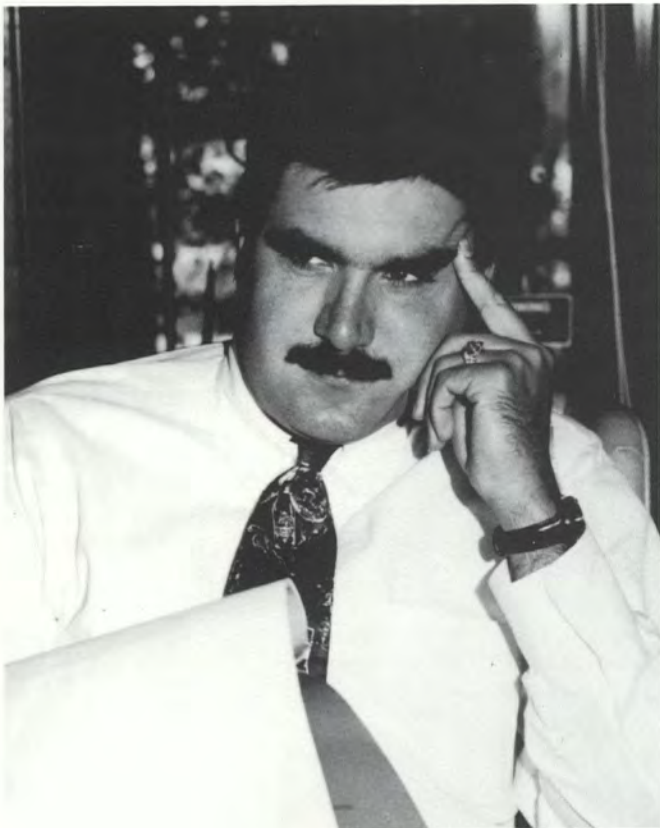
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# Regulatory Takings: The Push for Legislative Reform

By Theodore C. Taub, Esquire

**T**he Fifth Amendment of the United States Constitution provides that one's property can neither be taken without due process of law nor for public use without payment of just compensation. For many years, resolving a private property owner's claim that a governmental regulation had effected a taking entitling the owner to compensation has been determined in the courts by judicial analysis.

Until 1987, a private property owner faced with challenging a regulation as a taking was, in most instances, relegated to an expensive and protracted judicial trip that might, at best, result in the regulation being invalidated, but no more. Whether a regulation went "too far" so as to be a taking entitling one to compensation, as stated by Justice Holmes in *Pennsylvania Coal v. Mahon*<sup>1</sup> in 1922, was not being answered by the courts with any generic degree of precision in the intervening years. And notwithstanding five key decisions by the United States Supreme Court since 1987 (*Keystone*, *First English*, *Nollan*, *Lucas* and *Dolan*)<sup>2</sup>, regulation proceeded apace, as did movements to legislatively address regulatory takings. Although activity has markedly increased in state legislatures in the last several years, the focus of this article will be on the heightened attention being given to property rights in the 104th Congress and its juxtaposition with current case law.

## Property Rights Initiatives in Congress

The U.S. House of Representatives kicked off 1995 by adopting sweeping regulatory reforms, including House Bill 925, *The Property Rights Protection Act*, House Bill 450, *The Regulatory Transition Act*, and House Bill 1022, *The Risk Assessment Cost Benefit Act*. These three bills passed the U.S.

House on March 3, 1995 (277 - 144) and were sent to the U.S. Senate as a package entitled, *The Job Creation and Wage Enhancement Act* (H.R. 9).

Several members of the U.S. Senate also have proposed bills, although none have been passed by the entire Senate. Because many observers view the Senate as a more moderate body than the House, the prediction is that the regulatory reforms passed by

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**A**lthough the boilerplate in an ALTA policy appears to protect those engaged in either underwriting the title...or receiving the protections afforded by such policies from the vicissitudes of such legislation, it behooves all of us to monitor the process.

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the House will undergo substantial modification before both houses reach agreement on such legislation. Both Senator Gramm of Texas and Senator Dole of Kansas came out of the starting blocks early in 1995 with their respective versions of property rights bills (S. 145 and S. 22).

On March 23, 1995, Senator Dole introduced *The Omnibus Property Rights Act of 1995* (S. 605), which combines most of the Senate property rights bills into one com-

prehensive version. In addition, H.R. 925 (as part of H.R. 9) has been referred to the Senate Committee on Environment and Public Works.

Senate Bill 605 requires the federal government to compensate property owners if a regulation reduces the value of property by 33 percent, authorizes an alternative dispute resolution process, and requires the federal agencies that administer *The Endangered Species Act* and *The Clean Water Act* to provide administrative procedures to address takings claims. In addition, all federal agencies are required to perform a takings impact analysis for proposed regulations for the purpose of minimizing takings of private property.

Senator Dole, as Majority Leader, has the power to call up S. 605 for a vote at will. Even with 31 co-sponsors, a vote on S. 605 as currently formulated would be close because a number of moderate Senate Republicans could join Democrats to oppose



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the bill. The Senate's recent dilution of the House one-year moratorium on new federal regulations foretells of a similar weakening of House property rights legislation.

Although additional bills and amendments have been submitted by other members in both houses of Congress, this article will defer any in-depth analysis of each and refer only to certain of their provisions. For example, H.R. 790, submitted by Representative Tauzin from Louisiana, which paints with a broad brush, provides that in addition to the United States District Courts having jurisdiction over takings claims under his bill, such claims may also be brought in the United States Court of Claims, or either at the election of the property owner.

H.R. 489 submitted by Representative Smith of Texas also provides for concurrent jurisdiction between the Court of Claims and the district courts. It further provides a statute of limitations and also states: "The United States shall take title to the property interests for which the United States pays a claim under this Act."

Legislation also has been proposed to require federal agencies to conduct detailed analyses of the risks that proposed health, safety and environmental regulations seek to address. This legislation also carries with it economic benefit dollar thresholds requiring the agency to establish that a regulation's benefits outweigh the cost of its implementation.

### State Takings Legislation

There are essentially two types of legislation that have either been enacted or are pending in a number of states. Some mandate compensation based on a fixed percentage of diminution in value of property as the result of a particular regulation. In short, the property owner is entitled to compensation if the threshold percentage of diminution in value can be established. The other type of state legislation incorporates a cost-benefit takings impact analysis. This approach requires establishing that the cost of the regulation is commensurate with the benefits to be obtained.

Some of the state legislation incorporates both approaches, applies to certain agencies only, entitles the claimant to a jury trial and the award of attorneys fees and costs if successful, and requires the property owner to engage in mediation and/or binding arbitration as a condition precedent to going to court.

### Takings Case Law

Todays "property rights movement" is, for the most part, a reaction to the increase

in environmental and land use regulations over the past few decades and is further fed by the discernible national swing of the political pendulum to the right. Having recognized the movement's genesis, it is nevertheless necessary to examine case law, particularly the United States Supreme Court's takings jurisprudence interpreting the Fifth Amendment to the United States Constitution, in order to fully understand the nature of the legislative proposals.

### United States Supreme Court Cases

The notion that a regulation may interfere with property rights to such an extent as to render the property valueless, and therefore "taken", is a fairly modern concept. Physical occupations or seizures of

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private property always have been an easier question than taking property rights through the effect of regulation.

The starting point for the most active period of takings jurisprudence is *Penn Central Transportation Co. v. New York City*<sup>3</sup>. In *Penn Central*, the Court upheld New York City's landmark preservation law that prohibited the construction of a 55-story office tower on top of Penn Station. Justice Brennan acknowledged the difficulty in formulating a test to determine whether or not a regulatory "taking" has occurred:

[W]hat constitutes a 'taking for purposes of the Fifth Amendment has proved to be a problem of considerable difficulty. While this Court has recognized that the 'Fifth Amendment's guarantee'... [is] designed to bar government from forcing some people alone to bear public bur-

dens which, in all fairness and justice, should be borne by the public as a whole... this Court, quite simply has been unable to develop any 'set formula' or determining when 'justice and fairness' require that economic injuries caused by public action be compensated by the government, rather than remain disproportionately concentrated on a few persons. (citations omitted).

*Id.* at 124-125, 98 S.Ct. at 2659. The property owners in *Penn Central* argued that the landmark preservation law deprived them of any gainful use of the air rights above the terminal, thus entitling them to just compensation. The Court disagreed and Justice Brennan recalled the words of Justice Holmes from *Pennsylvania Coal Co. v. Mahon*, in which he noted that:

'[g]overnment hardly could go on if to some extent values incident to property could not be diminished without paying for every such change in the general law... and this Court has accordingly recognized, in a wide variety of contexts, that government may execute laws or programs that adversely affect recognized economic values.

*Penn Central* at 124, 98 S.Ct. at 2659.

The Court focused both on the character of the action and the nature and extent of the interference with rights in the parcel as a whole and concluded that the law did not effect a taking of property because "[t]he restrictions imposed are substantially related to the promotion of the general welfare and... permit reasonable beneficial use of the landmark site". *Id.* at 138, 98 S.Ct. 2666. Justice Rehnquist disagreed and preferred to reframe the question as "whether the cost... must be borne by all of its taxpayers or whether it can instead be imposed entirely on the owners of the individual properties." *Id.* at 139, 98 S.Ct. 2667.

Beyond the debate over the formula to be used to determine whether a taking has occurred, *Penn Central* did not address the question of whether the Constitution mandates the payment of just compensation for regulatory takings. Although the language of the Fifth Amendment is clear ("nor shall property be taken for public use, without just compensation"), compensation was not recognized as a remedy for a regulatory taking until 1987 in *First English*.

Therefore, until 1987, no matter how egregious the regulatory act, the only remedy available to property owners was invalidation of the regulation rather than compensation when their property was "taken" through regulation. Justice Brennan, in a dissenting opinion, earlier had al-

luded to the impending acceptance of compensation as a valid remedy in *San Diego Gas & Electric Co. v. San Diego*<sup>4</sup>:

[i]n my view, once a court establishes that there was a regulatory 'taking', the Constitution demands that the government entity pay just compensation for the period commencing on the date the regulation first effected the 'taking,' and ending on the date the government entity chooses to rescind or otherwise amend the regulation. . . . Invalidation unaccompanied by payment of damages would hardly compensate the landowner for any economic loss suffered during the time his property was taken.

It took the U.S. Supreme Court until 1987 and *First English* to convert that dissenting view to the law of the land.

*First English* was one of three cases decided by the U.S. Supreme Court in 1987 which refined the constitutional analysis for "takings" of private property under the Fifth Amendment. *Keystone* and *Nollan* also established important constitutional guidelines. The three sometimes are referred to as the "takings trilogy."

In *Keystone*, the Court upheld a statute which prohibited excessive subsistence coal mining to prevent damage to surface structures. The Court determined that the prevention of damage to surface structures appropriately addressed a significant threat to the common welfare. In addition, because those in the coal industry would still be able to undertake a great amount of mining, their "investment backed expectations" were not inordinately defeated.

In *Nollan*, the Court ruled that the Nollans were not required to provide a 30-foot public easement across the beachfront of their property as a condition to receiving their building permit. A state policy required beachfront developers to promote public beach access and an unobscured view. The Court explained that, although the policy advanced a legitimate state interest, the state did not prove that the Nollans remodeling of their single family home would detrimentally affect the public beach access or the panorama. The Court declared that no "essential nexus" existed between the condition imposed on the property and the governmental purpose for the condition. Without an essential nexus, if the government wanted an easement across the Nollans property, the Court held that the government must pay for it.

The United States Supreme Court further refined the takings analysis in 1992 in *Lucas* and in 1994 in *Dolan*. Mr. Lucas sought to develop two beachfront lots but was denied permission to do so after the South Carolina Coastal Council banned

beachfront development within the 40-year beach erosion area. He had purchased his property prior to institution of the ban and did not challenge the ban as an improper exercise of the state's police power. Rather, he sought compensation as the property had effectively been rendered valueless. The Court agreed and held that when property is regulated to the extent it is rendered valueless and of no economic use, the property has effectively been "taken."

In *Lucas*, the Court provided a nuisance exception to the requirement that compensation be paid when police power actions prevent all economically viable use of the land. That exception provides that when a regulation prohibits noxious or injurious uses of private property that rise to the level of a nuisance, the prohibition does not constitute a taking. The nuisance exception applies to those nuisances that have been historically recognized as nuisances under state law.

Parenthetically, in real economic terms, the landscape has not changed a great deal. In *First English*, the church never got

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*...it is nevertheless necessary to examine case law, particularly the United States Supreme Court's takings jurisprudence interpreting the Fifth Amendment to the United States Constitution, in order to fully understand the nature of the legislative process.*

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any money<sup>5</sup>; in *Lucas*, interestingly enough, the State of South Carolina, after hundreds of thousands of dollars of litigation, ended up paying Mr. Lucas for the property and then putting it on the market to be used for the same purpose for which the state tried to prevent Mr. Lucas from using it.

*Dolan* may have a greater impact on everyday governmental actions than *Lucas*, however, because most government regulations do not render property completely valueless, but impose severe limitations or require outlandish exactions in

order to gain approval. In *Dolan*, the Court expanded the *Nollan* "essential nexus" analysis by forging a further requirement for an exaction to be constitutional: "rough proportionality". The City attempted to require the Dolans to dedicate property for public storm drainage and a bicycle path as a condition to the Dolan's permit to enlarge their building. The Court ruled that the exactions did not bear "rough proportionality" to the impacts of the proposed development. Justice Holmes would have said they went "too far."

A few days after the Court decided the *Dolan* case, it granted certiorari in a California case, *Ehrlich v. City of Culver City*<sup>6</sup>, sending a signal that *Dolan* also perhaps applied to monetary exactions. One of the fundamental concepts involved in takings claims is whether a property owner's right to exclude the public from one's private property (which underlies the analysis in *Dolan*). Therefore, if the exclusion concept is absent, as many argue is the case with a monetary exaction not involving a transfer of title to land via dedication, albeit imposed and not voluntarily extracted, the concomitant argument is that the *Nollan/Dolan* dual heightened scrutiny tests of essential nexus and rough proportionality apply only in a physical taking type exaction context.

Mr. Ehrlich owned a piece of property which previously had included a private tennis club and other uses. These uses had been abandoned and he wanted to build condominiums. When he applied to the City, the City said fine, Mr. Ehrlich, you can go ahead and do that, but you owe the City \$280,000 because the City needs to replicate those recreational facilities elsewhere. Remember, this was a private club; it had never been a public facility. And, the City Council was to have sole discretion as to when and where to build the new off-site facilities with Mr. Ehrlich's \$280,000.

The City also exacted \$33,200 from him for art as an "in lieu of art" fee so that they could provide art in various other parts of the City. In a 44-page unpublished opinion, a California appellate court upheld the lower court's decision sustaining the exactions as satisfying *Dolan*; therefore, the City could take Mr. Ehrlich's money. The case is now before the California Supreme Court. Depending on the court's decision, the case may return to the United States Supreme Court.

### **Post-Dolan Oregon Land Dedication Cases**

In *Schultz v. City of Grants Pass*<sup>7</sup>, contrary to the City's assertion that the permit

condition requiring land dedication was a legislative enactment entitled to presumptive validity, the court found that the City's requirement was sufficiently akin to Mrs. Dolan's situation so as to make *Dolan* applicable. Mr. Schultz was being required to deed portions of his land to the City. This was more than just restricting the use of his land. Analyzing the nexus between the permit condition and the government's interest, the court found that no *Nollan* essential nexus existed.

In *T.C. Reeves Corporation v. Clackamas County*<sup>8</sup>, some of the challenged exactions were sustained and some were disallowed. Insofar as those that were denied, the court noted that the county made no individualized findings. The more significant part of the court's decision was the court's determination that the character of the condition to be exacted is unchanged "whether it is legislatively required or" results from "a case-specific formulation." *Id.* at 365. The fact that legislation requires the imposition of a condition on particular property doesn't convert the condition to something other than what it is. Therefore, it, too, must meet the *Dolan* test of rough proportionality to be constitutionally correct.

### Post-Dolan Non-Land Dedication Cases

The Georgia Supreme Court upheld an exaction regarding parking spaces against an attack based on *Dolan* in *Parking Association of Georgia v. City of Atlanta*<sup>9</sup>. The court found that there was no need for a *Dolan*-type individualized determination because the newly required minimum barrier curbs and landscaped areas in parking lots related to the impact of the development. Moreover, the court found rough proportionality between the ordinance's stated purposes to improve aesthetics, air quality, runoff problems and safety, and the curbing/landscaping requirements imposed.

Unfortunately for the plaintiff, only the three-judge dissent got it right when they held that under the *Nollan/Dolan* tests there is no difference in government singling out a particular property owner (as in *Dolan*) and the singling out of a specific land use such as parking lots when either classification imposes a burden on the particular property owner that should properly be done by the public at large.

In *Peterman v. Department of National Resources*<sup>10</sup>, the Michigan Supreme Court was faced with a claim that the state, by building a boat launch and two jetties 30 feet from the owner's beach-front property,

eroded same, and consequently, such action constituted a taking. Although the court spent much of its time reviewing navigational servitudes and riparian rights, the court held that *Dolan* was applicable. The court did not go through a *Dolan*-type rough proportionality analysis, but essentially found that there was no essential nexus between how the taking occurred and the state interest involved.

In *Waters Landing Limited Partnership v. Montgomery County*<sup>11</sup>, the court refused to apply *Dolan* in a case where developers challenge impact fees (called impact taxes in MD). First, the court noted that *Dolan* was an adjudicative decision affecting a discrete parcel of property and not a legislative decision affecting the entirety of property within the jurisdiction. The court's second reason was that the county impact tax was legislatively enabled and did not require a dedication of land and, therefore, *Dolan* didn't apply.

In *Harris v. City of Wichita*<sup>12</sup>, where property owners challenged airport overlay district regulations as a taking, besides deciding that the claim was not ripe, the court held that *Dolan* didn't apply because

---

**I**n Penn Central, the Court upheld New York City's landmark preservation law that prohibited the construction of a 55-story office tower on top of Penn Station.

---

*Dolan* was limited to its facts and the property owners did not establish that the airport regulations constituted "an arbitrary regulation of property rights", quoting from *Dolan* at 2320, n.8.

### Summarizing The Nollan/Dolan Dual Nexus Test

Absent a *Lucas* categorical rule situation, most takings cases involve required dedications of property or monetary exactions as conditions of government permitting the property owner to proceed with new development.

*Nollan* teaches that there must be an essential nexus between the conditions imposed by government and the legitimate state interest to be advanced by the conditions. In *Nollan*, the permit condition (pub-

lic easement along the beachfront of the Nollans' property) did not coincide with the state's policy to preserve beach access because the Nollans' larger house did not affect the public's access to the beach. *Dolan* tells us that even if there is such a nexus, government must demonstrate rough proportionality, i.e., that government has made a quantifiable individualized determination that the exactions relate both in nature and extent to the impacts of the proposed development to be mitigated. In *Dolan*, the land dedications for storm water facilities and a bicycle path did not proportionally relate to the impacts of enlarging the Dolans' plumbing store.

Put another way, exactions must clearly solve problems generated by the landowner upon whom they are imposed and in proportion to the impact the proposed development is likely to have. And government must demonstrate the foregoing with a reasonable degree of exactitude, albeit not with mathematical precision.

### Legislatively Codifying Fifth Amendment "Takings" Case Law

Senate Bill 605, currently the most active property rights bill, would, in part, codify takings jurisprudence (word for word from various cases in some places):

No agency or State agency, shall take private property except for public use and with just compensation to the property owner. A property owner shall receive just compensation if—

(1) as a consequence of an action of any agency, or State agency, private property (whether all or in part) has been physically invaded or taken for public use without the consent of the owner; and

(2)(A) such action does not substantially advance the stated governmental interest to be achieved by the legislation or regulation on which the action is based [*Penn Central, Nollan*];

(B) such action exacts the owner's constitutional or otherwise lawful right to use the property or a portion of such property as a condition for the granting of a permit, license, variance, or any other agency action without a rough proportionality between the stated need for the required dedication and the impact of the proposed use of the property [*Dolan*];

(C) such action results in the property owner being deprived, either temporarily or permanently, of all or substantially all economically beneficial or productive use of the property or that part of the property affected by the action without a showing that such deprivation inheres in the title itself... [*Lucas*].

The bill also authorizes a property

owner to bring a takings challenge in either a United States District Court or the United States Court of Claims. Today, property owners are required to either choose a district court or the Court of Claims. Under S. 605, the courts shall have concurrent jurisdiction over both claims for monetary relief and claims seeking invalidation of any act of Congress or any regulation of an agency. S. 605 establishes a statute of limitations of six years from the date of the taking of private property. Prevailing parties will be entitled to attorney's fees and costs.

The bill also authorizes an alternative dispute resolution process which may only be effectuated by consent of all parties. All federal agencies are directed to complete a private property takings impact analysis before issuing or promulgating any regulation that is likely to result in a taking of private property (except for formal eminent domain proceedings, law enforcement forfeiture proceedings, military activities, and other exceptions).

The takings impact analysis will include an assessment of the likelihood that a tak-

*dangered Species Act* (which applies to both public and private land) by deciding if regulators had gone "too far" in trying to protect the habitats of the northern spotted owl, the red-cockaded woodpecker and the golden-cheeked warbler. The Act makes it a crime to "take" a protected species and provides that "take" includes "harm." The regulation at issue makes it a crime for private parties to harm an endangered species by substantially "modifying its habitat," even if by way of an activity such as logging that indirectly depletes the habitat of an endangered species. The Department of the Interior, through the Fish and Wildlife Service, interprets "harm" to include "significant habitat modification or degradation" that may kill or injure wildlife.

The Circuit Court of Appeals struck down the regulation as going beyond the scope of the Act. On June 29, 1995, the majority of the Court, speaking through Justice Stevens, in a 4-3 decision, reversed the circuit court, upholding the department's interpretation. The decision already has sparked new efforts to reform the Act in Congress.

### Conclusion

Whether property rights regarding takings continue to be resolved based on past and emerging case law depends in part, on what proposed federal regulatory legislation, if any, becomes law, and, depending in which state one's property is located, on whether a state has similar legislation.

Although the boilerplate in an ALTA policy appears to protect those engaged in either underwriting the title to real property or receiving the protections afforded by such policies from the vicissitudes of such legislation, it behooves all of us to monitor the process. If title to property taken pursuant to new legislation does, indeed, pass to the government, a review of the policy boilerplate may be in order at that time to see if something new needs to be addressed. ➤

1. 260 U.S. 393, 413, 43 S.Ct. 158, 159, 67 L.Ed. 322 (1922).
2. 480 U.S. 470, 107 S.Ct. 1232, 94 L.Ed.2d 472 (1987); 482 U.S. 304, 107 S.Ct. 2378, 96 L.Ed.2d 250 (1987); 483 U.S. 825, 107 S.Ct. 3141, 97 L.Ed.2d 677 (1987); 505 U.S. \_\_\_, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1992); \_\_\_ U.S. \_\_\_, 114 S.Ct. 2309, 129 L.Ed.2d 304 (1994).
3. 438 U.S. 104, 98 S.Ct. 2646, 57 L.Ed.2d 631 (1978).

4. 450 U.S. 621, 653-655, 101 S.Ct. 1287, 67 L.Ed.2d 551 (1981).
5. 258 Cal.Rptr. 893 (1988), *review denied*, 1989 Cal.Lexis 4224 (1989), *cert. denied*, 493 U.S. 1056 (1990).
6. 15 Cal.App.4th 1737, 19 Cal.Rptr.2d 468 (Cal. Ct. App. 1993), *cert. granted and judgment vacated by \_\_\_ U.S. \_\_\_ 114 S.Ct. 2731 129 L.Ed.2d 854 (1994)*.
7. 884 F.2d 569 (Or. Ct. App. 1994).
8. 887 F.2d 360 (Or. Ct. App. 1994).
9. 450 S.E.2d 200 (Ga. 1994).
10. 521 N.W.2d 499 (Mich. 1994).
11. 650 A.2d 712 (Md. 1994).
12. 862 F.Supp. 287 (D.Kan. 1994).
13. 17 F.3d 1463 (D.C. Cir. 1994), *re-hearing and en banc suggestion denied by 30 F.3d 190 (D.C. Cir. 1994)*, S. Ct. No. 94-859.

## Regional Event Set For Kansas City

Management-level presentations on right-sizing and adapting to change will accompany title topics on the program of the September 26 Land Title Institute Regional Seminar to be held at the Adams Mark Hotel, Kansas City, MO.

Co-sponsor of the event is the Missouri Land Title Association. The program is designed for both the title owner/manager group and their employees.

Mark E. Basile, division president, First American Title Insurance Company of Texas, Houston, will lead the discussion on right-sizing. Michael Stella, president, Inter Dynamics, Houston, is the discussion leader for the session on adapting to the various stages of business change.

Serving as the events "title" faculty are:

- Scott Harper, The National 1031 Exchange Corporation, Pleasanton, CA, presentation on 1031 tax free exchanges
- Bruce Pitts, Smith-Roberts and Associates, Oklahoma City, presentation on understanding an ALTA survey
- Lawrence P. Heffernan, esquire, Robinson & Cole, Boston, presentation on fraud and forgery problems

Registrations received by August 28 in the ALTA Washington office will be \$90. After that, the charge increases to \$130. Checks made payable to Land Title Institute, Inc., should be sent to Suite 705, 1828 L Street, N. W., Washington, DC 20036.

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## Senate Bill 605, currently the most active property rights bill, would, in part, codify takings jurisprudence...

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ing of private property will occur and an estimate of the potential liability of the federal government. Among other measures, the analysis will be reviewed by the Attorney General's office and shall be part of the decision whether or not to promulgate and enforce a rule.

S. 605 also establishes a right to an administrative appeal from agency action under the *Endangered Species Act of 1973* and the *Clean Water Act*. Compensation shall also be provided to a private property owner when the owner is deprived of 33 percent or more of the fair market value of the economically viable use of the affected portion of the property if they submit a requested agency appeal within 90 days after receipt of the final decision.

### The Sweet Home Case

In *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*<sup>13</sup>, the United States Supreme Court had the opportunity to redefine the scope of the *En-*

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# CONVENTION DALLAS



## Superb Program, Activities Offered

*By Leigh A. Vogelsong  
ALTA Director of Meetings  
And Conferences*

**R**eal estate trends, business communication and teamwork. National politics. Substantially enriched automation education, along with a wide variety of learning sessions on other topics. All this and much more in superb program fare await those who attend the 1995 ALTA Annual Convention at a site signifying southwestern cultural diversity and excitement - Dallas!

Headquartered in the spacious Wyndham Anatole Hotel, the convention will unfold October 18-21 in the nation's largest inland city, where museums and theaters, gourmet restaurants, team sports and shopping districts compete for attention. Amid all this is the downtown Dallas Arts District, largest so-designated area in the nation.

With its world-famous "can do" spirit, Dallas provides an appropriate setting for leadership developments in the title industry. Among innovations credited with having the city as their

birthplace are the computer chip, the chicken fajita and the frozen margarita.

October daytime temperatures in Dallas can reach the upper 70s, with lows in the 50s at night. Business attire is suggested during the day, with the sports minded being encouraged to wear their favorite team shirt for the opening Kick-Off Reception (Ice Breaker) on Wednesday evening, October 18. Saturday's closing Annual Banquet is black tie optional.

Following the traditional convention format, general sessions will be held on Thursday and Saturday, with the regular education sessions on Friday (please see below). There will be an ALTA member briefing on current major issues during the Thursday general session—including such well known topics as bank powers legislation, RESPA, the TOP program, HUD, controlled business and the NAIC model acts.

### Fascinating Speakers

A fascinating guest speaker lineup promises a unique character for this year's convention program. Among those making appearances will be:

- Roger Staubach, retired Dallas Cowboys quarterback and Pro Football Hall of Fame member, who has integrated the teamwork concept into his successful real estate company
- Leanne Lachman, managing director for a prominent real estate asset management firm and Chicago Title and Trust Company board member, who will look at real estate trends for the remaining years of this century; she previously has won accolades with a commentary on the subject during the 1990 ALTA Annual Convention
- Howard L. McMillan, Jr., American Bankers Association president and president and chief operating officer, Deposit Guaranty Corporation/Deposit Guaranty National Bank of Jackson, MS, will present a commentary on current issues
- Roger Dawson, author of *The Secrets of Power Negotiating*, largest selling business audio cassette program ever produced and president of a leading California real estate concern, will present negotiating techniques that can be used immediately
- Daniel Burrus, who wrote the best seller, *Technotrends*, who will combine humor and on-target forecasting to provide an expanded picture of what the information highway needs and how its potential can be used

# 1995 ALTA Annual

## MONDAY, OCTOBER 16

3:00 p.m.-5:00 p.m. Convention Registration

## TUESDAY, OCTOBER 17

8:00 a.m.-2:00 p.m.

4:00 p.m.-7:00 p.m.

Convention Registration

9:00 a.m.-5:00 p.m.

Title Insurance Forms Committee Meeting

9:00 a.m.-5:00 p.m.

Education Committee Meeting

2:00 p.m.-4:00 p.m.

Government Affairs Committee Meeting

## WEDNESDAY, OCTOBER 18

7:00 a.m.-9:00 a.m.

Membership and Organization/Recruitment and Retention Committees Meeting

8:00 a.m.-2:00 p.m.

4:00 p.m.-7:00 p.m.

Convention Registration

8:30 a.m.-11:30 a.m.

Automation 2000 Session

9:00 a.m.-12:00 p.m.

Title Insurance Forms Committee Meeting

9:00 a.m.-12:00 p.m.

Section Executive Committee Meetings

9:00 a.m.-12:00 p.m.

Directory Rules Committee Meeting

9:00 a.m.-5:00 p.m.

Lender and Life Counsel Meetings

9:00 a.m.-5:00 p.m.

Associate Member, Legal Division Meeting

10:00 a.m.-12:00 p.m.

Past Presidents' Brunch

11:00 a.m.-4:00 p.m.

Affiliate Title Association Brunch and Seminar

11:30 a.m.-1:00 p.m.

Automation 2000 Buffet Discussion Luncheon

12:00 p.m.-5:00 p.m.

Indian Land Claims Committee Meeting

1:00 p.m.-5:00 p.m.

Automation 2000 Exhibitor Presentations

1:30 p.m.-5:00 p.m.

ALTA Board of Governors Meeting

5:30 p.m.-6:30 p.m.

First Time Convention Attendee Mixer

5:30 p.m.-8:00 p.m.

Automation 2000 Exhibits Open

6:30 p.m.-8:00 p.m.

Dallas Kick-Off Reception

## THURSDAY, OCTOBER 19

7:00 a.m.-8:15 a.m.

Automation 2000 Discussion Roundtables and Continental Breakfast



# Convention Calendar

7:00 a.m.-8:15 a.m.	All About ALTA Orientation Session
7:30 a.m.-8:15 a.m.	TIPAC Board of Trustees Meeting and Breakfast
8:00 a.m.-1:00 p.m.	Convention Registration
8:00 a.m.-1:00 p.m.	Automation 2000 Exhibits Open
8:15 a.m.-11:45 a.m.	General Session
11:45 a.m.-12:15 p.m.	Section Meetings
12:00 p.m.-2:00 p.m.	SLRAC Meeting and Luncheon
1:00 p.m.-5:00 p.m.	Automation 2000 Exhibitor Presentations
2:00 p.m.-4:00 p.m.	TIAC Shareholder and Board of Directors Meeting

## FRIDAY, OCTOBER 20

7:00 a.m.-8:30 a.m.	Public Relations Committee Breakfast
7:15 a.m.-8:30 a.m.	Abstracter/Agent Research Committee Breakfast
7:15 a.m.-8:30 a.m.	TIPAC Breakfast
8:00 a.m.-1:00 p.m.	Convention Registration
8:00 a.m.-1:00 p.m.	Automation 2000 Exhibits Open
8:00 a.m.-11:30 a.m.	ALTA Educational Sessions
9:30 a.m.-11:30 a.m.	Companion Brunch
12:15 p.m.-6:00 p.m.	Golf and Tennis Tournaments

## SATURDAY, OCTOBER 21

7:00 a.m.-8:30 a.m.	Land Title Systems Committee Breakfast
7:15 a.m.-8:30 a.m.	Golf/Tennis Awards Breakfast
8:00 a.m.-11:00 a.m.	Automation 2000 Exhibits Open
8:00 a.m.-1:00 p.m.	Convention Registration
8:30 a.m.-11:45 a.m.	General Session
2:15 p.m.-4:00 p.m.	1995-96 ALTA Board of Governors Meeting
6:15 p.m.-7:00 p.m.	Pre-Banquet Reception
7:00 p.m.-11:00 p.m.	Annual Banquet

most effectively

- Gloria Berger, whose widely-read *U. S. News & World Report* column, "On Politics," provides a backdrop for her witty, incisive public speaking appearances, will highlight the Title Industry Political Action Committee breakfast
- Kevan Schlamowitz, Ph.D, a medical psychologist, and Nancy Stern, award-winning television producer and director, will discuss "gender jive," taking a look at how male/female differences interact and how this can be used to advantage
- Suzie Humphreys, Dallas radio personality known for her slice-of-life humor and celebrity interviews, will keep things moving at the convention's companion brunch

For additional schedule details, please see the convention calendar accompanying this article.

### Enriched Automation Education

In an upgraded format, the convention's automation education dimension has been expanded to provide attendees with enrichment on the fast-moving impact of technology on the title industry. The event will be presented under the banner, "Title Automation 2000," and is focused on major activity Wednesday and Thursday.

Wednesday's program has scheduled an opening presentation by a representative of Microsoft on the future of automation for the title business. After that, a speaker from HomeCom Communications, Inc., will discuss the implications of the World Wide Web on the Internet for title industry information delivery. Wrapping up the morning will be a presentation by a representative of Fannie Mae on electronic communication between the title industry and the secondary mortgage market.

The Wednesday morning speakers will participate in a dialogue with the audience during a buffet luncheon immediately after their session. On Wednesday afternoon, convention exhibitors will be featured at individual breakout sessions where they discuss their respective automation capabilities in a learning format. Closing out the Wednesday agenda will be the opening of the convention automation exhibits that evening.

On Thursday, members of the ALTA Land Title Systems Committee will be individual moderators during a round table open discussion on automation topics presented at a complimentary continental breakfast. Regular convention education sessions are on the schedule for Thursday

morning (please see below) before another afternoon of individual exhibitor capability breakout sessions that afternoon.

Registration for Automation 2000 is included within the regular convention charge. For those who wish to attend only the automation events on Wednesday/Thursday, a reduced registration package is available.

### Education Sessions Outstanding

In addition to the automation event, an outstanding array of regulation convention education sessions has been developed for Thursday morning. Topics are as follows.

*Issues in Multi-State Transactions.* Using a hypothetical case scenario, a panel of experts will discuss a multi-state loan transaction where the security for the loan is situated within more than one jurisdiction.

*Re-Engineering the Work Flow in a Title Office.* Discussion in this session will focus on a critical look at title operations through work flow analysis—with emphasis on examination of the entire process and learning to re-think.

*From the Interview to the Farewell Party—Taking Care of Your People.* Concentration will be on current legal trends, office environment issues and health concerns—along with advice on improving staff morale.

*Business Structures.* Here the focus will be on the different types of business structure, such as LLC, ESOP, Chapter S and others, as an expert on tax law comments on how the law affects each. Also, a panel of title insurance executives will discuss the rationale for choosing each structure and how they have elected to make comparable changes in their respective organizations.

*Errors and Omissions Insurance Issues.* A panel of E&O claims, underwriting and administrative personnel will discuss reducing risk through the purchase of appropriate coverage. Topics on the agenda include prior acts, tail, subcontractor and policy coverage—along with pricing and claims handling.

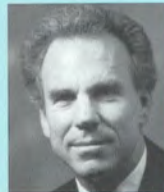
### Golf, Tennis Tournaments Await

Golf and tennis tournaments await the athletically inclined on Friday afternoon. For the golfers, the venue is the Bear Creek Course, recognized as one of the top 50 in the nation by *Golf Digest*, and known for its bentgrass greens and wooded landscapes.

Golf prizes will be awarded at a Saturday morning continental breakfast buffet featuring Spencer Tillman, local sportsca-

*continued on page 32*

## Annual Convention Guest Speakers



### Roger Staubach

Pro Football Hall of Fame  
(October 19 General Session)



### Leanne Lachman

Schroeder Real Estate Associates  
(October 21 General Session)



### Howard L. McMillan, Jr.

American Bankers Association President  
(October 19 General Session)



### Daniel Burrus

*TechnoTrends* Author  
(October 21 General Session)

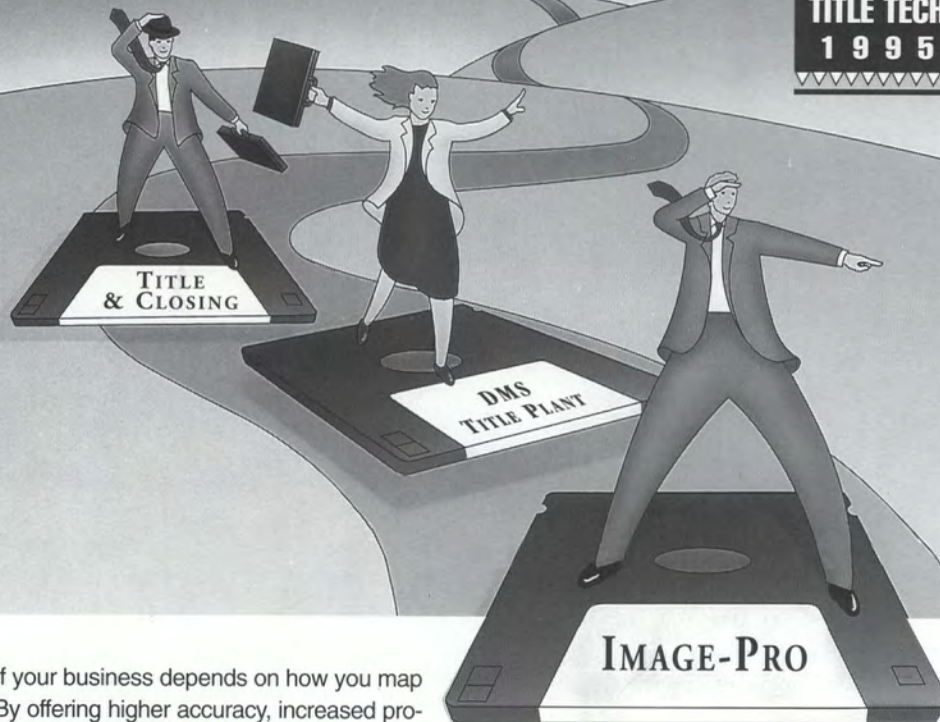


### Gloria Berger

*U. S. News & World Report*  
(October 20 TIPAC Breakfast)

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RB	03/23/95		Receive Survey	memo	01	95-00004	02/24/95	RB
RB	03/23/95		Receive Survey	memo	01	95-00005	02/24/95	RB
RB	03/23/95		Receive Survey	memo	01	95-00006		
RB	03/23/95		Order Survey	memo	01	95-00014		
RB	03/23/95		Order Tax Cert.	memo	01	95-00014		
RB	03/23/95		Receive Survey	memo	01	95-00007		
RB	03/23/95		Receive Survey	memo	01	95-00008		
RB	03/23/95		Commitment Due	memo		95-00001		
RB	03/24/95	08:30am	Closing Room 2	memo	01	95-00004		
RB	03/24/95	09:30am	Closing Room 1	memo	01	95-00005		
RB	03/24/95	01:00pm	Closing Room 1	memo	01	95-00007		
RB	03/24/95	03:00pm	Closing Room 3	memo	01	95-00008		

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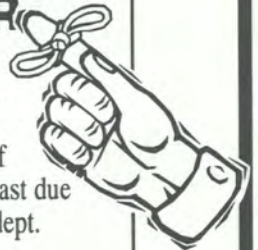
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# Montana Seminar Has Busy Agenda

**N**early 150 attorneys and title professionals from 10 states were on hand for the spring two-day regional seminar sponsored by ALTA's Land Title Institute and the Montana Land Title Association at Billings, MT.

Besides those from the host state, attendees were from Colorado, Idaho, Kansas, Minnesota, North Dakota, South Dakota, Tennessee, Washington and Wyoming.

Topics on the agenda included bankruptcy and creditors rights issues, RESPA enforcement, Indian rights, knowing the title insur-

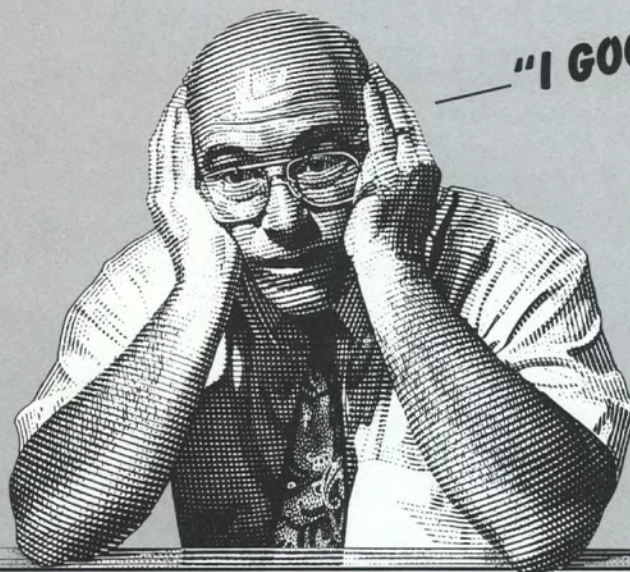
ance policies, claims prevention, 1031 tax free exchanges, title insurance in the secondary market, hazardous waste, fraud and forgery, railroad rights of way and abandonment, the ALTA survey, and employee training.

As these photographs attest, the event provided for a lively exchange of information among attendees, in addition to speaker presentations. Continuing legal and title professional education credit was offered for a number of the states represented.



At top, left, MLTA President Dick Mitchell, right, and Education Committee Chairman Gene Spranget seem pleased with the turnout for the regional seminar. Shown at top, right, from left, are MLTA President-Elect Ted Lovec, along with two faculty members, attorneys Larry Hefferman and Jim Gosdin. In the center photograph, Teresa Laird visits before the proceedings begin. Rick Zanto works out a land description at bottom, left, and Michael Kleese makes a point at lower right.





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## Writing of Verse Helps Oklahoma City Title Employees Cope with Bombing

As with others in stricken Oklahoma City, title company employees have begun the healing process following the bombing of the federal office building there.

"Some of us will recover quickly, others may take more time, but *none of us will ever forget*," said Sue Bailey of First American Title Insurance Company, whose offices three blocks north of the blast site were the scene of major structural damage. "The outpouring of support, caring, compassion and prayers that has been received from across the nation has warmed our hearts and souls, and has provided all Oklahomans with the resolve to overcome this evil deed, let the healing begin and continue with our lives."

The impact from the bombing was severe at the First American office, and all concerned are grateful that no one on the premises was injured, Bailey reported. When the explosion occurred, the building expanded outward and then moved back in, causing one of the walls to extend out as much as four inches. The ceiling tiles on the second floor took on a wave pattern, some tiles fell, lights were left hanging by their wires and the window in the front door exploded. After an inspection, engineers advised that the building remains structurally safe. But replacement was necessary for the entire west wall on the first floor, along with the exterior eaves and all ceiling tiles on the second floor.

"The feelings that many of us are experiencing are extremely difficult to form into coherent sentences as they seem to all run together," Bailey said nearly three weeks after the bombing. "Many words come to mind—terror, shock, disbelief, pain, devastation, suffering, grief, tragedy, evil, anger, confusion, bonding, compassion, caring, pride, giving, miracles, and, last but not least, love."

What is helping First American employees cope with the aftermath of shock and horror? One approach followed by Barbara Gold and Kay Hunt is expression through the writing of poetry.

These lines are from, "Only Seconds Passing By," written by Hunt:

*Wednesday morning at 9:02,  
April nineteenth, 'ninety-five,  
An explosion rocked us to our core  
As time stood still—yet passed us by.*

And:

*The Heartland of America*

*Has heaved a heavy sigh  
The nation holds our hands as we  
Turn faces to the sky  
And pray for those who lost their lives  
And loved ones left behind.  
And pray for children living life  
With only seconds passing by.*

Gold included these lines in her, "Of Strength And Pride":

*You think we're beaten? Well, you're wrong!  
Terror won't reign in the state.  
We're bonded together in pride and love.  
And a stronger Oklahoma is our fate!  
Memories of loved ones and those precious children  
Like a flame will eternally glow  
To remind the world that Okie pride runs deep  
In the finest people the world will ever know!*

As reported in the May-June *Title News*, ALTA and the Oklahoma Land Title Association have made a financial contribution to the Oklahoma Mortgage Bankers Association HUD Victims and Families Relief Fund established after the HUD office in Oklahoma City was destroyed by the bomb. Those who wish to make contributions may send checks made payable to the fund to Liberty National Bank and Trust Company, P. O. Box 850237, Oklahoma City, OK 73185-0237.

## Carpi Elected To Lawyer Body

Janice E. Carpi, vice president and underwriting counsel at the Richmond, VA, headquarters of Lawyers Title Insurance Corporation, has been elected to membership in the American College of Real Estate Lawyers.

She is a member of the ALTA Title Underwriter Counsel Committee.

ACREL is a national organization of approximately 850 attorneys specializing in real estate law. Membership is by invitation only, and is limited to those with a minimum of 10 years experience and established expertise in real estate law, who contribute substantially to the improvement of real estate law and practice.

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# Mid-Year Convention Provides Update

Issues and topics ranging from the National Association of Insurance Commissioners model title insurance acts and the TOP program to optical imaging and selling a title business operation brought a full agenda to the recent ALTA Mid-Year Convention in Hilton Head, SC. Among the presentations were a discussion of current legal issues and commentaries on retirement planning and personal health, along with a speaking appearance by former Senate Majority Leader George Mitchell.

Also sharing the billing were the traditional convention seminar on association programming and management skills, pre-

ented for officers and executives of regional and state title associations, and work sessions for ALTA committees.

Attendees also were able to update their perspectives on fast-developing title automation technology through visits with exhibitors at the seaside location.

Through concentrated exposure in a relaxed atmosphere, those on hand were able to become current on significant developments during a compact meeting time frame. Simply put, the Hilton Head experience was well worth the trip.

*Photographs by Ken Abbinante*



At top, left, ALTA Governor Malcolm Morris, second from right, talks with NAIC Title Insurance Working Group Chairman and Nebraska Insurance Director Robert Lange (right) and NAIC Actuarial Consultant David Cox (left). Also shown is Robert Scherer. Former Senate Majority Leader George Mitchell (left) is shown with ALTA President Mike Currier and wife Linnie at top, right. ALTA President-Elect Herb Wender is in a relaxed mood at left, center, while Association Governors Chuck Juhl and Cara Detring confer in the other center photograph. Discussion during the Title Insurance Forms Committee meeting (lower photograph) involves, from right, Chairman Joe Bonita, Jim Gosdin, Russ Jordan and Cliff Morgan.







The Convention afforded ample opportunity for one-on-one discussion. At right are Abstracter-Agent Section Chairman Dan Wentzel, right, and Cliff Morgan. At left, Association Governor Charlie Foster, right, visits with Texas Land Title Association President Bob Philo.



In the second row from top, Ed Schmidt, left, visits with fellow panel members Jan Alpert and John Duncan. In the third row from top, left photograph, are, from left, Ted Taub, Oscar Beasley and Ralph Holman of the National Association of Realtors. In the same row, Harold Bensch, center, directs a question to Kirk Knott, right, following the educational session on optical imaging issues. At bottom, left, Malcolm Morris videotapes a commentary during the ALTA Board of Governors public speaking clinic. In the adjacent photograph, Speech Coach Karen Kalish reviews a videotaped presentation with participating Governors and staff members.





ALTA Governor Stanley Friedlander, right, is shown with Mike and Linnie Currier at top, left. In the adjacent photograph are Association Governor Dick Polay, left, and former Senate Majority Leader George Mitchell. North Dakota Land Title Association's Gabe Hermes, right, makes a point in the second photograph from top; listening from left are ALTA's Leigh Vogelsong and Wisconsin Land Title's Linda Neeck-Smith. In the third row from top, Steve Evans, left, is shown during Land Title Systems Committee meeting; LaNette Zimmerman (right) and D'Anne Anderson go over a draft at the Education Committee meeting; and Dennie Rowland, right, presents a creative viewpoint during the Public Relations Committee meeting.



Members of the Education Committee and staff preview the 1996 Land Title Institute Twenty-Fifth Anniversary wearing appropriate caps.

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## AmeriTitle Wins Award for Quality

AmeriTitle, policy-issuing agent of Titor Title Insurance Co. based in Columbus, OH, has received the Quality Performance Award from its parent for maintaining the highest standards from 1990 through 1994.

Only 12 agents from a network of some 1,200 received this award, which recognizes a leading performance level for five consecutive years.

## Fidelity Acquires Assets from WTC

Fidelity National Financial, Inc., parent of companies including Fidelity National Title Insurance Company, has announced a transaction where the concern is purchasing from WTC Financial 100 percent of the stock of World Tax Service, Inc., and

62.4 percent of the stock of Spatial Data, Inc., along with certain assets of World Title Company.

In addition, Fidelity National Financial has announced acquisition of the common stock of Butte County Title Company, an underwritten title agency with operations in Butte County, CA. The acquired concern now operates as a subsidiary of Fidelity, doing business under the name of Butte County Title.

## Washington Area Lawyers Addition

Lawyers Title Corporation, parent of Lawyers Title Insurance Corporation, has announced the acquisition of Universal Title, Rockville, MD, and RGS Title of Oakton, VA. Universal has nine offices in the Washington, DC, metropolitan area, while RGS Title has five locations in northern Virginia.

According to Lawyers Title, the companies are operating under their previously

existing names as subsidiaries of the new owner. The existing management is being retained.

Principals Richard C. Ridgway and James M. Griffin of the Rockville law firm of Ridgway and Griffin, Chartered, began operation of Universal Title in 1982 and in 1988 extended operations into Virginia by forming RGS Title with a third principal, Frederick L. Shreves II.

## New Windows System Ready

AIM for Windows Version 1.1 now is available from Landata Systems, Inc., after extensive testing by users, the company has announced. In addition to other improvements, Release 1.1 adds the capability to import and export documents.

Release 2.0, scheduled for September, adds escrow accounting and closing functions, as well as support for large PC networks.



## We're putting in some new additions

Sulcus's new Series V software now offers you the widest range of real estate closing programs under one roof.

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Our original products are still around (although much improved) after 15 years! Today, we still develop our products with that same care and attention to detail.

So, if you want automation that you can feel at home with now, and plan to build onto as your needs grow, look to Sulcus.

Call 1-800-245-7900 now to learn more about how Sulcus can help you build your business.



## NAMES IN THE NEWS



Walsh



Moore



Scott



Schuller



Laux



Dutton



Allen



Wanich



Pruitt



Noe



Angelo



Poitevin



Stout



Flory



Potter



Smith

**Patrick F. Stone** has been named president and chief operating officer, Fidelity National Title Insurance Company, as well as executive vice president of its parent, Fidelity National Financial, Inc.

In his new capacity as Fidelity National Title Insurance, he oversees the operations of the company's underwriting subsidiaries on a national level.

**Stone** has spent more than 20 years in the title insurance industry and previously was president, Fidelity National Title Company of Oregon. He joined Fidelity in 1989 when the company purchased the Portland operations of Western Title Insurance Company.

**Gregory J. Walsh** has been promoted to vice president and general audi-

tor, Commonwealth Land Title Insurance Company and Transamerica Title Insurance Company, Philadelphia. **Steven R. Moore** is new vice president and Florida division agency manager for the companies with offices in Orlando. **William T. Scott** has joined Commonwealth as vice president and county manager, Sacramento, CA, and **Michael N. (Nick) Schuller** has been appointed vice president and county manager, Seattle.

For Transamerica Title in Michigan, **Daniel L. Laux** has been named branch manager, Lansing, and **Keith Dutton** is new county manager, Ann Arbor.

Among Commonwealth subsidiaries, **Mark C. Wanich** has been appointed president of Commonwealth Land Title

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Company of El Paso; **Ron C. Allen** has been named senior vice president and county manager, Rainier Title Company, Tacoma, WA, and **J. Michael Pruitt** has been designated vice president and general counsel, Commonwealth Land Title Company of Houston.

**Robert G. Noe**, vice president, regional counsel and Ventura (CA) County manager, First American Title Insurance Company, has been named president and corporate counsel of the company's First Exchange Corporation. Recently named vice president and state manager for First American are **Richard A. Angelo** (Maryland) and **Phillip A. Poitevin** (Mississippi).

**Patricia Stout** has joined The First American Financial Corporation, First American Title's parent, as associate corporate counsel, Santa Ana, CA, and **Richard W. Flory**, who has been with the company for over 14 years, has joined its national staff, working with the national underwriting team.

Two retirements have been announced by the First American organization. They are **Charles A. Potter**, chairman, First American Trust Company and member of the First American Title board, and **A. W. (Buzz) Smith**, regional vice president and Orange County (CA) branch manager.



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**G. Thomas Kirk, Jr.**, has been named vice president and area manager, Lawyers Title Insurance Corporation, Nashville, TN. Other recently announced vice presidents are **Glen M. W. Trowbridge** (also commercial transactions counsel), National Division, Los Angeles, and **John P. Savoca** (also branch manager) and **Marc I. Weiner** (also New York area counsel), White Plains, NY.

**Karl Schmitz III** has been appointed branch manager/counsel for the company, Tampa, FL, and **Kara A. Lobdell** now is counsel and senior sales representative, New York City. At Richmond corporate headquarters, **Debra J. Van-Buskirk** has been named manager of central residential services and **Holly H. Wenger** has been appointed associate corporate counsel. **Michael J. Moore** has been named regional claims counsel in the company's Tampa, FL, regional office, while **Jerald S. Leibowitz** now is assistant area counsel, Parsippany, NJ.

Among the Lawyers Title subsidiaries, **David L. Huffstetler** has been appointed manager and counsel, Lawyers Title of North Carolina, Raleigh, and **Anne C. Beckmann** has been named manager, plant center, Datatrace Information Services Company, Tampa, FL.

**Jacob M. Yonkman** has been promoted to Great Lakes regional counsel for the Chicago Title and Trust family of title insurers, with offices continuing to be in Indianapolis.

**L. Dawn Martin**, vice president of human resources, Investors Title Insurance Company, Chapel Hill, NC, has been elected to the company board of directors.

**Richard L. Flegal** has been promoted to assistant vice president and agency manager, T. A. Title Insurance Company, State College, PA. **W. Patrick Conners**,

## Fax on Demand Encounters Delay

Technical difficulties have delayed implementation of a fully functioning ALTA FAX on Demand service, which allows items to be automatically requested through a fax machine.

Present plans call for having the previously announced ALTA FAX on Demand operational later this year. In the meantime, items may be requested by calling the Association member toll free number, 800-787-ALTA.

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Vice President  
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"Our title insurance operation is small and until recently, we weren't computerized. We could only handle two to three commitments per day. Then we started using AIM (Automated Information Management) for Windows, Landata's title and escrow automation system. Now we can get out all the commitments that come in each day—10 to 12 easily.

"Formatting a document is so easy, anyone can do it. I like the step-by-step process, the ability to view windows, and the flexibility to create impressive reports. Besides saving us time, the system grows in value to us everyday because it stores all the information we just entered for future use.

"The Software is easy to learn and use because it is self-explanatory and logical, mirroring the way we work. Even computer beginners can quickly become expert at it. Also, Landata's support has been excellent. When we call, we get help right away. Using AIM for Windows has made me look good to my company."

Across 42 states, Landata currently helps more than 7,000 users with today's most advanced title and escrow automation systems. For a no-cost, no-obligation demonstration of any of our products, call David Tandy, CIO, or Kristene Edwards, Account Manager, at (713) 871-9222.

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most recently chief credit policy officer of Corestates Bank of Delaware, NA, has been engaged to provide independent counsel in corporate development for the company.

**Thomas E. Knight** has joined Metro-

politan Title Company, Howell, MI, as marketing representative.

**Domenic V. Aiossa** has been appointed business development officer for Fort Dearborn Land Title Company, Wilmette, IL.



Recently designated as certified land title professionals by the Pennsylvania Land Title Association are, from left, William M. Lally, Robert F. Musser and Kenneth C. Sorensen.

## Conmy Becomes PLTA President

James F. Conmy, Lawyers Title Insurance Corporation, Philadelphia, has been installed as president of the Pennsylvania Land Title Association.

Other new PLTA officers: John J. O'Driscoll, Commonwealth Land Title Insurance Company, Philadelphia, vice president; Mark S. Korman, Conestoga Title Insurance Co., Lancaster, treasurer; and Anne L. Anastasi, Genesis Abstract, Inc., Hatboro, secretary.

## Morris Brothers Texas Honorees



C. Morris



S. Morris

Carlson Morris and Stewart Morris in October will be inducted into the Texas Business Hall of Fame as brothers who have built Stewart Information Services Corporation into a strong and stable national operation with some 125 subsidiaries.

Carlson Morris is chairman of Stewart Information Services and executive committee chairman of Stewart Title Guaranty Company. He is the father of ALTA Title Insurance Underwriters Section Chairman Malcolm Morris, who is president of Stewart Title.

Stewart Morris is president of the parent company and executive committee chairman of Stewart Title Company.

Carlson Morris has handled legal matters, government relations and supervision of the investment portfolio for the company, for which he began working as an office boy when he was 10 years old. He joined the organization full time in 1939 after receiving his law degree from the University of Texas.

Stewart Morris has been responsible for the management of field personnel and expansion of the business into other areas. He also began work for the organization as a 10-year-old office boy, eventually earning his law degree from Southern Methodist University in 1943.

In announcing the selection, the Found-

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- ✓ New For 1995: Ownership Map of the Title Insurance Industry

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- ✓ 43 Ratios Rank Each Company's Financial and Market Performance
- ✓ State By State, Company By Company: Premiums Written & Losses Paid
- ✓ Detailed, Accurate Assessments Of Each Company -- Regardless of Size

## CDS Performance of Title Insurance Companies

Editor: Lawrence Kirwin

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dition saluted them as "two brothers who together built Stewart Title and its related businesses into an organization that set a standard for entrepreneur-based decentralization systems and has maintained remarkable stability in a volatile industry."

The Foundation is a non-profit entity that recognizes exceptional achievement by Texas business people and awards scholarships to graduate business students attending colleges and universities in the state.

## New Agreement For Genesis, ACC

Genesis Data Systems and ACC/Orlando have announced a marketing agreement under which Genesis will re-sell ACC's title plant and TEAMscan document imaging products.

ACC also will develop an interface between the Genesis starter index tool and the TEAMscan document storage and retrieval system, which Genesis will sell.

The two concerns report over 6,000 users of their products in title companies across the nation.

### ALTA TO HILL HEARINGS

*continued from page 4*

delivery charges that could be imposed by third parties at settlement, and kept closing agent settlement fees out of calculation of the Truth-in-Lending finance charge.

In the other photograph, Committee Member Jan Alpert (Lawyers Title) testifies at separate hearings of the Commerce Subcommittee of the House Commerce Committee on H.R. 1317, the Financial Institutions Reform Act of 1995, where she said the measure would maintain state insurance regulatory authority so governmental supervision could be better fitted to widely-varying differences in laws and market customs across the nation. The title insurance executive pointed out that state regulation is focused on protecting consumers while federal regulators currently emphasize the authorization of bank expansion into insurance with an eye toward enhancing profitability for the financial institutions.

Although ALTA efforts later proved successful in efforts to secure a legislative provision in H. R. 1317 prohibiting national banks from selling and underwriting title insurance, the Banking Committee added an amendment that would allow bank holding companies to buy or establish insurance companies and agencies.

At this writing, the battles continue.



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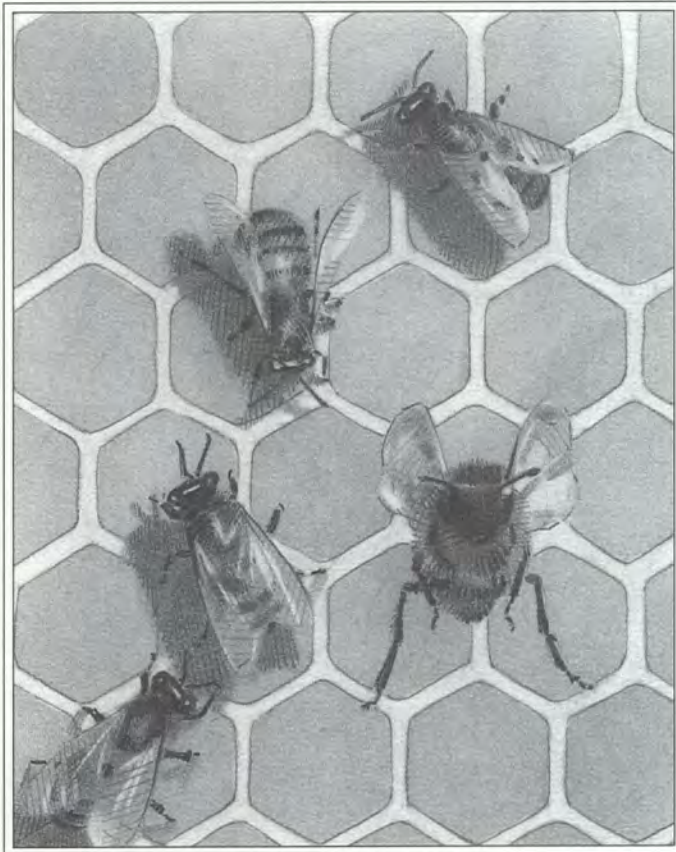
What makes ProForm amazing is that it's so easy to learn and use, with expert support only a toll-free phone call away. You enter the data only once, and ProForm does all the calculations automatically and generates the closing and title documents, including the HUD-1, Title Commitments and Policies, Disbursements Summary, checks and more.

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### CONVENTION DALLAS

*continued from page 16*

ter and former Houston Oiler.

Tennis prizes also will be awarded at the Saturday breakfast event. The tournament will be round-robin.

#### Tours Designed to Attract

Convention tours and leisure time activities are designed to complete the Dallas experience. Profiles follow.

West End Historic District, including turn-of-the-century storefronts and warehouses that have been transformed into restaurants, shops and nightclubs, will be served by an ALTA convention shuttle Wednesday through Saturday. Vintage street lights, horse-drawn surreys and street performers add to the nostalgia and fun.

North Park Center, location of over 160 stores, restaurants, and theaters, is the Dallas No. 1 address for world class shopping. A shuttle from the Anatole visits North Park on a daily basis.

Cowboys and Culture in nearby Fort Worth includes visiting cultural and historic districts, which will feature viewing historic art objects.

The JFK Tour provides an overview of the assassination that encompasses the former Texas School Book Depository Building, Dealey Plaza, Texas Theatre, and Dallas Police and Court Building.

Dallas Landmark Tour reaches many historic, architectural and artistic points of interest that together show the vivacity of the host city.

Chefs and Restaurants. Behind-the-scenes visits to three of the superlative Dallas restaurants, including an introduction to their chefs and a ringside seat for preparation of their signature cuisine.

High Tea at Lady Primroses will complete this popular swing through Turtle Creek and the Highland Park area built during the twenties. Upscale shops abound.

The Design Experience moves through the Dallas Design District, nationally prominent as a wholesale marketplace for high quality domestic and international home furnishings and accessories. Browsing through showrooms and a special demonstration by a noted designer are highlights.

#### Deadline September 13

Registrations must be received in the ALTA Washington office by September 13 to qualify for the early discount. Sleeping room reservations must reach the Anatole by September 12. Questions may be directed to the ALTA Meetings Department at the Association member toll free number—800-787-ALTA. ✈

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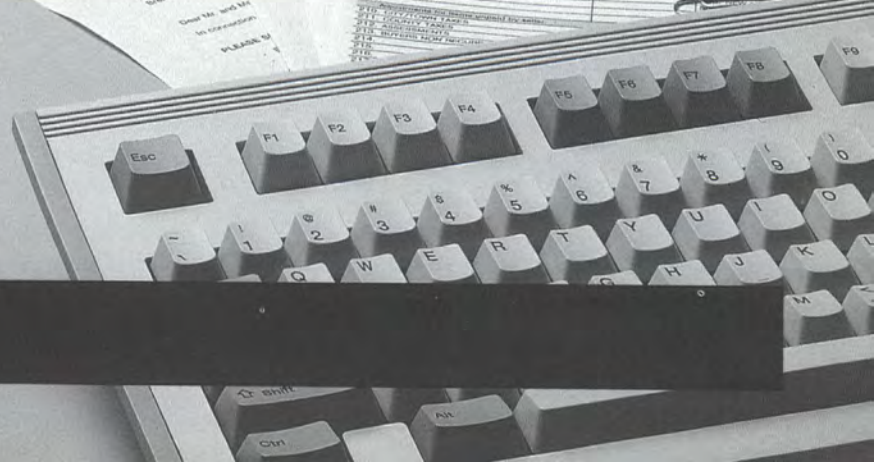
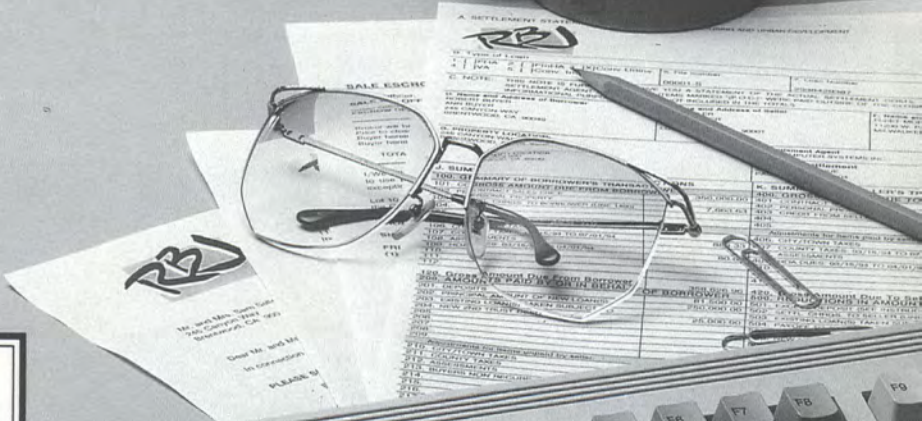
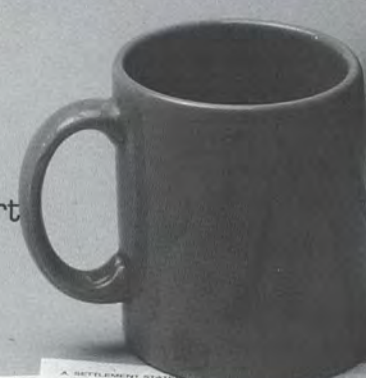
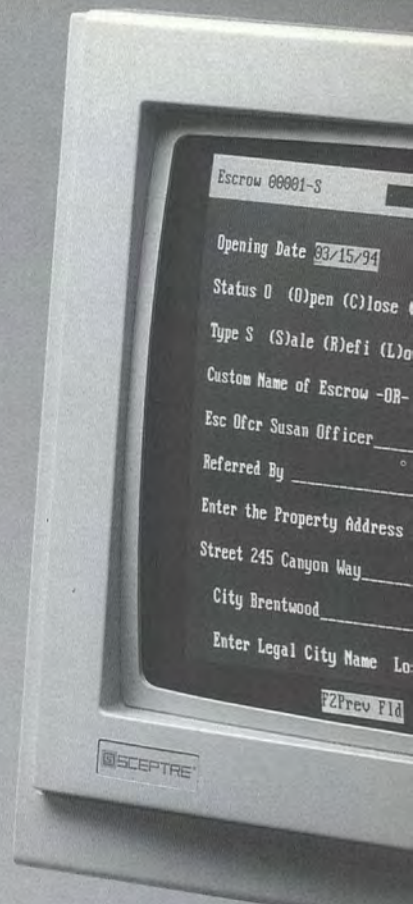
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## Pollay Featured as NAREE Panelist



ALTA Treasurer Richard L. Pollay (Chicago Title), left, talks with fellow panelists before a presentation on the future outlook for the residential market during the National Association of Real Estate Editors Annual Convention held in Washington, DC. Also shown are National Association of Realtors President Gill Woods, Jr., right, and Coldwell Banker Corporation President Chandler B. Barton. Following a lively program discussion that also featured other Realtor panelists, the group participated in a press conference style question-and-answer period with NAREE member journalists and others in attendance.

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## Bayer Succumbs In Leavenworth

Services and burial were at Fort Leavenworth (KS) National Cemetery for William Steele Bayer, 63, executive vice president of McCaffree-Short Title Company, who died in a Leavenworth hospital.

Before joining McCaffree-Short Title in 1983, he completed a 27-year Army career with the rank of colonel. His military service included two combat tours in Viet Nam and among his decorations are the Distinguished Service Medal, the Silver Star, the Legion of Merit (with Oak Leaf Cluster), the Distinguished Flying Cross, the Bronze Star and the Air Medal.

Survivors include his wife, Charlotte Richardson Bayer, and two daughters.

## 1995 AFFILIATED ASSOCIATION CONVENTIONS

### August

20-23 **New York**, The Sagamore, Lake George, NY

24-26 **Wyoming**, Holiday Inn, Gillette, WY

### September

6-8 **Nebraska**, Ramada Inn, Kearney, NE

7-9 **Missouri**, Holiday Inn Executive Center, Columbia, MO

7-10 **Nevada**, Hilton, Reno, NV

8-10 **DC-MD-VA**, Hilton, Williamsburg, VA

14-15 **Wisconsin**, Lake Lawn Lodge, Delavan, WI

14-16 **Dixie**, Eola Hotel, Natchez, MS

14-16 **North Dakota**, Site to be announced, Watford City, ND

17-19 **Ohio**, Marriott Society Center, Cleveland, OH

21-24 **Washington**, Chateau Whistler Resort, Whistler, British Columbia, Canada

### October

29-Nov. 1 **Florida**, PGA National Resort, West Palm Beach, FL

### December

3-4 **Louisiana**, Omni Royal Orleans Hotel, New Orleans, LA

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## Title News Offering Classified Ads

*Title News* now offers "Marketplace," a classified advertising section for reaching the nationwide land title industry audience. The department features placements on situations wanted, help wanted, for sale and wanted to buy.

Basic format for the section is single column, text advertising placements. A box may be placed around an ad for an extra charge, and there is a discounted rate for three or more consecutive placements in the magazine. **Made-up** examples are shown below to provide an idea of style.

Rates for situations wanted or help wanted ads are \$80 for first 50 words, \$1 for each additional word, 130 words maximum (per insertion rate drops to \$70 for first 50 words plus \$1 for each additional word, for 3 or more consecutive placements). For sale or wanted to buy ads have a rate of \$250 for 50 words, 130 words maximum (per insertion rate drops to \$225 for 50 words, \$1 for each additional word for 3 or more consecutive placements).

Placing a box around an ad costs an extra \$20 per insertion for help wanted or situations wanted, \$50 per insertion

for sale or wanted to buy.

Those desiring to place classified advertising in the new "Marketplace" department should send ad copy and check made payable to American Land Title Association to "Marketplace-Title News" care of the Association at Suite 705, 1828 L Street, N. W., Washington, DC 20036.

### Sample: Help Wanted

LEAD ABTRACTER wanted for three-county Kansas operation. Must be certified or comparably qualified. Send resume to *Title News* Box H-326.

### Sample: Situations Wanted

COUNTY MANAGER for northwestern title underwriter branch seeks competitive opportunity with improved growth potential. Excellent fast track record, references. Write *Title News* Box E-418.

### Sample: Sale

TITLE PLANT for sale, Florida location. Microfilm, documents and tract books cover county for over 50 years. Computerized posting. *Title News* Box S-135.

### Sample: Wanted to Buy

WANTED TO BUY: Used SOUNDEX system, needed by Indiana title agency. Particulars in first letter. *Title News* Box B-247.

one of 21 homes built during a week-long effort by Habitat for Humanity in Los Angeles.

In addition, Chicago Title covered title insurance, closing and escrow services and the division donated \$25,000 for the project. The title underwriter partnered with GMAC/RFC to sponsor the house.

Those from the title organization who pitched in during the construction work include Chicago Title President and ALTA Governor Richard L. Pollay and wife Linda, Jim Naylor, William Halvorsen, Dave Conrad and Gail Sikorski.

## Robert West Dies

Services and burial were in West Goshen, PA, for Robert J. West, 65, founder and president of Manito Title Insurance Co., West Chester, PA, who died after suffering a heart attack at his home there.

He had founded Manito Title in 1970, and was an active member of the Pennsylvania Land Title Association.

## 1995 CALENDAR OF MEETINGS

### September

26 **ALTA Regional Seminar** (co-sponsored by Missouri Land Title Assn.), Adam's Mark Hotel, Kansas City, MO

### October

18-21 **ALTA Annual Convention**, Loews Anatole Hotel, Dallas, TX

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## TUG Becomes ATIM; 1996 Meeting Set

Members of the Title Plant Users Group (TUG) have voted to change the organization's name to more accurately reflect its makeup. The new name is Association for Title Information Management (ATIM).

ATIM's 1996 conference will be held May 7-9 at the Le Meridien Hotel, San Diego.

Those interested in ATIM membership are invited to contact the organization's secretary, Jay Sibley, 2600 Citadel Plaza Drive, Suite 200, Houston, TX 77008-1358, telephone (713) 880-2600.

## Chicago Title Helps With Habitat Home

Volunteers from Chicago Title Insurance Company and its National Mortgage Service Division recently picked up their hammers and other tools to help construct

# Get with THE Program!

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