Spring 2023

PRAIRIE TITLE

ASSURANCE

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News from Prairie Title

We're There for You

By Frank Pellegrini - Prairie Title CEO

The real estate economy is a hot topic as we navigate our way through 2023. Since many prognosticators have weighed in with economic predictions, I will let them have that field and discuss another topic in this column, namely: How those of us in the title insurance field continue to work day in and day out to protect your interests and those of your clients.

For instance, ALTA recently published major revisions to the best practices title professionals rely on every day. The revisions have been made with the specific objective of allowing title agents and direct operations to continually improve their practices and procedures to ensure financial and data security as well as operational stability, and to provide lenders and other constituents with assurances that their needs are being fulfilled by these efforts.

Though not reflecting the full extent of the proposed changes, the revisions that have received significant areas of attention include:

- **Escrow Accounting:** Updates to the treatment of non-settled funds and outstanding file balances, the use and treatment of fintech applications, escrow funds training, use of the ALTA Outgoing Wire Preparation Checklist and the use of wire verification services.
- **Protecting Non-public Personal Information (NPI):** Updates to the physical protection of NPI, inclusion of network and cloud security of NPI, further details on coverage of business continuity and disaster recovery plans, further details on the required oversight of service providers and third party systems, and requiring processes for addressing breaches or unauthorized access to NPI.
- **Settlement:** Updates include establishing "consumer objectives" for the training of staff, disclosure of Affiliated Business Arrangements, establishment and implementation of procedures related to closing documents, requirements for internal and external signing professionals, selection of Remote Notarization Platforms and standards for recording procedures.

While we update our best practices, ALTA and its members, including Prairie Title, are working to help create defenses against developing cyber-theft trends.

Cyberattacks, particularly wire fraud through business email compromise, remain a major concern for our industry. Attempted attacks have increased significantly, according to a 2022 survey by ALTA, with 46% of respondents saying their employees receive at least one email a month attempting to change wire or payoff instructions.

With the continuing rise in wire fraud attempts, ALTA has developed tips you can share with your customers on how to avoid it. (See box at right).

As well, ALTA and its members are working closely with FHFA and other agencies to help tailor the development of Financial Technology in the best interest of consumers.

Returning to predictions, we've included several forecasts from reliable, well-respected sources in this issue. However the real estate economy plays out in 2023, I promise that Prairie Title will always be there for you and your customers.

1. Confirm all wiring instructions in person. Always pick up the phone: it's important to always confirm by phone with a known number before transferring any funds.
2. Don't ever email your financial information.
3. If you're giving your financial information on the web, make sure the site is secure. You can look for a URL that begins with "https." Instead of clicking on a link in an email to go to an organization's site, look up the real URL, and type in the web address yourself.
4. Be cautious about opening attachments, and downloading files from emails, regardless of who sent them, as these files can contain malware and can weaken your computer security.
5. Keep your operating system browser and security software up to date.
6. If you are a victim, the most important thing you can do is act quickly. Contact your financial institution immediately once you realize what has happened, and request that they contact the financial institution where the transfer was supposed to be sent.

IN THIS ISSUE

Meet the Prairie Team

Prairie Title's excellence is directly attributable to the quality of our people. Our professional staff members have decades of experience in the industry, and they are dedicated to the notion that great customer service begins with them. As a result, our clients have easy access to dedicated real estate professionals in an environment where decisions are made quickly, but not imprudently.

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PRAIRIE TITLE

Alert: Vacant Property Fraud

Real estate transactions have been a prime target of cybercrime over the past decade, and there is little sign of change in this focus, even as the housing market slows. Instead, fraudsters continue to evolve their scam and money laundering tactics to avoid detection.

The latest trend involves involve bad actors posing as owners of these vacant lots or unencumbered properties.

This trend began to emerge before the winter holidays. A title agency in North Carolina reported a loss of $33,000 from a vacant lot transaction. The title agency and the real estate agent were scammed by an imposter seller. Luckily, it was reported quickly, and they were able to work with the U.S. Secret Service to freeze and return the funds.

Here's how these new vacant property scams work:

- Public records are searched to identify real estate that is free of a mortgage or other liens, often including vacant lots or rental properties. The identity of the landowner is also obtained through this public records search.
- Posing as the property owner, the scammer contacts a real estate agent to list the property for sale. All communications are through email and digital means and not in person.
- The listing price of the property is typically below the current market value to generate immediate interest in the property.
- The scammer quickly accepts the offer, with a preference for cash sales.
- At the time of closing, the scammer refuses to sign documents in person and requests a remote notary signing. The scammer impersonates the notary and returns falsified documents to the title company or closing attorney involved in the transaction.
- The title company or closing attorney transfers the closing proceeds to the scammer. The fraud is typically not discovered until the time of recording of transferring documents with the applicable county.

All title companies have been advised to protect themselves and their clients from this latest scam by independently searching for the identity and a recent picture of the seller, requesting an in-person or virtual meeting to see their government issued identification, being alert when a seller accepts an offer price below market value in exchange for the buyer paying cash and closing quickly, and never allowing a seller to arrange their notary closing.

And, critically, we urge you to always use a trusted title company or closing attorney to coordinate the exchange of closing documents and funds.

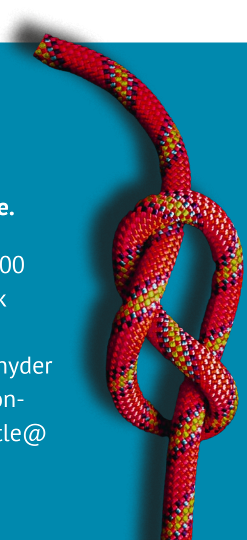
Have a Knotty Title Issue?

Consult the experts at Prairie Title. Whether you're an attorney or a lender facing a challenging title issue on a commitment we did not issue, we're here to help.

Just contact your Prairie Title pro who can offer a fresh perspective on the title challenge you face.

Our advice is free.

Call 708-386-7900 and ask for Frank Pellegrini, Maria Cristiano, Gary Snyder or Maureen O'Donnell. Or email: title@prairietitle.com



ALTA Submits Letter to FHFA Regarding Role of Tech in Housing Finance

ALTA recently submitted a letter in response to a request for information (RFI) issued by the Federal Housing Finance Agency, which is focused on the use of technology in the housing finance space.

In its letter, ALTA said that a thoughtful approach to the use of fintech for mortgage and real estate transactions is vital to mitigating risk. ALTA also outlined several initiatives the title industry has led to utilize technology and digital transactions to improve the customer experience.

"Our members provide insurance coverages that create certainty around homeownership, and prior to closing, conduct extensive search and examination services and take curative actions to clear title," ALTA wrote. "This certainty and title curative work provides the bedrock for the U.S. housing finance economy. Additionally, the industry's duty to defend, which means a title insurance company will handle litigation and pay a homeowner's defense costs, further demonstrates how ALTA members help consumers protect their property rights."

When it comes to innovation, ALTA told the FHFA that the primary focus should be on initiatives that:

- improve the overall experience for the consumer
- reduce costs in the process or
- lower the risk to the parties involved.

ALTA recommended the FHFA put particular emphasis on innovation initiatives that address the needs of all homebuyers and protect the privacy of consumers. Innovation that evades established regulatory frameworks or compromises security or privacy should not be considered, according to ALTA.

ALTA informed the FHFA of several technological advancements the title industry has made over the past decade to improve processes and reduce search and turn times. For example, while curative time can vary, title search-related innovation has decreased the time to complete a title search from days or weeks to hours—and in some areas—minutes. ALTA also pointed out that the cost for title insurance has decreased 7% since 2004.

Commercial Corner

Multifamily Housing Market to Weaken in 2023 while Remodeling Market to Remain Solid

Multifamily starts are predicted to fall in 2023, following an unsustainable high level of production last year, according to the National Association of Home Builders (NAHB). Meanwhile, the remodeling sector remains on solid ground and will do better than the single-family and multifamily markets in 2023.

Multifamily construction boomed in 2022, up an estimated 15% from the previous year and exceeded a 500,000 annual pace – the first time since the Great Recession. However, NAHB is projecting that multifamily starts will fall 28% this year to a 391,000 total and will stabilize in 2024 at about 374,000 starts.

"Slowing rent growth, rising unemployment, tightening commercial real estate financing conditions and a substantial amount of supply in the construction pipeline have caused a large backlog of multifamily developments," said NAHB Assistant Vice President for Forecasting and Analysis Danushka Nanayakkara-Skillington at a press conference held during the NAHB International Builders' Show in Las Vegas.

There are currently 943,000 apartments under construction, up 24.9% compared to a year ago (755,000). This is the highest count of apartments under construction since 1974.

NAIOP: Impact of Commercial Real Estate Continues to Grow

The impact of new commercial real estate development in the U.S. continues to grow, according to the annual Economic Impacts of Commercial Real Estate research study conducted by the NAIOP Research Foundation.

The combined economic contributions of new commercial building development and the operations of existing commercial buildings in 2022 resulted in direct expenditures of $826.9 billion and the following impacts on the U.S. economy:

- Contributed $2.3 trillion to U.S. gross domestic product (GDP).
- Generated $831.8 billion in personal earnings.
- Supported 15.1 million jobs.

Despite the challenges of office-linked retail in urban-core markets, demand for traditional retail space has rebounded, and overall occupancy rates have recovered to pre-pandemic levels.

Altogether, commercial, residential, institutional and infrastructure development and operations of existing commercial buildings contributed $6.5 trillion to the U.S. economy and supported 37.7 million jobs in 2022, NAIOP says.

Looking Forward: How NAR and NAHB View the Residential Economy

Lawrence Yun, NAR chief economist and senior vice president of research, forecasts that 4.78 million existing homes will be sold and prices will remain stable in 2023. Yun unveiled the association's forecast during NAR's fourth annual year-end Real Estate Forecast Summit.

Yun predicts home sales will decline by 6.8% compared to 2022 (5.13 million) and the median home price will reach $385,800 – an increase of just 0.3% from this year ($384,500).

"Half of the country may experience small price gains, while the other half may see slight price declines," Yun said. "However, markets in California may be the exception, with San Francisco, for example, likely to register price drops of 10–15%."

Yun expects rent prices to rise 5% in 2023, following a 7% increase in 2022. He predicts foreclosure rates will remain at historically low levels in 2023, comprising less than 1% of all mortgages.

Yun forecasts U.S. GDP will grow by 1.3%, roughly half the typical historical pace of 2.5%. After eclipsing 7% in late 2022, he expects the 30-year fixed mortgage rate to settle at 5.7% as the Fed slows the pace of rate hikes to control inflation. Yun noted this is lower than the pre-pandemic historical rate of 8%.

NAHB's View

The National Association of Home Builders, meanwhile, believes the housing recession that began in 2022 will bleed into 2023 as elevated inflation and mortgage rates, coupled with stubbornly high building material construction costs, continue to take a toll on the housing industry and are expected to push the overall economy into a mild recession this year. However, the second half of 2023 could lead to a turning point for housing and the economy.

"With interest rates projected to normalize in the second half of 2023 as the Federal Reserve taps the brakes in its fight against inflation, the pace of single-family construction will bottom out in the first half of 2023 and begin to improve in the latter part of the year," said Robert Dietz, chief economist of the NAHB, during a housing and economic outlook press briefing at the 2023 International Builders' Show. "This forward momentum will lead to a calendar year gain for single-family starts in 2024."

2022 was the first year that single-family starts declined in 11 years, falling an estimated 12% to 999,000 units. NAHB is projecting that single-family production will fall to 744,000 units this year before rebounding to a 925,000 annual pace in 2024. The 2022 and 2023 declines appear dramatic because production was running at a very solid level above a 1.1 million annualized pace through the first quarter of 2022 before beginning a steep decline as mortgage rates rose rapidly and the housing market weakened.

The medium-term outlook calls for single-family home building to lead the recovery later in 2023 and going into 2024, as interest rates fall back on a sustained basis from peak rates. But while demand will return, supply-side issues will become worse—a lack of lots, growing concerns about acquisition, development and construction financing, and building material constraints.

NAR Finds Share of First-Time Home Buyers Smaller, Older Than Ever Before

When compared to a year ago, the share of first-time home buyers dropped to a record low, while the age of a typical first-time buyer increased to an all-time high. The median distance buyers moved from their previous homes more than tripled from the distance registered the previous four years as the shares of homes purchased in small towns and rural areas reached record highs.

Housing affordability and inventory challenges significantly impacted when, where and how consumers purchased homes, according to NAR's 2022 Profile of Home Buyers and Sellers, an annual report released today and published since 1981, which analyzes the demographics, preferences and experiences of buyers and sellers across America.

Highlights

- At just 26%, the share of first-time buyers was the lowest since NAR began tracking the data. The typical first-time buyer was 36 years old – an all-time high.
- The median distance between the home that recent buyers purchased and the home from which they moved was 50 miles – a record high and more than a three-fold jump from a median of 15 miles from 2018 through 2021. The shares of homes purchased in small towns (29%) and rural areas (19%) were all-time highs.
- Nearly nine in 10 buyers (86%) and sellers (86%) purchased or sold a home using a real estate agent or broker.

Chicago Water Certification Progress Noted

By Mary Pellegrini, President, Illinois Land Title Association

Following a December Illinois Land Title Association working group meeting, the City of Chicago met with ILTA on January 4th to discuss ongoing water certification issues. The main working group goals highlighted a desire for the city to adhere to a 10-day turnaround as much as possible and to increase communication, especially where there is possible delay in the process.

As a result of the working group's discussions and meeting with the city, ILTA notes some areas of progress as well as important items the city has agreed to follow up on.

Background

The City of Chicago acknowledges water certification problems since the fall of 2022 that resulted from staffing issues and a 20% increase in applications; however, the city also confirmed that increased staff hiring was implemented in the 4th quarter of 2022 and that training for new staff is well underway.

While the city's November and December stats did indicate an average turnaround approaching 10 days, the city also appreciated the need for more work and communication.

Recommendations to Implement

As structural issues continue to be worked on, the city did confirm several items that may help industry interactions in the near term:

- Contact information provided on applications should include the individual able to provide direct access to the property for a meter reading;
- phone calls from the city for purposes of scheduling or seeking access to property will be from a number that contains "312-74#-####";
- if there are issues with scheduling or access to property, city staff now has a goal of updating portal notes within 3 days of a meter reading problem;
- once the meter reading is completed, city staff now has a goal of updating portal information within 3 days; and
- while in-person customer service continues to be available, the city is encouraging use of the portal's notes to communicate any issues.

Issues Pending Resolution

Based on ILTA's working group discussions and meetings with the city, there will be continued work and clarifications sought in the near future. Although not an exhaustive list, some issues that the city is checking include changes in scheduling city staff for meter readings to potentially address its impact on process delays, and consistent communication through portal notes regarding meter reading issues to potentially avoid order cancelations and reapplications.

As we work with the city on the above items, ILTA will also follow up with the city on additional items including but not limited to:

- Non-metered accounts
- Dollar amount discrepancies
- Overall transparency

If you have questions about this or other Illinois land title issues, please feel free to contact me at 708-386-7900 ext. 1306, or mpellegrini@prairietitle.com.

Bipartisan Concern in Washington Regarding Title Insurance Alternatives

U.S. Reps. Blaine Luetkemeyer (R-MO) and Brad Sherman (D-CA) recently forwarded correspondence to the Federal Housing Finance Agency (FHFA) Director Sandra Thompson, noting concerns regarding the potentially harmful impact of title insurance alternatives.

"The plans aim to lower closing costs and make homeownership more accessible for low- to moderate-income and minority homebuyers," the legislators wrote. "However, these initiatives appear to risk exposing these consumers to harm by not providing the same consumer protections as title insurance. They also raise concerns about the safety and soundness of the Enterprises (Fannie Mae and Freddie Mac), increase taxpayer risk which FHFA must consider as the GSEs' (government-sponsored enterprises) regulator and conservator."

Luetkemeyer and Sherman said the plans position low and moderate-income and minority borrowers at risk of going uninsured against average home buyer common title defects.

"As a result, the attorney opinions imperil the ability of these consumers to be compensated for title issues," the legislators concluded. "Attorney opinions increase the likelihood these precarious homeowners lose their house and lose the ability to build wealth. The differences between attorney title opinions and title insurance can be confusing to policymakers, mortgage lenders, and legal practitioners. We expect FHFA to address these concerns in a timely manner, prior to approving the expansion of any Enterprise closing cost pilot, in order to give Congress the opportunity to engage further on this important matter."

In our view, these alternative title products increase risks which are ultimately shifted to both lenders and consumers. Should a title issue arise on a property covered by an attorney opinion only, the buyer would need to prove negligence on the part of the attorney to pursue a claim.

If negligence is not proven, a claimant would likely need to pay the legal costs involved to litigate the title matter. Additionally, consumers could be pushed into foreclosure, as that is a condition to make a claim under terms of alternative products currently in the market. By contrast, title insurance policies are backed by statutorily required financial reserves to cover future claims risks.

American Land Title Association
Protect your property rights

ALTERNATIVE TITLE PRODUCTS AND THE RISK TO LENDERS

Title insurance protects a lender's security interest in a property by ensuring that its lien has priority over others and is enforceable. Unlike alternative products, including attorney opinion letters, title insurance goes beyond a public records search, providing the most comprehensive protection.

ALTERNATIVE PRODUCTS INCREASE LENDER RISK

- Lenders considering the use of attorney opinion letters or other alternatives must understand the risks they are taking on by not getting title insurance. Attorney opinions, in providing more limited coverage of risks, represent a shifting of risk to the lender, not an elimination of the risk.
- Title insurance provides an underwriting service to mortgage lenders to ensure the borrower has clear ownership rights to the property, free of any other claims to ownership.
- Historically, lenders have preferred the protection of a title insurance policy because it provides strong protections and mitigates risk. In fact, the protections afforded by title insurance actually replaced attorney opinion letters as the realities of risks experienced from a static examination of the title records became clear.
- One sizable risk is related to items not discoverable in a public records search like federal tax liens, mis-indexed items or HOA liens. An attorney opinion letter does not cover items not shown in a public records search.
- Another important example of the difference in coverage is fraud or forgery of title documents. Title insurance provides coverage when a seller's deed was forged or there was fraud with the previous owner's will. An attorney opinion letter does not.
- Unlike an attorney opinion letter, title insurance provides lenders with a defense—including all attorneys' fees and costs—in a lien priority dispute or other matter covered by the policy.
- Importantly, title insurance policies are also backed by statutorily required financial reserves to cover future claims risks.
- Critically, unlike title insurance, attorney opinion letter alternatives could push more consumers into foreclosure since that is a condition to make a valid claim under the terms of these alternative products currently in the market.

LENDERS CAN'T FORGET ABOUT HOMEBUYERS

- Should a title issue arise on a property covered by an attorney opinion only, the buyer would need to prove negligence on the part of the attorney to pursue the claim with them.
- If not proven, a claimant would likely need to pay the legal costs involved to litigate the title matter, posing a financial burden and a significant risk.

During the last financial crisis, we unfortunately witnessed several systemic financial problems caused by shortcuts to well-established processes. If that crisis taught us anything, it is that strong underwriting protects lenders and consumers alike—and title insurance provides a key part of this due diligence.

American Land Title Association
Protect your property rights

homeclosing101.org