



**Wednesday, October 23, 2019
3:30 PM – 4:45 PM**

Seminar 5

**Basics of Title Insurance Double Feature:
Fantastic Endorsements and Where to Find Them
Apocalypse Now (?) – The Interaction of Blockchain with the Title
Insurance Industry**

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The Basics of Title Insurance

- ✓ Preliminary Report
- ✓ ALTA Form Commitments
- ✓ Proforma Policies
- ✓ Title Insurance Policies

Fantastic Endorsements

The function of Title Insurance Endorsements

- To address exceptions to coverage in either the policy jacket or Schedule B of the policy, such as
 - Deletion of arbitration provisions in the policy jacket
 - Provide some coverage for items excepted in Schedule B
 - ALTA 9 series as to CC&R's and Private Rights
 - ALTA 28 series as to encroachments over boundaries or easements

Fantastic Endorsements

The function of Title Insurance Endorsements

- To provide additional coverage as to matters that are not necessarily related to title to the property, such as:
 - Zoning via the ALTA 3 series
 - Access and Utilities via the ALTA 17 series
 - Gaps or strips of land between otherwise contiguous parcels

Fantastic Endorsements

- **For Shopping Center Projects**
 - ALTA 9 series for owners where project have CC&R's and other covenants in development agreements
 - ALTA 19 series for owners where the project contains multiple parcels
 - ALTA 28 Series for project with encroachments over boundaries or upon easements

Fantastic Endorsements

- **For Shopping Center Projects**
 - ALTA 34 where a project has an identified risk that cannot be addressed by a specific form of endorsement
 - ALTA 15 series for an owner acquiring an interest in real estate via a purchase of all or a part of the owning entity
 - ALTA 16 for project with a portion of the financing that is structured with a mezzanine loan



TECHNOLOGY AND THE VALUE OF TITLE INSURANCE

INTRODUCTION: THE ISSUES

- Discussions of technology, like blockchain, as replacement for title insurance.
- Claims of curative-free closings, algorithmic underwriting, and immediate loss payments.



PUBLIC RECORDS/TORRENS

- Public records systems.
 - Race to court house.
- Torrens systems.
 - Centralized ledger of all registered land.
 - Must obtain permission from the central authority to transfer title.

Type	Storage	Oversight	Verification
Pre-Recording	Decentralized	Little Oversight	Community Consensus
Public Records	Centralized	Little Oversight	Only form, not content
Torrens	Centralized	Complete Oversight	Ministerial discretion

INTRODUCTION: RISK REDUCTION AND ELIMINATION

- Insurers mitigate the risk of loss through several methods.
- The methods available to other types of insurers are not available to title insurers because of the type of risk insured against.

Insurer	Risk	Mitigation
CGL	Property damage/personal injury	Premium adjustment; deductibles; actuarial tables
Title insurance	Title defects	Search of the public records

RISK REDUCTION AND ELIMINATION

- Because other types of insurance insure against the risk of loss due to future events, much of its mitigation is geared towards preventing such events or determining the likelihood of an event occurring.
 - Example: non-smokers have a lower risk of health issues, so health insurers reduce premiums for non-smokers to encourage insured smokers to quit.
- Because title insurance insures against existing defects, there is no way to reduce risk other than by identifying known issues and either eliminating them or listing them as exceptions to the policy.

TECHNOLOGY AND INSURANCE

- If the primary method of minimizing risk is through the title search, then the company that conducts a search more accurately can protect itself better.
 - Better search → lower risk → more transactions can be insured
- Similarly, the company that can conduct searches faster while maintaining accuracy can draw more business.
 - Faster searches → faster closings → more transactions can be insured
- The application of technology, then, has been to increase the reliability and speed of real estate transactions.

TECHNOLOGY AND INSURANCE

- Because accurate and fast searches are the main driver of business, title insurance companies have been quick to introduce technology.
- Title plants began in the early 1900s.
 - Local governments are only required to maintain a grantor-grantee index.
 - Insurance companies invested in title plants to give local title offices faster access to the records and to establish different indices for cross-referencing purposes.
- Computer networking in the 1980s and 1990s made index searches even faster, and allowed access to records without being there in-person.
 - Insurance companies invested heavily in digitizing paper records for this purpose.

TECHNOLOGY NOW

- Cloud computing.
 - Storage and computation spread over a large ecosystem of servers, rather than storing information on a single local or remote network.
 - Allows title research to be completed rapidly and over a large area – this is why a national commercial office in Texas can obtain a preliminary report in Michigan.
- Escrow services.
 - Digital signatures.
 - Fingerprinting.
 - Document delivery.

TECHNOLOGY NOW: EXAMPLES OF FIDELITY'S INVESTMENTS

COMPANY	MARKET	TECHNOLOGY
EXOS Technologies	Real estate lenders, servicers, and buyers	Provides title searches, appraisals, closing status, and mobile loan servicing for lenders and borrowers
Nextace	Title agents and examiners	Uses predictive analytics to help title companies determine if property needs additional examination
ValueCheck	Lenders, title industry	Cloud-based software designed to enhance productivity for title industry through digital workflow and automation
Property Insight	Title industry	Digitization and management of land records and innovative search capabilities for title industry
SoftPro	Closing offices, lenders, vendors, and title agents	Real estate closing and title software that allows data to be shared between lenders, vendors, and title operations
SkySlope	Real estate brokers and agents	Cloud-based digital transaction management and closing solutions for real estate professionals
Real Geeks	Real estate professionals	Customer relationship management platform and marketing solutions for real estate professionals

THE FUTURE: BLOCKCHAIN

- The title insurance business remains closing transactions quickly and reliably.
- Customer communication and support are as important as ever.
- What changes is the methods that may be used and the underlying structures.
- Blockchain is one type of technology that has been proposed as a method to make title research faster and more reliable.

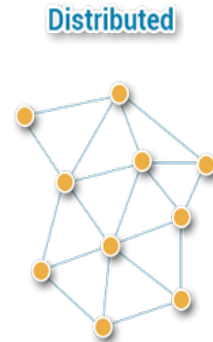
BLOCKCHAIN BASICS

- Decentralized / distributed recordkeeping of transactions of discrete units.
 - A ledger of every transaction that has ever occurred is copied across thousands of different computers, called nodes.
 - Each unit is assigned a unique identifier.
 - To validate a new transaction, a majority of the nodes must rapidly reach a consensus.
- The security of the blockchain is in the sheer magnitude of computation power that would be necessary to falsify a transaction.

BLOCKCHAIN: CENTRALIZED V. DISTRIBUTED RECORDS

- Blockchain is a method to verify transactions where the parties to the transaction trust neither a central authority nor each other.
At a grocery store, the transaction would be verified by rapid computation across the network, with no one node providing the decisive vote.

- Previously, to verify a transaction of money, a centralized record keeper was used. Think of a grocery store checkout:
 - The cashier rings up the purchase. You present your card. The cashier verifies the card with the bank. The bank approves the purchase.
 - To fund this system, the bank charges a verification fee to the grocer.



BLOCKCHAIN: PROS AND CONS

Pros:

- Ledger is public and verifiable.
- No centralization fees.
- Entire chain can be examined quickly and with certainty.
- Cannot be altered.

Cons:

- Units must be uniquely identifiable.
- Protocol must be uniform.
- Can validate a transaction's occurrence, but not its legality or content.
- Cannot be altered.

BLOCKCHAIN AND TITLE INSURANCE

- Theoretically, a blockchain could be used to end reliance on a centralized record keeper like a County Recorder's office or a Torrens system.
 - It is, after all, a way to set up and verify a chain of transactions.
 - A high-tech community consensus.

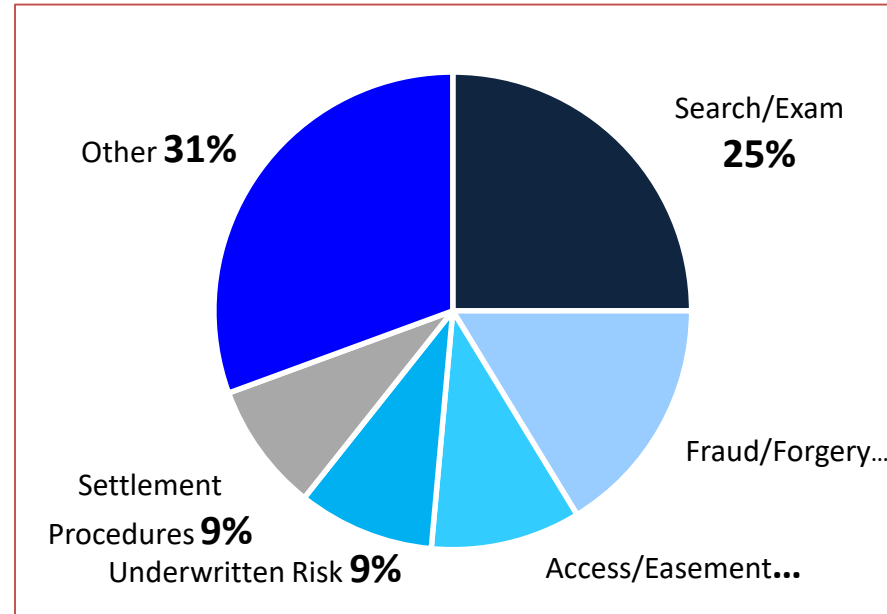
	Storage	Oversight	Verification
Pre-Recording	Decentralized	Little Oversight	Community Consensus
Public Records	Centralized	Little Oversight	Only form, not content
Torrens	Centralized	Complete Oversight	Ministerial discretion
Blockchain	Distributed	No Oversight	Algorithmic Consensus

BARRIERS TO BLOCKCHAIN: LEGAL

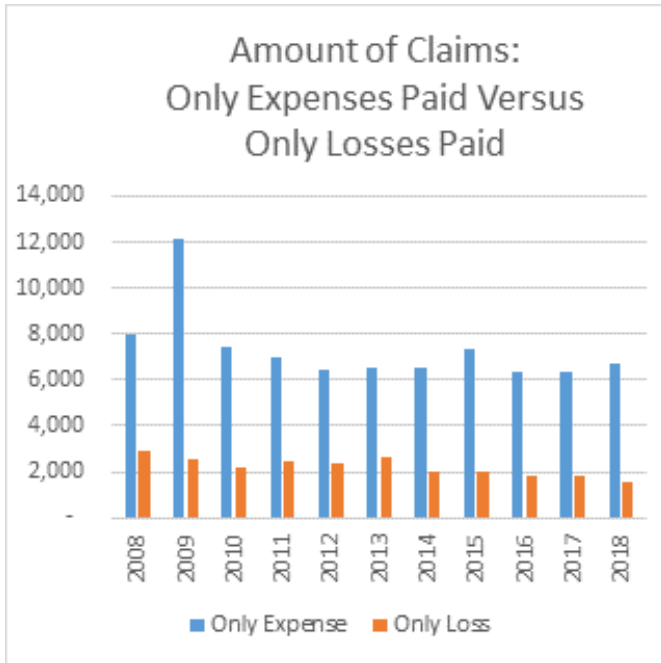
- Laws vary state-by-state.
 - Automatic transfers of title would not be shown on a blockchain.
- Recordkeeping done county-by-county.
- Land records, maps, and legal descriptions far from unique or uniform.
 - To verify a chain for a parcel of land, all maps and legal descriptions would have to be completely standardized and overhauled.
- Government intervention.
 - E.g.: Court orders, legislative changes, eminent domain.

BARRIERS TO BLOCKCHAIN: PRACTICAL

- Enormous capital investment for new market entrants to reach the reliability of large insurers.
- Larger insurance companies have claims and underwriting departments that have encountered many different issues.
- Blockchain recordkeeping cannot prevent unusual risks like sovereign citizens.



BARRIERS TO BLOCKCHAIN: PRACTICAL



CONCLUSION

- Blockchain is not a substitute for title insurance.
 - But, it does have some applications that can make title searches faster and more reliable.
- Risk elimination is important – keeps costs low and increases consumer confidence.
- Curative-free does not mean risk-free.
- The barriers for new market entrants are extremely high, so their marketing should be taken with a grain of salt.



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