Making Sense of New Regulation isn’t Easy. **SoftPro Can Help.**

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The mission of the Virginia Land Title Association (VLTA) is to promote communication and to provide education throughout the real estate and title industries. The mission includes promoting standards and regulations that increase the effectiveness of the industries. Legislative initiatives and educational programs are primary aspects of the VLTA’s work. Leadership in ethical practices and standards is an integral part of its members’ business, within and outside of the VLT.

The VLTA EXAMINER is the official publication of the Virginia Land Title Association. It is published for VLTA members. Requests for address changes must be received 30 days prior to the date of the issue with which it is to take effect. Although advertising is screened, acceptance of an advertisement does not imply VLTA endorsement of the product, the services, or the views expressed. The views and opinions expressed in this publication are not necessarily those of the association. Articles may not be reprinted without the consent of the VLTA. Subscriptions are available to interested individuals or groups at $75.00 per year. Address all VLTA and Examiner inquiries to: VLTA EXAMINER; 14001-C Saint Germain Drive, Suite 822, Centreville, VA 20121, 571.494.1782; toll free 800.929.8730; 703.995.0649 (fax); kherndon@vlta.org. Submit all articles for publication in the magazine to: Julie Ann Rutledge, Land Title Research, Inc. by fax: 540.659.4952, or by email to: ltr.inc@verizon.net.
What happened to 2013? It’s been said the older you get the more time flies. I never own up to getting older, but I am well-seasoned with more spice to come. The same can be said for the Virginia Land Title Association.

This year marks the twentieth anniversary of the VLTA Examiner. WOW! Twenty years of providing land title and other real estate professionals with articles that educate, entertain, inform and tease (do you know TUTE’s identity?). The VLTA Examiner has been recognized as one of the best industry periodicals in the country. Bill Johnston, the founding editor of the Examiner was a visionary. He knew exactly what he wanted and he worked tirelessly to bring his vision to fruition. He not only worked for many years to build and maintain the integrity of the magazine, he was an inspirational leader who built a team of professionals who mirrored his passion and continue to produce the quality product evident in this 20th anniversary issue.

It is fitting to celebrate the twentieth year of this great magazine in tandem with the genesis of the new face of VLTA. We have a lot to be proud of and a lot to be excited about. We are thrilled to have Kathleen (Katie) Herndon, PhD. at the administrative helm of the association. Like Bill, Katie is a visionary. Her creativity and fresh ideas, like high powered fuel, will keep the engine of the VLTA cranking. We are excited about this new era as we chart the course required to comply with new CFPB rulings and more.

Opportunity has presented itself and is illuminating a path of previously uncharted territory. There is no better time than now to come forward with the innovative ideas you have kept to yourself or shared with your fellow title buddies. Our industry needs the harmonious voice of title professionals advocating together to grow and maintain what we have achieved over many years of hard work.

VLTA belongs to every land title professional working in the Commonwealth of Virginia. If you know anyone who is not a member, talk to them about the power in numbers. If you have not renewed your membership, make it a priority. More than anything else, as we enter this new era, sacrifice some of your time and volunteer for your industry. Now more than ever we need all hands on deck. Make getting involved in the Virginia Land Title Association the New Year’s resolution you commit to and stick to.

Deborah Allen
President
What would you do?

"Underwriting and claims solutions from ARTU, Esq." ARTU (Anal Retentive Title Underwriter who is spending his time "down on the farm"), Esq. is the ideal title insurance counsel — a problem solver who understands not only the legal issues, but the reality of each particular risk determination and claim.

FACTS:
John Smith, Esq. was retained to represent a purchaser of property located in Suffolk County.

- On October 14th of 2008, seller had filed a Chapter 13 bankruptcy.
- "Counsel for seller" provided Smith with a payoff statement from Bank 1. Smith was advised not to contact Bank 1, because seller was in a work-out situation, and did not want Bank 1 to try to renegotiate the payoff, and Smith agreed.
- "Counsel for seller" provided Smith with a dismissal of the bankruptcy proceeding.
- Smith closed on May 22nd, 2009.

Is there any apparent problem with these facts?

- NOT GOOD.

- The payoff was for $725,000, but had been cashed, and Smith did not receive it.
- The payoff was bogus (prepared by the seller or his counsel).
- The bankruptcy dismissal was bogus.
- Smith was contacted by the bankruptcy trustee in December of 2006 and advised that Bank 1 had asked the Court to lift the stay so they could foreclose on the property.
- Smith had mailed the payoff to the address on the payoff statement, which was a mailbox at a UPS store.

NOT GOOD. Any time that you do not obtain a payoff from the appropriate party, there is a significant risk of fraud in this case.

Protecting Consumers Promoting a Quality Experience

Title professionals are focused more than ever on ensuring a safe and compliant closing experience for consumers and lenders. The American Land Title Association (ALTA) has released a set of Best Practices to showcase the procedures title professionals follow to maintain the integrity of every closing. Join ALTA or your state land title association today to gain access to tools you need to prove your professionalism.

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For webinars, checklists and tips to aid implementation, scan this QR code or go to www.alta.org/bestpractices.
Attitude is a funny thing in business, especially in an industry which has been known to have its ups and downs. We can become discouraged about the future, stressed about the present, and disheartened by the past. Our setbacks can weigh on us and define the way we approach our business day. Eventually, our outlook can suffer, and the way we manage our business is altered by our attitude. This can translate into poor relationships with business partners, employees, and clients.

Clients are keenly aware of the attitude of their service providers. Working with a customer service agent with a sunny disposition can make even the worst of problems seem minor; working with a cantankerous agent can ruin your day. How many of us have thrown up our hands in frustration after working with someone who is unkind and unhelpful? In a client-facing industry, attitude is everything.

As the new Executive Director of the Virginia Land Title Association, it is my mission to promote a positive attitude within our industry. As Deborah Allen pointed out, attitude is contagious. We see our own attitude mirrored in the faces of others. Our industry is client-facing; while each of us must work diligently to provide a high quality product to clients, whether by performing a meticulous title examination, mapping out a detailed property description, carefully assembling a closing package, or by holding firm the reins of a large company, we must all stay focused on the only part of our business a client will remember and reflect – our attitude. People buy from people, and the land title industry is no different than any other business in that regard.

I have joined the VLTA in an auspicious year. This year marks the 20th anniversary of the Examiner, the emergence of CFPB, the recovery of the market, and the regrowth and rebuilding of the industry. As I begin this new position and all it entails, I will commit myself to providing service to VLTA members with a cheerful and industrious attitude. I will reflect the values of the organization in my work ethic, my manners, and my disposition. As one of the public faces of this organization, I will make my smiling face the new face of the VLTA. I challenge each of you to smile back.

Best wishes in the New Year,
Katie Herndon

“Attitude is a little thing that makes a big difference.”
— WINSTON CHURCHILL

from the Editor-in-Chief

Time really does fly. Already it is 2014 and the VLTA Examiner has been in print for 20 years! It seems like just yesterday, when I joined the Examiner Editorial Board in the late 1990s, with Bill Johnston as Editor-In-Chief. I recently came across an old Examiner issue from the Spring of 1999. This entire issue was dedicated to all Virginia title examiners. When this issue came out it was the 5th year in print for the Examiner and Bill’s message included a call for title examiners in Virginia to join the VLTA. Today, we have a great many Virginia Certified Title Examiners who are now members of the VLTA. I know that Bill would be so excited to see this dream realized.

Times are a changing… with the New Face of the VLTA and the Examiner. We welcome all of our new members: Virginia Certified Title Examiners (VCTE), Virginia Certified Title Settlement Agents (VCTSA) and Virginia Title Insurance Agents and we want to congratulate all of them on their achievements! The Examiner, which is now an electronic magazine, has far reaching capabilities. We also have a new Executive Director, Kathleen E. Zaynullin Herndon, PhD. We want to extend a warm welcome to Katie and we all look forward to working together with her to further promote all of the VLTA programs and initiatives.
Do it Yourself Marketing

Content Marketing: What’s in it for your prospect?

We all get it once in awhile. We didn’t sign up for it. We don’t know how we got onto the e-mail list. We have no idea what the author is talking about... mostly because we’ve unsubscribed and deleted it after reading the e-mail subject line. I’m describing the bad e-newsletter. Yes, it’s content marketing, and clearly not all content marketing is created equal.

The fact is that this new universe of blogs, e-newsletters, social media marketing, webinars and videos is here to stay. In fact, it’s the new normal for marketing communications. If your business isn’t using it, or is doing it poorly, it’s probably not getting much return.

I’m going to take the 30,000 foot overview for purposes of this column. We’ll double back to take a deeper look at the intricacies of quality blogs, e-newsletters and other content marketing vehicles in the future.

As with everything in marketing, however, we need to start with the foundation.

Why can’t I just produce a shiny flyer or marketing slick like I’ve done in the past?

This is not to suggest that traditional methods of marketing to our prospects (advertising, direct mail pieces, etc.) are completely dead. If anything, we’re competing with so many other message-senders out there for a few seconds of our market’s attention, that we simply must try to reach them through as many channels as possible. Nonetheless, if you are not using any form of content marketing, you are probably running a low-octane and mostly ineffective marketing strategy.
Here’s why.

- First, the “interruption” method that worked so well for decades for marketers and advertisers now serves to annoy the reader more than inform him or her. Before the Internet became a fact of life, many people actually (whether admitting it or not) took their information about products and services primarily from advertising. Now, we can know everything there is to know about a new product or company with two clicks on the iPhone. We don’t need the information to be sent to us unbidden anymore. And yet...

- Second, we are getting information. Lots of it. Too much of it. Each one of us—unless you’re living off the grid in a bunker—is being inundated by data, information and stimuli virtually everywhere we are at all times. Easy access to the Internet, the prevalence of smarter and smarter phones and even the proliferation of social media use has opened the floodgates of information like never before. As a result, we have become incredibly more selective about what we let through our filters, and what we leave out. We get enough of the information we ask for, much less the unsolicited stuff.

- Finally, we’re more cynical than ever before. Blame it on Watergate. Blame it on the assassination of Kennedy. Blame it on the Tea Party or the Democrats or both. Find a way to blame it on the Kardashians. The bottom line is that, for whatever reason, a merchant’s representations about a product or service are viewed as self-serving assertions. They always were, but we trust their veracity less than ever.

So if you’re going to get your message through to your well informed, overwhelmed and cynical target, you’re going to have to get his or her attention and convince him or her you can provide something worthwhile. That’s just the cost of doing business when it comes to selling our products.

How to win friends and influence people with your e-newsletter

So how can you make your e-newsletter, blog post or video stand up and be noticed in a never ending wave of e-mails, tweets and solicitations? Here are a few suggestions:

Make it about your prospect and what interests them. Unfortunately, the details of your operation probably aren’t that interesting to your target when they come to him or her unsolicited. To even have a chance to get eyeballs on your proposal eventually, you’re going to really need to know what your target market finds interesting and/or necessary to read. This is as much art as it is science. You’ll probably have to adjust your content repeatedly, as your readers or viewers are not static. But above all, your content should not be pure promotion.

Use video. On the whole, we read less and less. And when we do, our attention spans are shorter than ever. Done well (and I can’t emphasize this enough...bad video is worse than no video) video can impart your message quicker and more effectively to your text-weary viewers.

Write well, and be interesting. Of course not everyone can do this, but there are some end-arounds for this. Consider having “guest bloggers” who are interesting. Link to or aggregate information from elsewhere that would be of interest to your prospects. And above all, make sure that your pieces are grammatically correct. You don’t have to be a good writer to spell check and edit.

Be brief. Especially if your message is coming into their inboxes unsolicited. Get to the point immediately and then backfill with a few details. When possible, let them decide how much they want to read. Send a very short message with a link to a landing page. This also gives you another metric to determine just how effective your message was.

I’ve written before that content marketing, done well, is really just marketing communications’ version of consultative sales. The salesperson using consultative sales techniques doesn’t have to start his or her first conversation with a new prospect by blurting out a unique value proposition. He or she starts a conversation. He or she builds a relationship. And, when the time is right, he or she offers a solution to the prospect’s needs.

Consider that as you put your next content marketing campaign together, and you’ll likely enjoy the results.

About the Author

BRIAN RIEGER is a reformed litigator with twelve years of public relations and marketing communications experience. He has served the title and settlement services industry for ten years, providing marketing and PR counsel for mortgage lenders, national underwriters, commercial real estate firms, technology developers, title agencies and vendor management companies. He is the principal of True Impact Communications, a national marketing communications and public relations consultancy serving clients of all sizes across the mortgage, title and settlement services industry. He has been published in ALTA’s Title News, TAVMA’s quarterly newsletter and Scotsman Guide, and has ghost-written articles published in Mortgage Banking, HousingWire, Origination News, Title News, Secondary Marketing Executive and more. Brian has presented on marketing and public relations topics at the TAVMA annual conference, ALTA Annual Convention, ALTA Business Strategies Conference, The National Settlement Services Summit, the Ohio Land Title Association Annual Convention and several local seminars.

You can learn more about Brian or read his blog on similar topics at www.trueimpactcommunications.com. You can contact him at 330-348-1678 or Brian@TrueImpactCommunications.com.
William Page Johnston was founding Editor of the VLTA Examiner. As creator and guiding force of the magazine, Bill deftly steered it from its infancy and forward through many changes in the industry. His vision and high standards set the tone for the magazine, and his influence continues to this day through the efforts of the Editorial Board to put out the best publication possible. Bill retired in 2009, and sadly, passed away on November 14, 2010. Following are some recollections about Bill and the old days of the Examiner for this 20th Anniversary issue.

From Margaret Webb, the VLTA’s first Executive Director:

The problem with doing retrospectives is that people forget. However, it would be impossible for any of us who were intimately involved with the creation of The VLTA Examiner not to remember that from the beginning, this project was the dream of Bill Johnston. It was a dream that, I think, exceeded even his expectations. It achieved phenomenal success — supported by VLTA leaders, writers, advertisers, and readers. It has been acclaimed by title groups and individuals for its well-written and developed themes and articles. It has survived the ups and downs of the title industry, and the seemingly ever-changing trends of the print industry, as it moved from the cumbersome paper copy, delivered by the US Postal Service, to the digital reproduction that requires only a click of a finger to distribute it to every person who would ever care to read it.

Still...in the beginning, there was Bill. Bill inspired people to join him in his efforts, and he built a committee filled with folks who respected him and were motivated by his unflagging enthusiasm and determination. He saw The Examiner as the PR piece for VLTA, and was completely supported by the Board of Directors in his efforts.

Bill took action. He was not one to delegate all of the work. The committee meetings he led were always productive, organized, and filled with a special camaraderie. He remained in the trenches, collecting articles and advertisements, and developing fresh ideas.

When Bill introduced Recorded Treasures to the publication, I saw his special love of the record rooms and the true treasures they contained, not just the details required to move a property from one person to another, but the treasures ranging from hot-blooded arguments to last loving wishes, sometimes illustrated by drawings and maps penned right there in the pages. Many times, he shared treasures that were never to make it to the printed magazine. Some were too ribald and risqué for the gentle reader. Many made us laugh; a few made us cry. Most touched us in some special way, intended or not, by the writer.

Bill led the publication from drafts done in bluelines (clunky pages actually drafted in light blue ink that required hours of expensive editing) to drafts requiring only finger clicks for tiny or massive corrections. It is his legacy that he turned The VLTA Examiner over to a competent and caring committee, led by Claire Kennett, The VLTA Examiner’s second Editor-in-Chief, and followed next by Julie Rutledge. His high standards and his love of the publication continue to be upheld and honored.

I have no doubt that he is smiling.

From Tom Klein, former Editorial Board Member:

My memory of the early days really is all about Bill Johnston’s dedication to building the magazine. I arrived in Fairfax in late 1993 and took over Real Title in January, 1994. Bill became one of my closest internal allies and confidants.

It was back during the 1994 to 1996 time frame that Disney announced a desire to develop a theme park in the Manassas area. Bill’s department had been receiving miscellaneous requests for title work from McGuire Woods under the direction of Court Traver. The orders were being placed with fictitious names of purchasers like “Carter Beef.” Little did we know that the customer was Disney. I recall a dinner in Occuquan with Court Traver where he disclosed to me that we had been receiving Disney orders and that he was looking for Lawyers
Title/Real Title to take the lead on title transactions in the upcoming Disney development. For the duration of my ride home that night, I was very excited about the wonderful long term project we would be involved in. My excitement ended that very evening when I turned on the 11 o’clock news and heard a report that at the Board of Supervisors Meeting that evening for Prince William County, the County announced that Disney was withdrawing the development plans due to too much local opposition.

From Claire Kennett, former Editor-in-Chief and current Editorial Board member:

It has been interesting going back through the archives of old issues of the VLTA Examiner, and speaking with people who were involved back in the early years, trying to cull their recollections for this anniversary article. Some memories are sharper than others; some things have changed, and some remain remarkably the same!

I’ll always remember the first time I met Bill. I was an agency manager and pretty green. Lawyers Title recommended that I contact Bill to assist on a commercial construction loan in Fairfax County. He was head of the title department at Real Title Company at the time. We worked together throughout the disbursement period of the loan. Bill was gracious, professional and knowledgeable, and I was impressed.

Later that year I attended a party in Fairfax County hosted by good friends. It was a rather rowdy event. As it turned out, Bill and Elaine Johnston were friends of the hosts and were at the party. After I was introduced to Bill I immediately thought to myself, “Uh oh! I better behave myself and act like a professional”. I needn’t have worried – within minutes I realized that Bill had a tremendous sense of humor and loved to have fun.

As we chatted, Bill told me about his involvement with the VLTA and asked me if I would consider joining the VLTA Examiner Editorial Board. It sounded like fun and I could tell that he was passionate about the magazine. On December 20, 1994 I joined the board. Bill was Editor-in-Chief; Steve Gregory of Security Title Services, Ltd. was Associate Editor; Margaret Webb, Executive Director of VLTA, was Managing Editor. The Editorial Board consisted of me, Buzzy Hofheimer of Pioneer Title Agency in Virginia Beach, and Courtland Traver, an attorney with McGuire, Woods, Battle & Boothe in McLean, Va.

Back in those days our board meetings were face to face - often in Richmond at title company corporate offices or at agency offices around the Commonwealth. Then, as now, our focus was always on content.

Letters to the Editor and News Briefs were regular columns in the early issues, but by 1998 they were discontinued. Did we just get too busy to interact with our publication?

In the mid to late 1990s, we published the VLTA Code of Ethics, and by 2000 we had an official VLTA website. The World Wide Web and the Internet were introduced in a series of articles. Claiming a domain name and how to utilize the web in promoting your business were popular topics, as were e-commerce, e-signatures, e-mortgages and paperless transactions.

Modernizing land records in the Circuit Courts continues, and articles on courthouse automation are continuously updated as we gather information. Remember when we just used deed books to search a title? Embracing technology to meet evolving needs and demands of customers was the subject of a 1997 article, and again in 2005!

Who can forget “CRESPA” (the Consumer Real Estate Settlement Protection Act, n/k/a “RESA”, Real Estate Settlement Agents), which ushered in a new era of lay settlements? VLTA and our publication took the lead on this issue which changed the way real estate closings were conducted and introduced ethical standards for real estate settlement agents.

Beginning in the early 1990s and continuing almost to the present we published articles on the importance of the title examination as the foundation of our industry. Early on Bill chaired a committee at VLTA to study title examination standards and best practices. It took us almost 20 years, but our association finally came full circle with the VLTA Title Examiner Certification program for title examiners in 2012. Bill would be proud of this achievement.

Throughout all of these years we’ve had Title Tips by Tute (The Unknown Title Examiner) to educate and entertain us. I suspect that many of our readers, upon receiving their latest copy of the Examiner, turn immediately to Tute, like many of us turn to Ann Landers, to read the latest title train wreck. What went wrong, how to fix it and how to avoid making the mistakes in Tute’s unlimited cache. Tute never bores, Tute never disappoints!

In 2010 The Examiner introduced Beaufort Hambucket. Beaufort, a lovable but most unlikely source, graciously agreed to submit a regular column, “Beaufort’s Bucket”, a series of questions and answers about title and settlement. Although Beaufort is incapable of speaking the King’s English and failed grammar and spelling in college, he has an amazing knack for solving the dilemmas
that crop up frequently in the title and settlement business. Proofing Beaufort’s column has been a particular challenge for our Editorial Board, but we forgive him this minor transgression!

The Examiner introduced another regular column in 2011: ARTU (the Anal Retentive Title Underwriter). ARTU spends most of his time down on the farm, but manages to exit the barnyard long enough to submit a question and answer column in each issue which deals with claims and problem situations that arise with unfortunate frequency.

The Examiner has kept up with the times and continues to guide our readers through changes in the industry, such as ALTA Best Practices and the federal CFPB (Consumer Finance Protection Bureau). In addition to industry news and articles, in 2011 we began publishing a series of fascinating articles about the Civil War, in observance of the Sesquecentennial of the Civil War. R. Michael Smith, Esq. has done a fantastic job in getting this off the ground and providing most of these articles. We couldn’t have done this without him.

Finally, I would like to thank past and present members of our Editorial Board who have given their time and talents over the years to make our magazine something that we’re all proud of. Unless you have served on a committee it is impossible to appreciate how much work and dedication have gone into each issue of the Examiner.

From Julie Ann Rutledge, VCTE, VLTA Examiner Editor-In-Chief:

In 1996, as President of Land Title Research, Inc., I became a member of the VLTA, joining as a title insurance agent. Bill and I both worked for companies affiliated with Stewart Title and we would see each other at different functions. Bill and I shared a common love of title examination.

Back at this point in time, the majority of the VLTA membership was comprised of title insurance underwriters and agents or agencies. In the 1990s, other than the publication, A Virginia Title Examiners’ Manual by Sidney Parham, as later revised by Doug Dewing (last revision was the Third Edition), there was very little educational material available for title examiners. So, many title examiners chose to become licensed title insurance agents, and participated in continuing education opportunities available with the VLTA in order to stay abreast of current industry changes.

In 1997 I attended a VLTA conference for continuing education credits to maintain my title insurance agent license and met up with Bill Johnston. I remember our discussion concerning the importance of education for title examiners. We talked about title research, how interesting it is, about the VLTA organization and how important it was for title examiners to join and participate in the association and be included in the continuing education courses offered. Bill described his involvement in the VLTA and as Editor-In-Chief of the VLTA Examiner. After talking for a while, Bill turned to me and asked, “Do you like to write?” …I was hooked from then on.

My first article was in the 1997-1998 Winter-Spring issue, The Title Examiner, The Missing Piece of the Puzzle? Then in 1998, with Bill’s prompting, I started the new column The Abstract View, which dealt with title examiner issues. I joined the Editorial Board in 1997 and worked with Bill until he retired. I have remained as a member of the Editorial Board and became Editor-In-Chief in 2012.

Bill had a wonderful air about him, a certain grace. He was so interesting and very excited about what he was doing with the magazine. It really was contagious. He was always interested in meeting new people and listening to their perspectives and ideas. Bill was always looking for new ideas, themes, title issues and authors for the VLTA Examiner. Later down the road, at other functions, I would notice Bill meeting new people and after a time in the conversation, he would turn to them and say, “Do you like to write?” …

Bill and I would have many conversations over the years about the importance of education for title examiners and how important it was for them to become members of and involved in the VLTA. In 1999 Bill, as President and Editor-In-Chief, dedicated an entire Examiner issue solely to title examiners. It is so interesting to see this issue and all the authors who contributed. You can view prior issues of the Examiner on the VLTA website www.vlta.org at Resources - Examiner - Examiner Archives.

The VLTA has grown tremendously over the years in order to meet the many changes in the title industry. We have seen the makeup of the VLTA membership change with the addition of Vendors, Associate Members, Abstractor/Examiner Members and now with our newest members, Virginia Certified Title Examiners (VCTE™) and Virginia Certified Title Settlement Agent (VCTSA™).

I wish that Bill had been alive to see his dreams become a reality. He would be so very excited and proud! Bill was a wonderful person and mentor, and I am honored to follow in his footsteps as Editor-In-Chief of the VLTA Examiner. Now, when I meet new people and talk about what it is that I do, I can still hear Bill saying, ‘Do you like to write?’

About the Author

Claire Kennett is Vice President of the Roanoke Valley Title Insurance Agency, and former Editor-in-Chief of VLTA’s Examiner magazine. A former commercial underwriter, and a graduate of VCU, Claire is a proud member of VLTA.
Crossword
20th Examiner Anniversary

Across
4.  2008 Distinguished service awardee
6.  First president of VLTA
14.  2009 Distinguished service awardee
16.  First husband and wife team to both be presidents of VLTA
17.  Location of 2012 VLTA annual convention

Down
1.  Date of Incorporation of VLTA
2.  2007-2008 VLTA president
3.  Gloria Printz’s nickname for Bill Johnston
5.  President of VLTA 2008-2009
7.  President of VLTA 2009-2010
8.  Location of 2009 annual convention
9.  Most sought after and wonderful events person
11.  Current editor-in-chief of the Examiner
12.  President of VLTA 2010-2011
13.  Winner of 2010 distinguished service award
15.  President of VLTA 2011-2012

View solution here
When’s it OK to Re-record a Deed?

To err is human. Even careful people sometimes make mistakes. When deeds contain errors, correction and re-recordation may be an acceptable remedy. But what kinds of corrections are acceptable? Who may make the corrections? And, how should the corrections be made? This article answers these questions.

What kinds of errors may be corrected?

When dealing with an erroneous deed, the first question to ask is whether the deed effectively transferred title of the intended property to the intended grantee. If the deed transferred the right property to the right grantee (and, in the case of co-owners, stated the right tenancy), the deed may be re-recorded to correct an obvious typographical error or other minor mistake. In other situations, a new deed may be required. The different treatment of minor mistakes and material errors flows from the very nature of a deed.

1. Errors requiring a new deed.

   In Virginia, “No estate of inheritance or freehold or for a term of more than five years in lands shall be conveyed unless by deed or will.”

   A deed is a writing, which has been signed and delivered, by which one individual, the grantor, conveys title to real property to another individual, the grantee. A writing need not be in any particular form to constitute a deed. Nonetheless, to convey title, the writing must manifest intent to transfer property. The writing must be delivered to the grantee or his agent.

   All this seems simple. To transfer title, a deed must:
   - be in writing;
   - express the grantor’s intent to transfer property;
   - be signed by the grantor;
   - identify the grantee;
   - identify the land conveyed; and
   - be delivered.

   If a writing fails to satisfy these requirements, the document is not a valid deed. Such a document does not transfer title to real estate. To convey the title, the grantor must execute a new deed or re-execute the defective writing after correcting it. The signature requirement is strict. An unsigned memorandum attached to a deed after the signatures but prior to the acknowledgment is ineffective to alter the deed.

   After a valid deed has been delivered, it cannot be cancelled, even if both parties consent. Even if the deed is lost or purposely destroyed by the grantor, delivery passes title. The grantor’s title would not be restored even if the grantee re-delivered the deed to the grantor.

   A grantee’s unilateral alteration of a deed after delivery cannot alter the estate conveyed. For example, when a married grantee altered a deed in an effort to create a tenancy by the entirety, the alteration was ineffective to change the separate tenancies specified when the deed was delivered.

   After the grantor has delivered a valid deed to a grantee, the grantor has no further interest in the property. Therefore, any subsequent change to the title must be made by the grantee. For example, suppose a seller owns two parcels of land, Blackacre and Whiteacre. He contracts to sell Blackacre, but his deed inadvertently conveys both Blackacre and Whiteacre. In that situation, the seller could not retrieve the title to Whiteacre by recording a “corrective” deed. There would be only two ways for the seller to get Whiteacre back: (1) obtain a deed from the buyer reconveying Whiteacre; or (2) sue the buyer to cancel the deed as to Whiteacre.

2. Errors correctable without a new deed.

   As a general rule, if an error in a deed does not affect the passage of title or the tenancy created, the error may be corrected. Correctable errors include:
   - the grantor’s name is misspelled
   - the grantee’s name is misspelled
   - the legal description of the property contains a minor typographical error
   - the deed’s derivation clause makes an incorrect deed reference

   1 Va. Code § 55-2
   3 Id.
   4 Capozzella v. Capozzella, 213 Va. 820, 823 (1973)

JAMES BRUCE DAVIS
Bean, Kinney & Korman, P.C.
the tax parcel identification number on the deed is incorrect (if the body of the deed contains other information that sufficiently identifies the land conveyed). A deed’s legal description need not in and of itself identify the land conveyed, but must be sufficient “to afford the means, with the aid of extrinsic evidence, of ascertaining with accuracy what is conveyed and where it is.” Therefore, it is usually permissible to correct a minor error in a deed’s description of the property. However, some description errors are beyond correction, as when a deed lacks any legal description or describes the wrong land. In such cases, a new deed is required.

3. Examples

The Fairfax County Clerk’s FAQ page illustrates correctable and non-correctable errors in deeds. Questions 12 and 21 concern correctable errors.

12. What should I do when my deed has been recorded but a page is missing?
You will need to re-record your deed (or a certified copy of your deed) with the missing page attached.

21. What do I do when the names of the borrowers on a recorded deed of trust are incorrect?
You will need to re-record the deed with the correct spelling of the borrower’s names...

Question 23, in contrast, concerns an error that probably is not correctable.

23. How do I add, change or remove a name from a deed?
You may need to prepare a new deed and record it in the appropriate counties...

4. Material Alterations

A correction to a deed must be distinguished from a material alteration. Material alterations do not destroy a deed or impair its legal effect. However, they may cloud the title by casting doubt on what the parties intended when the deed was delivered.

Examples of material alterations include adding property not originally included in the deed, removing property from the grant, or supplying a legal description where the deed contained none. Changing the name of the grantee is a material alteration, as the Virginia Supreme Court held in Brooks v. Clintsman. In Brooks, a widow’s son (a very bad boy indeed) altered a deed by changing the name of the grantee from his mother to himself prior to recording the deed. The Virginia Supreme Court held that the alteration did not affect the validity of the deed, which had conveyed good title to the mother when delivered.

5. Recordation

Recordation of a deed is not necessary for the deed to transfer title as between the parties. However, the Virginia Code declares an unrecorded deed “void” as to purchasers not parties to the deed and lien creditors. Therefore, a grantee must record his deed to prevent the grantor from subsequently transferring the property to a good faith purchaser and to prevent the grantor’s subsequent creditors from putting judgment liens on the property. To qualify a deed for recordation, the grantor must acknowledge the deed before a notary public. Therefore, if a deed is re-executed by the grantor, the re-executed deed will not qualify for recordation unless the grantor acknowledges his re-executed signature before a notary.

Who may correct a deed?

If a deed has not been acknowledged and delivered, the parties themselves should correct any errors and initial any interlined changes prior to acknowledgment and delivery.

After a deed has been delivered, minor corrections that do not affect the title may still be made. But who may make the corrections? Theoretically, the corrections could be made by anyone because correcting a misspelling, typographical error or other minor problem does not alter the deed’s legal effect. However, having just anyone make the corrections is not the best practice.

The ideal person to make a correction should: (1) know what the parties intended; and (2) have the ability to express that intention. The best practice is to have all of the parties to the deed agree to a correction. A correction by less than all of the parties leaves open the question of whether the correction accurately expressed the intent of all. If a correction is technical, the parties should seek a lawyer’s help to assure that proper language is used.

A settlement agent may also have the knowledge and skill required to correct a deed. In most closings, the settlement agent requires the parties to sign a limited power of attorney that authorizes the settlement agent to correct typographical errors or immaterial mistakes. A settlement agent acting under such a power of attorney would be well advised to follow Davy Crockett’s rule, “Be always sure you’re right – then go ahead!” Crockett emphasized “then go ahead,” but settlement agents should focus on “be always sure you’re right.”

Why make corrections?

If a minor correction does not alter a deed’s legal effect, why should people make corrections? The answer is to protect the land records. Correcting a deed makes it easier for title examiners to understand what the parties intended. This not only helps title examiners do their jobs, but also helps potential buyers and mortgage lenders understand the quality of the title. Correcting a deed may protect a current property owner by removing a potential cloud on his or her title. A proper correction of a deed error is a public service.

How should corrections be made?

A common way to correct deeds is to re-record a copy of a deed with interlined corrections. The Clerk of the Fairfax County Circuit Court requires anyone who re-records: (1) to write the reason for the re-recording on the first page of the re-recorded instrument; and (2) to attach a new cover sheet on top of the original cover sheet. Although other clerks may not impose such requirements, the best practice for anyone correcting a deed is to identify the correction and to state the reason for it.

The District of Columbia Recorder of Deeds goes further by requiring the person re-recording an instrument to identify himself or herself and to state, under oath, the reason for the re-recording. Although Virginia does not require a person who re-records a deed to state his or her identity, a correction will be more credible if the person making the correction is identified as someone with a relationship to the transaction.

About the Author

JAMES BRUCE DAVIS is an attorney in private practice at Bean, Kinney & Korman, P.C., in Arlington. He represents title insurance companies and their insureds in claims litigation.
He still sits ramrod straight, not in his rocking chair, but in the office swivel chair. That he sits so tall and gentlemanly, with his silver hair still trimmed military-style, belies the chronic pain in his back derived from many a night sleeping on a bedroll or falling dead on the field of faux fighting (although driving in the pacer races did not help). Looking up at him, knowing a bit of his work history, you would expect that he served the C.S.A.(R.) as a regimental leader or a Captain of cavalry. But it is the measure of this man that he follows when he should. We speak with him now, a retired private of the 17th Virginia Infantry Regiment, Company D, the Fairfax Rifles, and a retired corporal of the 28th Virginia Infantry Regiment, the Piedmont Rifles. A man of quiet dedication and service, he earned a nickname of which we will speak later.
Examiner: Tell us how you came to be enrolled with the C.S.A.(R.), the Confederate States Army (Reenactor).

World’s Oldest Living Former (“WOLF”): In 1996, the late and much-missed Bill Johnston of Stewart Title and VLTA told me two of his sons, William “Page” Johnson and Corey Johnson (they have no ‘t’ in their last names, as Bill did. He added that after he visited Scotland and found the family roots) were forming a Confederate reenactment unit named after the same company their great-grandfather was in during the War of Northern Aggression. Next we knew, about a dozen ‘new fish’ of the 17th Virginia Regiment, Company D, were in the Fredericksburg, VA area around mid-March in 25° weather, marching around carrying rifles at a “School of the Soldier”… basic training for Civil War reenactors. Do you know how cold the ground is at night? Anyway, we were all in the 17th Virginia for about three years; then around 1999, retired Fairfax County detective John Stone and three or four others moved over to the newly-formed 28th Virginia Regiment, Company D, and it was still very cold some months, and sweltering hot in the summer.

Examiner: They say that the definition of insanity is doing the same thing over again expecting a different result. The history books tell us how the Civil War turned out; military history courses have long detailed how Unit A traversed 20 miles of logging trails to outflank Unit B, winning the day, and forever having one town, three major highways, and innumerable roadside businesses named after the winning general. Why do people reenact the battles? You have always seemed sane: Why did you go out in the summer heat for so many years and repeatedly do that which you knew would never change?

WOLF: Portraying infantry is probably the most difficult reenactor role, since it is the most strenuous and physically challenging. I got into shape and went all the way down to 205 pounds, my high school weight, after one summer of reenacting. I was in Air Force ROTC (achieving the fine rank of sergeant) for three years in college…. it beat going to Vietnam for sure. In any event, I suppose people take up reenacting because they like: 1) camping, 2) playing soldier or colonel or cook, 3) sitting around campfires at night nursing cold libations, etc. 4) camaraderie with other units, even the cavalry and the artillery folks, 5) sometimes participating in a ‘tactical battle’, where the result is not known. Toting a CW Springfield or Enfield rifle around all day is still harder than it looks — those things become very heavy! I believe if I ever unretired in my next life, I would do Yankee artillery — no marching, and I already have a red Union artillery hat.

Examiner: We’ve all seen the pictures of the restaged battles with field tents with bivouac area and corporate reception tents in the background, BMWs and pickup trucks in the parking lot beside an antebellum house converted to a surgery. What image sticks in your mind as the most anachronistic?

WOLF: Probably at many reenactments — when soldiers take “hits,” are lying on the ground, then they roll over, and surreptitiously snap pictures with a camera while pretending to be “dead.” The crowds at a reenactment can’t see that far sometimes, so it is not very obvious to the public what is going on. Just does not look right!

Examiner: Southerners, particularly, like their Civil War reenactments. Do you have any personal theories on why that is?

WOLF: It is much easier to be “Rebel” than “Yankee”: Rebels can wear pretty much anything they want: brown, gray, Yankee leather gear, Yankee rifles and canteens, any kind of hat, any kind of trousers or coats. Sort of the Civil War version of NCAA college football’s Oregon Ducks or Maryland Terrapins — you can wear anything.

Examiner: Alright. Everybody is lined up, troops are marching into place, artillery is ready to fire, cavalry is mounted. And then a dog runs into the middle of the field chasing a Frisbee… What is the funniest thing you ever saw during a reenactment?

WOLF: At a reenactment of the Seven Days battles around the Richmond area, it was very hot and dry near the end of June that summer. The field where the Rebels were marching up to the Yankee positions had these fake explosive charges set in place. They went off as planned — but succeeded in catching the field on fire also. Our
unit actually “cross dressed” for that occasion, since there was a shortage of Billy Yanks. We wore our blue Yankee coats and hats and were on a ridge with a great view of the Confederate units coming through the flaming field — very, very realistic. The local county fire trucks rolled onto the scene, split though the watching crowds, and put out the fires — all while the reenactors were milling around and us faux Yankees talking with our Rebel cousins off to the side. It reminded me of halftime at a football game: imagine the two teams got together and watched the bands play, then started up again for the second half.

Examiner: What was the food like? How about sleeping conditions? Were there some who took this so seriously that they even stayed in the role for personal sanitation?

Wolf: Civil War reenactment food is always very good — lots of everything to eat and drink. Most units have their own “mess” arrangements and even their own designated cooks. Now, some units are what are called “hardcore,” “stitchcounters,” or “campaign-style” reenactors. Those fellas just bring hardtack and rolled up beef jerky with them, and sleep in the woods without tents. Most units however are considered “mainstream” and like to be a little more comfortable and better hydrated and fed. The “plastic castles” — the portajohns — can get a bit grungy, especially when it rains, but most reenactment organizers take pains to keep them clean. Gettysburg area events are the best-kept of all.

Examiner: Assuming your uniform was accurate, was it as uncomfortable as we have heard?

Wolf: Actually, it is not that bad and there are a few tricks reenactors have: Longjohns or pajama bottoms beneath heavy wool trousers, Dr. Scholl foot gel pads in the “brogans” — Civil War shoes which usually have steel heelplates on them — but once the brogans are broken in, they are very comfortable; then, several pairs of socks, with cotton socks inside the outer wool pair; bags of ice inside the jackets or hats on a really hot day. Reenactment units also have younger children who dress out as soldiers who carry buckets of water and ice right near the marching troops and during battle events. They are called the “ice angels” and they keep everyone cooled down. The public probably does not even notice the ice angels during a battle. The most difficult part is just being outdoors during a very sweltering summer day. Hot is hot and, without any air conditioning, it is HOT during the day. Evenings are cool by comparison. It is all what you get used to.

Examiner: Bill Murray eventually worked out his relationship and social issues in Ground Hog Day. Did you come away from your reenactment experience with life lessons for yourself? How about for us?

Wolf: Well, I have not met Bill Murray, but my youngest daughter has, and Bill did nicely toss five crumpled up 20 dollar bills at her when he attended his son’s Towson University basketball game at George Mason, and she was bartending at the Red, Hot & Blue restaurant in Fairfax. She says he is a regular, nice guy. But, I digress here. Anyway, some reenactors get into what is called “the hobby” for the camping and camaraderie. I did it for the interest I have in history and it was just something I wanted to participate in, because I was younger and I wanted to do it before I was too old to camp out or play soldier. My idea of camping out now is at a Hampton or Days Inn; Hilton or better is even more upscale. For me and, perhaps, everyone else, it is helpful to remember a quote from author William Faulkner: “The past is never dead. It’s never even past.” That’s from “Requiem for a Nun.”

Examiner: We are fascinated by your nickname. How did you become known as “Ghost” and do you enjoy or abhor being called that?

Wolf: Bet you thought it was Wolf. When I was in the 17th Virginia, Company D, I had a suttler (Civil War vendor) in Delaware make me a custom made light gray “summer suit” which was made of heavy cotton, and that suit happened to be
Examiner: If the purpose is the history, so we don’t forget, why not reenact more painful scenes? For example, Libby Prison or Andersonville, or the New York draft riots?

It is possible that a reenactment unit could do a WWII ‘Great Escape’ type of reenactment, but it would not be as exciting without Steve McQueen’s motorcycle. The main problem would be that most reenactors are not nearly as skinny as the inmates at Andersonville or Libby or Point Lookout in Maryland were — all skin and bones and raggedy clothes. There’s that, and there’s this — none of the Civil War reenactors who serve as unit officers want to look that poor. They would rather keep their swords and red/crimson sashes and pistols and fine uniforms!

Examiner: Finally, tell us about the 17th Virginia, the Fairfax Rifles.

The 17th Virginia Infantry was part of Brigadier General Montgomery Corse’s brigade, which was in a division of General James Longstreet’s First Corps (Rebs spelled out the corps number, the Yankees used Roman numerals, e.g., IX Corps), in Robert E. Lee’s Army of Northern Virginia. There is a statue of a Confederate soldier of Corse’s brigade in Old Town Alexandria, Virginia, facing south, of course, located in the intersection of Washington and Prince Streets. The statue was dedicated in 1880 or so and the bronze soldier has his back turned on Washington, dejected, much like many an ex-Redskin coach appears. Interestingly, Corse’s large brigade was not at Gettysburg unfortunately for the South, since Jefferson Davis kept Corse’s Brigade and one other brigade in front of Richmond to guard the Rebel capital city. So Pickett went to Gettysburg without his two largest brigades out of five. There are some historians who have said those two large missing brigades may have made a difference in the outcome of Pickett’s Charge.

But, as author William Faulkner also wrote, “For every Southern boy fourteen years old, not once but whenever he wants it, there is the instant when it’s still not yet two o’clock on that July afternoon in 1863, the brigades are in position behind the rail fence, the guns are laid and ready in the woods and the furled flags are already loosened to break out and Pickett himself with his long oiled ringlets and his hat in one hand probably and his sword in the other looking up the hill waiting for Longstreet to give the word and it’s all in the balance, it hasn’t happened yet, it hasn’t even begun yet, it not only hasn’t begun yet but there is still time for it not to begin against that position and those circumstances which made more men than Garnett and Kemper and Armistead and Wilcox look grave yet it’s going to begin, we all know that, we have come too far with too much at stake and that moment doesn’t need even a fourteen-year-old.
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boy to think This time. Maybe this time with all this much to lose and all this much to gain: Pennsylvania, Maryland, the world, the golden dome of Washington itself to crown with desperate and unbelievable victory the desperate gamble, the cast made two years ago…” William Faulkner, “Intruder In The Dust.”

The 28th Virginia, Company D, was a company in a regiment of Brigadier General Richard Garnett’s brigade, Pickett’s division, Longstreet’s First Corps, and was made up of troops from the Bedford and Lynchburg area of Virginia. General Garnett was killed in front of the wall on the third day of the battle of Gettysburg at the climax of Pickett’s Charge. He was the only Confederate general whose body was never buried, mainly because his body was never found or identified. He may have been vaporized in a cannon blast or even not recognized because he wore a blue overcoat that afternoon. The 28th Virginia lasted until the very end of the war, when it was captured and surrendered at the battle of Five Forks near Petersburg, just a few days before Appomattox and Lee’s surrender to Grant there.

Examiner: We thank you for your service, Mr. President, and your time with us today.

Notes from the Examiner:
The history of Company D of the 17th Virginia Infantry, C.S.A. is detailed on its website, http://www.fairfaxrifles.org/history.html. The unit was formed from troops living in the Northern Virginia counties. Among the various companies of the 17th Virginia was the Fairfax Rifles, initially commanded by Capt. William H. Dulaney. Although the 17th Virginia began the Civil War stationed in Alexandria and was the last to leave the city upon the Union occupation, it saw combat in most of the Virginia campaigns – First and Second Manassas/Bull Run, Fredericksburg (1862), the Peninsula Campaign, Antietam, Cold Harbor and the Siege of Petersburg, Dinwiddie Court House, and the Surrender at Appomattox. The 17th Virginia was commanded through most of the war by Montgomery Dent Corse, who survived the Civil War to become a banker and trustee of VMI. Capt. Dulaney was wounded severely at Blackburn’s Ford in July 1862 and was mustered out. An attorney before the Civil War, upon application for reinstatement, he was assigned to the office of the Judge Advocate for C.S.A. and served in the Virginia Senate. Extensive biographies of the men and the command of the 17th Virginia can be found on its website together with a current muster of reenactors. See http://www.fairfaxrifles.org/index.html. The images imbedded in this article are from its online content.

Company D of the 28th Virginia Infantry had a similar tour of duty to the 17th Virginia except that it made the march to Gettysburg and was involved with Pickett’s battles there. The reenactment unit has a website at http://28thvirginiacompanyd.webs.com/. Diary pages of a field officer of the 28th who died at Gettysburg can be found at http://www.vmi.edu/archives.aspx?id=4294968378. The last entry of Maj. N. Claiborne Wilson on July 3, 1863 reads: “In line of battle expecting to move forward every moment. With our trust in God we fear not an earthly enemy – God be with us.” Some images in this article are from the website of Company D. An image of Maj. Wilson can be found on the VMI archives page.
The National Conference of Commissioners on Uniform State Laws succinctly summarizes the Uniform Real Property Transfer on Death Act (URPTODA) as follows:

“The Uniform Real Property Transfer on Death Act (URPTODA) enables an owner of real property to pass the property simply and directly to a beneficiary on the owner’s death without probate. The property passes by operation of law by means of a recorded transfer on death (TOD) deed. During the owner’s lifetime, the beneficiary of a TOD deed has no interest in the property and the owner retains full power to transfer or encumber the property or to revoke the deed. On the owner’s death, the property passes to the beneficiary, much like the survivorship feature of joint tenancy.”

“The TOD deed offers a number of advantages over joint tenancy. Because the TOD deed does not convey an immediate interest to the beneficiary, the property is not subject to partition or to [claims of] the beneficiary’s creditors. The deed remains revocable, enabling the owner to make a different disposition of the property. It does not trigger an acceleration clause in the mortgage or a property tax reassessment during the transferor’s life. Nor does it create adverse Medicaid consequences for either the owner or the beneficiary.”

Because the TOD deed does not convey an immediate interest to the beneficiary, the property is not subject to partition or to [claims of] the beneficiary’s creditors. The deed remains revocable, enabling the owner to make a different disposition of the property. It does not trigger an acceleration clause in the mortgage or a property tax reassessment during the transferor’s life. Nor does it create adverse Medicaid consequences for either the owner or the beneficiary.

“A decedent routinely passes personal property to a named beneficiary outside of probate. Common examples include a beneficiary designation in a life insurance policy or pension plan, registration of securities in TOD form, and a pay on death bank account. But a straightforward, inexpensive and reliable means of passing real property (which may be the decedent’s major asset) directly to a beneficiary is not generally available.” 1 URPTODA allows this for realty.

**Summary of Virginia Code TOD provisions**

1. Applies to TOD deed made by transferor “on, before or after July 1, 2013” when the transferor dies on or after July 1, 2013. (Va. Code § 64.2-622)

2. A TOD deed is revocable, even if it says it is not. (Va. Code § 64.2-625)

3. Despite the fact the deed has no effect until the death of the transferor and the only mental capacity needed to sign a TOD deed is the same as to make a will, the TOD deed is deemed non-testamentary. (Va. Code § 64.2-626 & § 64.2-627) \*NOTE: The capacity to make a will consists of 3 components: (i) you know what you own, (ii) you know you are making a [TOD deed], and (iii) you know who “the natural objects of your affection” are, i.e., who your family members are. It is a very low mental capacity threshold.

4. The document must meet all the requirements of a deed in order to be recorded, except that there does not need to be any delivery to the beneficiary nor any consideration.

5. The TOD deed must be recorded prior to the transferor’s death.

6. If no consideration is paid it is exempt from recordation tax. \*NOTE: Even if consideration is paid the owner may revoke the TOD deed. See item # 2 above.

7. If property is held as tenants by the entirety or as joint tenants with a right of survivorship, all co-tenants must sign for the TOD deed to be effective. This does not apply to property held by multiple parties as tenants in common.

8. Revocation of a TOD deed may be by: (Va. Code § 64.2-630)

   a. An inter vivos transfer of the property, i.e. the transferor (grantor) sells it or gives it to someone else by deed recorded before he/she dies. \*NOTE: if the owner has recorded a TOD deed, the owner then contracts to sell

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**Virginia Code §64.2-621, et seq (Effective July 1, 2013)**

**Uniform Real Property transfer on Death Act (URPTODA) in Virginia**

KAY M. CREASMAN
Assistant VP and Counsel
Old Republic National Title Insurance Company
the property to a third party, but dies before the deed can be recorded Va. Code § 64.2-523 http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+64.2-523 prevails, converting the asset to personalty.

b. A deed of revocation.

c. A TOD deed naming a subsequent beneficiary. **NOTE:** What if inconsistent TOD deeds are notarized the same day? Normally Virginia is a “race/notice” state, so we rush to get documents recorded. In this situation you’d want to be the latest/last deed recorded. The last deed recorded prior to death controls transfer of title.

Except for item (a) above, any revocation document must be recorded prior to the death of the transferor.

9. Effect of the transfer on death deed during the transferor’s life: (Va. Code § 64.2-631)

   a. A TOD deed is only effective after the death of the transferor.

   b. A TOD deed has no effect on the right of the transferor to sell, gift or encumber the real estate, i.e., have a deed of trust recorded.

   c. The fact a third party has actual knowledge of the TOD deed does not affect the ownership interest of the transferor, i.e., he can do what he wants with the real estate.

   d. No interest is vested in the transferee during the life of the transferor. He has no legal or equitable interest. His creditors cannot attach any interest in the real estate.

10. Effect of the transfer on death deed after the transferor’s death: (Va. Code § 64.2-632)

   a. Property interest conveys at the moment of death to the beneficiary in the most recent, recorded, unrevoked TOD deed.

   b. The beneficiary must survive the transferor. **NOTE:** No requirement to survive by 120 days exists in URPTODA, as exists under the statutes relating to wills. Transfer occurs at the moment of death. The statutes are silent as to whether the TOD deed may add conditions.

   c. Multiple beneficiaries take title in equal undivided shares with no right of survivorship. However, if one of multiple beneficiaries fails to take title for any reason (predeceased transferor, disclaims, slayer statute applies, etc.) then surviving named beneficiaries take that interest in proportional shares.

   d. Divorce or annulment revokes a TOD deed, unless the deed specifically says otherwise.

   e. Beneficiaries take title subject to “all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor’s death.”

   f. A TOD deed “transfers property without covenant or warranty of title even if the deed contains a contrary provision.”

11. A beneficiary may disclaim all or part of their interest following disclaimer rules set out in Va. Code § 64.2-2600, et seq. (Va. Code §64.2-633)

12. Property is subject to claims of creditors of the transferor, but a proceeding to enforce the liability must be “commenced not later than one year after the transferor’s death.” (Va. Code §64.2-634).

Contact your underwriter for guidelines in underwriting title.

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Who ya gonna call? Claims busters!

As a veteran Title Examiner, I’m sometimes asked to do things I’m not sure are within the guidelines of title examination. More importantly, is it within the coverage of my E & O policy? Do I call the Client, the Underwriter, my E&O Agent? This is a very good question and one that I should be able to answer each time! But with the onset of much stricter guidelines, I find myself second guessing the line between providing good service and unintentionally jeopardizing my liability. Here are some of the things I’ve encountered.

What do you do when you’re recording a document and the instructions from the client include:

- Verify that all documents are signed properly.
- Verify that the notary acknowledgement is complete.
- Verify that the legal description matches all documents being recorded.
- Verify that the documents are in proper recording order.

Does the title examiner have liability if the documents are recorded by the Clerk and any of these requirements are violated? The request seems harmless and we want to meet our client’s needs, but what if there is a problem? The recording Clerk is supposed to check signatures and notary clauses, but sometimes documents are recorded that contain errors. After all, we are all human and it can happen. So if the document gets recorded and you didn’t catch the error, are you now liable?

What do you do when the Clerk requires a Cover Sheet with your document and there is an error on it and it’s rejected? Some courthouses provide access to correct the Cover Sheets in the building. Do you correct it and print a new one? This can eliminate extra time and money by not sending the document back. Do you call the client and ask permission to correct it? Is this something that is covered under your E & O?

What do you do when a refinance Deed of Trust is rejected because the refinance clause is left off? You call the client and they instruct you to “hand-write” it in. Is this something approved by the Underwriter or covered under your E&O Insurance policy?

You’ve sent your completed search and invoice to your client and the invoice remains unpaid. After contacting your client several times, do you notify the Underwriter that you haven’t been paid? Do you have an expiration date on your search for non-payment? What if there is a claim against your work and you weren’t paid? What if the Underwriter assumes you’ve been paid for your service? Who becomes liable for the claim?

These are some of the things I think about and perhaps you have too. I’m not sure what the answers would be a case-by-case situation, but it would be interesting to see how each scenario would be handled. When it comes to Title Insurance, I try to remember that we are “all in this together,” and nobody wants to step on anyone’s toes. It can be very uncomfortable, but sometimes we might have to just “step in it.”

About the Author

TERRI STITZER is the co-owner and President of DTS Titles, Inc., an independent title examination and abstracting company located in the southeastern region of Virginia. Terri has worked in the title industry for more than 25 years. After working in an agency as a Title Insurance Underwriter, her interest shifted from the office to the courthouses. She found the thrill of “solving puzzles” while searching titles and the history maintained at the courthouses. “The down market of the past few years has presented many challenges but I’m proud to say I still love what I do!” During her down time, she’s an avid organic gardener and composter and loves the outdoors.
Questions & Answers for Title Examiners and Underwriters

CSI – The Game Show*

by TUTE
The Unknown Title Examiner

Title Tips by Tute is a regular feature in the VLTA Examiner. Tute offers interesting and informative questions and answers pertinent to title examiners and underwriters. Tute may be reached at www.tute.us.

We encourage our readers to submit their questions or comments to Tute c/o the VLTA EXAMINER.

* With abject apologies to all the devoted criminologists and screenwriters who bring the drama of modern detection to our living rooms . . . even if in some cases it really isn’t science at all. All characters are fictitious and any resemblance to persons, real, imaginary, or copyrighted, is totally unintentional.
ANNOUNCER That's right! Let's begin.

CAMERA Plays reenactment in which a single man is seen parking a small pick-up truck filled with plants in a parking lot. He pulls a shovel out of the back and goes to a grassy strip on the edge of the parking lot. He goes back to the truck and pulls some papers out of a folder and lays them on the hood of the truck. Consulting them closely, he looks around, walks to street and paces down the grassy strip, obviously counting to himself. He marks a spot, returns to the truck and retrieves the shovel, returns to the marked spot, and begins to dig. Suddenly, there is a fountain of sparks and...

BRENNAN Cool!

CAMERA ...glowing flames as the man is incinerated. The fire and police investigators arrive

ANNOUNCER There you have it... our crime scene of the day. We'll return after this brief commercial announcement from our sponsor MEDSCAPE.COM so our panel can direct the investigation.

CAMERA Fade to commercial — commercial — fade from black to announcer.

ANNOUNCER OK, panel, any first thoughts?

BRENNAN We're looking at high-voltage electric entry wounds — notice the feet and hands are charred, centrally depressed, and leathery in appearance, while the exit wounds look like the skin “exploded” as the charge exited. High-voltage electrical burns often leave a black metallic coating on the skin that is mistaken for eschar, from vaporization of the metal contacts and electroplating of the conductive skin surface. Cleansing of the coating should reveal only superficial skin injury. Electric current chooses the shortest path between the contact points and involves the vital structures in its pathway. Fatalities are high (nearly 60%) in hand-to-hand current passages and are considerably lower (20%) in hand-to-foot current passages. Severity of damage to the tissue is greatest around the contact sites. These appear to be characteristic entry and exit wounds in the extremities which usually signal local destruction of deeper tissues, the magnitude of which often cannot be predicted until we examine the victim in the lab.

Bone has a high resistance, thus readily transforms current to heat production, which may result in periosteal necrosis or even melting of the calcium phosphate matrix.

MOAT You're presuming an electrical injury — the glow and flame could just have easily come from a laser in space or a magical spell-caster. Have the police examined the rest of the crime scene?

CAMERA Police officers begin trotting around the perimeter of the parking lot, looking for evidence of another person at the scene. While part of the grassy strip appears to be dying, all that is visible in the parking lot is parking bumpers and stripes, light poles and a short, squat, green structure on the other side of the lot marked “Warning. Electrical Transformer” seemingly surrounded by a puddle.

MONK Was it perhaps self-inflicted? Who is the victim? What were the documents he was studying before the incident?

CAMERA Pans to hood of truck, which reveals documents. The investigator begins working through the documents: a deed, a subdivision plat, various agreements, easements, and an ALTA Survey. As the camera focuses on the granting paragraph of the deed, a radio blares out.

OFF CAMERA We ran the plates through DMV. The owner of the truck is Ian MacIntosh Developer. No record. No recent traffic infractions. He buys and builds retail commercial property all through this part of the state...

CAMERA Pans over deed to I. M. Developer; a document entitled Transfer on Death Deed naming Wanna Be Developer as grantee; power company easement with sketch showing easement running along edge of property line; ALTA Survey showing power company easement located almost 30’ away from property line with an invoice paper clipped to corner, along with an e-mail saying “Trust me - 56-259; site permit from local planning authority requiring screening vegetation before construction of a building, and a receipt from a local garden shop for photinia and pittosporum.

MONK Did he have any investors? Who were they? Does W B Developer have a motive? An alibi?

OFF CAMERA ...married to Judy Developer; two kids in middle school, Wanna Be and Don’t Wanna Be; lives in that gated community on the South Side.

ANNOUNCER Thank you, panel, for your insightful analysis. We’ll be back to see what our “at home” panelist concludes from this evidence right after this message from Winter Hill Tree Farm.

CAMERA Fade to commercial – commercial – fade from black to announcer.

ANNOUNCER And we’re back! Time to hear from our “at home” panelist. Mr. Te, what are your thoughts?

TUTE Well, Bing, I’d like to know more about his relationship with his surveyor. That invoice shows a lot of past-due items, including the survey of this property. I suspect he was running out of trust for Mr. Developer, which makes that e-mail interesting. Section 56-259(B) states, and I quote...


CAMERA Throws up text of § 56-259(B) “The location of any easement of right-of-way of any public service corporation shall be as specified in the instrument by which such easement was conveyed to such public service corporation; provided that, with respect to all such easements granted after December 31, 1968, if such location is not specified by metes and bounds or by reference to a center line or survey line showing courses and distances from some ascertainable point of beginning, the location of such easement shall be determined by reference to the facilities constructed thereon, and the center line of those facilities shall be the center line of the easement.”

TUTE The ALTA Survey shows the easement in quite a different location than that depicted on the sketch attached to the easement, not that the sketch is at all precise.

CAMERA Displays Easement sketch side by side with ALTA Survey.

TUTE It is the rare surveyor who disputes the recorded easement, and it appears to be entirely based on the location of the transformer on the other side of the parking lot.

CAMERA Pans the parking lot from the truck and grassy strip around to transformer.

TUTE There is nothing on that survey to suggest there are any facilities in the ground at this end of the parking lot, and given the past due balances shown on the invoice, I'm betting the surveyor did not do the extra work or use the expensive equipment that would have detected those buried cables. Has anyone contacted the utility companies to see if there has been a recent call to stripe this property?

CAMERA Throws up an animated version of a villain washing the paint off the grass and parking lot.

TUTE Judging from the appearance of the grass and the water spotting around the transformer, I'm guessing he called Miss Utility, and then after they striped the location of the electric lines, he washed the striping off the grass and parking lot surface. Caustic cleaners would account for the sorry state of half the grass along that edge of the lot.

CAMERA Close up on the diagonal line in the grassy strip where waxy yellow grass is side by side with verdant healthy grass.

TUTE Then he drew the electric line on the survey some 30' away from its real location knowing Developer would do the work himself to plant the screening vegetation required by his building permit. Check Developer's cash flow — while the market is recovering, it isn't back yet. Then check his life insurance — if he had "key man" insurance naming his company as beneficiary, you've got the surveyor's motive... Developer was worth more to Surveyor dead than alive.

ANNOUNCER Well, that's all the time we have this week. Tune in next week for another episode of CSI: The Game Show, where our panel and the folks at home...

AUDIENCE SOLVE THAT CRIME!!
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Title Tips & Trivia

YOU MIGHT BE A TITLE EXAMINER IF...

- You friends complain that you are too Picky, Picky, Picky.
- You READ the deed, word for word, for every deed in the chain of title.
- You review the grantor names, signatures and compare to the notary clause for each document.
- You look Before and After the deed, looking for related documents that may apply to your property, even if it means entering each instrument# separately in the computer system.
- You run the grantor and grantee index for every owner in the chain of title.
- You save all of the common name list files, so that you never have to run ‘John Smith’ again.
- You know the date that augmented estate became effective and what it is.
- You run the developer/builder after the deed out, looking for documents that affect the subdivision.
- You check the additional index searches available such as tax map#, address and subdivision name in the jurisdictions where they are available.
- You love puzzles, are detail oriented, inquisitive, look for the unusual and notice things that are out of place.

TITLE TIPS & TRIVIA

is a collaborative effort with contributions from Title Professionals all over Virginia. We want your comments and contributions. Send us your Title Tips & Trivia for inclusion in this ongoing column. All submissions will remain anonymous. Send your emails to ltr.inc@verizon.net
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Terry’s Title & Abstract, L.C.
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FAX: 540.891.8267
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Title Abstractors, LLC
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Title Examination Corporation
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Title Solutions, Inc.
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FAX: 540.347.9305
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EMAIL: tctinc@aol.com
Serving: Northern VA

Trinity Title, LLC
Martha W. Campbell
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FAX: 888.737.0726
EMAIL: mwcsmt@aol.com
Serving: Central Virginia

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TEL: 540.250.0511
FAX: 866.496.5098
EMAIL: vmhanna@yahoo.com
Serving: Mountain VA

WDB Express, Inc.
William Darrell Burch
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EMAIL: wdbexpress@juno.com
Serving: Coastal Region

Williamson Title Services, Inc.
Brenda J. Williamson, VCTE
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FAX: 757.355.6465
EMAIL: wmsontitle@cox.net
Serving: Coastal Region

WL Title Research
Mark C. Perry, VCTE
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EMAIL: wiltile@earthlink.net
Serving:

YLS Title Services, LLC
Nancy M. Edwards
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Zar Title & Escrow
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Associate Company Members

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Closers’ Choice
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Entrust Solutions, LLC
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EMAIL: jyasko@entrust.com
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Fox Point Programs, Inc.
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Settleware Notary Cam
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SERVICES: Settlement Services

Simplifile
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SERVICES: Other

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SERVICES: Computer - Software

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SERVICES: Insurance

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FAX: 703.495.8009
EMAIL: sheila@titlewrite.com
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WEBSITE: www.kmbs.konicaminolta.us
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WEBSITE: www.pagestreamlive.com
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SERVICES: Other

Services: Background Screening

Services: Law Firm

Services: Other

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Onsite Classes are conducted over a two day period (Friday/Saturday). A guarantee of 12 participants is necessary for this option PLUS VLTA will offer a discounted rate. Call VLTA today at 800.929.8730 for more information.

COURSE DATES AND LOCATIONS

March 14-15, 2014 .......... Glen Allen , VA
May 16-17, 2014 ............. Herndon, VA
July 11-12, 2014 ............. Glen Allen , VA
September 19-20, 2014 ...... Herndon, VA
November 14-15, 2014 ...... Glen Allen , VA

To register or for more information go to www.vlta.org

COURSE DATES AND LOCATIONS

March 7-8, 2014 .............. Herndon, VA
April 11-12, 2014 ............ Glen Allen, VA
June 20-21, 2014 ............ Herndon, VA
August 22-23, 2014 .......... Glen Allen, VA
October 17-18, 2014 .......... Herndon, VA
October 24-25, 2014 ........ Virginia Beach, VA

Effective July 1, 2008, anyone making application for a title agent license must first complete a 16 hour pre-licensing education course, as set forth in the Code of Virginia § 38.2-1814.1. To view the full ruling, click here

Course Details
The 16-Hour Course will be delivered over a two-day period. For course monitoring purposes, there will be a minimum of four sign-in periods throughout the class. Check-in begins at 7:30 a.m. The class starts at 8:00 a.m. and runs through 5:00 p.m. each day. Photo ID will be required at each morning sign-in. There will be one 20 minute break each morning and afternoon. Lunch is on-your-own each day.

Day #1
Focuses on regulatory compliance and product knowledge. Subject matters include RESPA, HUD Statements of Policy, the 2007 GAO Report, the GLB Privacy Act, industry history and evolution, as well as review of the 2006 ALTA form commitment and 2006 form Owners Policy.

Day #2
Focuses on the nuts and bolts of the industry plus Virginia-specific regulatory issues: Subject matters include basic title search and examination, settlement/escrow procedures, CRESPA, UPL Issues, and the Wet Settlement Act.

Learn More
What is the VLTA Google Members List?

THE VLTA GOOGLE MEMBERS LIST is an e-mail based discussion group made up of Virginia Land Title Association members. Topics of discussion on the VLTA Google Members List should be related to the title industry in Virginia. Many members will use the group as a forum to give and receive advice on administrative and business related issues. Do not use the List to post personal messages. Remember, this is a great way to reach many VLTA members; however, since all members receive all posts, keep messages clear and pertinent. Failure to comply with these guidelines will result in removal from all List Serve lists.

How Does It Work?

First, you join the List. (Details on how to join are covered below.) Then, you compose a message and send it, using your e-mail software, to the VLTA Google Members List address. If you are a valid member of the List, your message will then be sent to all other members of the List. (If you are not a member of the VLTA Google Members List, your message is bounced and is not sent to anyone.) Even the sender of a message to the List automatically receives a copy of the same message. Other members of the List may then reply to your message; they may do so directly to you, or they may send their reply back to the List, which sends out copies of the reply to everyone on the List.

What Protocols do I Have to Follow to Use the List?

- Be as clear as possible in your communication.
- Include your name, company, and city in the body of your e-mail.
- The Members List is to be used for business-related questions.

How Do I Join?

Joining the List is voluntary. This is done from the Web site—www.vlta.org.

Member Discount Programs

VLTA is shopping and everyone likes a discount! We know that title industry professionals do business with vendors they trust. If you know of a vendor who excels when it comes to service and quality - let us know. We would like the opportunity to negotiate a discount for all our members statewide.

A sampling of Member Discount participants are below. For more information, please email us directly. If you are a Member, simply click on the logo below to be redirected to the Member Discount offer. (Member login required.)
Virginia Land Title Association, the Title Industry’s Premier Resource for Advocacy, Education and Networking.

When you become a Virginia Land Title Association member, you join professionals from the Commonwealth of Virginia in one strong voice.

Membership Benefits

**Advocacy** VLTA is committed to protecting your interest, the consumer’s interests and the industry’s interest through legislative efforts. We keep you informed on issues affecting the industry and alert you of actions you need to take.

**Save Time and Money** with VLTA’s proven educational resources covering topics such as claims processing, mechanic’s liens, bankruptcy, survey needs and more. Take advantage of our many published courses to obtain your continuing education credits.

**Stay up-to-date** on vital issues with our publication — the Examiner. Enjoy the archives available online, too! VLTA’s monthly e-Newsletter and News Flashes keep you on top of industry news.

**Enjoy Exclusive, Members-Only Discounts** on registrations, advertising, and marketing products.

**VLTA Promotes YOU!** We’re promoting our members through our online membership directory. Associate, Abstractor, and Underwriter Members enjoy a free listing in the Examiner and on our website. Your company name is there for those who need your services and identifies you as a trusted, qualified professional in the industry.

**Community** Join VLTA members in supporting local charities.

**Networking Opportunities** The key to any association is the people who comprise it. VLTA members develop lasting friendships and business relationships via committee service, receptions at VLTA events, educational meetings and conventions. Participation is KEY!

**Stand United** with VLTA members in Virginia who are committed to ensuring the safe transfer of title for the industry, for the consumer, and for YOU.

Membership brings tremendous value to those of us in the title industry. Just to name a few of the benefits:

- Member’s only discount programs especially designed for small business owners
- Full time lobbyist always working for you
- Essential networking opportunities with your industry colleagues
- First hand information on ALTA’s best practices

**GoToWebinar Seminars**

**GoToWebinars are FREE to VLTA members as part of their membership.**

Your registration entitles you to:
1. ONE telephone connection at ONE physical location.
2. Invite as many people as you wish to listen on your speaker phone.
3. Any additional session materials supplied by the moderator.

Webinars are offered to non-members for a nominal fee of $10. Participants are charged by the site, which means you can invite colleagues to attend the session with you and share the cost! Participants will need a speaker phone and a computer (with a projector if you plan to invite others). Sessions provide our members a convenient and quality learning for **FREE**.

**Webinar Archives**
Most sessions will be recorded and offered as a FREE download to our members in an On Demand, Podcast and Webcast format. They can be accessed from our GoToWebinar Archives (member log-in will be required).

**Interested Education Providers**
Click here if you are interested in providing a GoToWebinar Seminar to VLTA!
SAVE THE DATE FOR THE 2014 ANNUAL CONVENTION!

June 5-7, 2014
Hyatt Dulles
2300 Dulles Corner Boulevard
Herndon, VA  20171

WHY SHOULD YOU ATTEND?

Annual Convention is VLTA’s largest and most important event. This year, VLTA is excited to offer a half-day of education devoted entirely to Certification Continuing Education for the VCTE™ and VCTSA™. American Land Title Association’s own Madeleine Nagy will be offering the first session at this not-to-be missed, spectacular event!

Please join us for Convention on Thursday - Saturday, June 5 - 7, 2014 for education, networking, and fun! The Convention will offer:

5 Credits CE/CLE (Friday)
7 Credits VCTE (Friday and Saturday)
8 Credits VCTSA (Friday and Saturday)

Registration will open on March 7.
Visit www.vlta.org or call 800.929.8730 for more information.