

# John M. Carroll

Attorney at Law

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310 North Main Street  
Davenport, IA 52801

(563) 324-0405  
(563) 324-2905

November 5, 2010

Mr. Matt White  
Title Guaranty  
2015 Grand Avenue  
Des Moines, IA 50312

RE: Application for Tract Index Waiver and issuance of abstract Certificate Member

Dear Mr. White:

Please consider this correspondence, with accompanying information, my formal Application for Tract Index (title plant) Waiver.

I have been a member of the Iowa Bar since 1991. Since that time, my practice has become increasingly focused in real estate law. Throughout my years of practice, I have conducted searches of title and judgments one would require under the abstracting process. In 1997, I joined a firm and was abstracting under the supervision of Marc Engelmann, certificate number 8559. During this time I had bank and mortgage company clients where I handled their loan transactional work. Of course, the abstracting process was a part of this transactional closing work. I handled hundreds of closings and the attendant abstracting, yearly, under Mr. Engelmann's supervision.

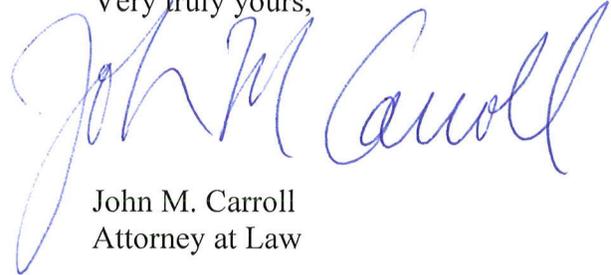
In 2001, I moved my office into Mr. Stephen Schalk's law firm. He has supervised my abstracting since the move. I include his letter addressing that and supporting this application. During the time under Mr. Schalk's supervision, I have conducted closings, and abstracted many hundreds, and in some years thousands, of transactions yearly.

I have the necessary experience, having abstracted title well over 12,000 times during my legal career. I have a number of bank and mortgage company clients which I presently do abstract/closing work for. Additionally, I have the possibility of becoming attorney for a new mortgage company which is preparing to enter the local market. I believe they have utilized title insurance in the past for closing transactions, but would not object to utilizing Title Guaranty should I start to work for them.

Finally, Iowa Code Supplement Section 16.91(5) "a" (2) does impose a hardship as it is practically impossible, and in this economic environment, prohibitively expensive, to develop a 40 year tract index. It is not my intention to do so. This Application is clearly in the public interest as the attached letter of support from Mr. David Dettman attests, in order to ensure additional, quality attorney-abstractors to replace those who have retired or are nearing retirement. This will have the added benefit of providing more consumer choice, allowing competitive pricing for these services.

I hope that you will take all of this information into account and consideration, leading to an approval of my Application for Tract Index Waiver.

Very truly yours,

A handwritten signature in blue ink that reads "John M. Carroll". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

John M. Carroll  
Attorney at Law

JMC/tar

# Title Guaranty Application for Tract Index (title plant) Waiver

(Please submit Application to Attn: Loyd Ogle - Director, Title Guaranty Division of the Iowa Finance Authority, 2015 Grand Ave, Des Moines, IA 50312)

NAME OF APPLICANT: John M. Carroll

BUSINESS ADDRESS: 310 N. Main Street Davenport Iowa 52801  
(Street) (City) (State) (Zip)

Telephone: ( 563 ) 324-0405

Facsimile: ( 563 ) 324-2905

Email: jc@jcarroll-law.com

1. Select type of title plant waiver requested:
  - a.  Provisional (temporary) waiver (see Paragraph #4, below)
  - b.  Permanent waiver for attorney (see Paragraph #5, below)
  - c.  Permanent waiver for non-attorney (see Paragraph #6, below)
  
2. Attach a written statement with the following information:
  - a. General description of the applicant's business;
  - b. Intention, if any, to develop a 40-year tract index;
  - c. Relevant facts that the applicant believes would justify a waiver, as stated below:
    - i. That the title plant requirement described in Iowa Code Supplement section 16.91(5) "a"(2) imposes a hardship to the abstractor or attorney; and
    - ii. That the waiver is:
      - (1) Clearly in the public interest; or
      - (2) Absolutely necessary to ensure availability of title guaranties throughout the state.
  
3. All waiver requests must include a signed, sworn statement from the applicant attesting to the accuracy of the facts provided in the application.
  
4. Provisional Waiver Request  
Applicant, at a minimum, should also provide the following:
  - a. Evidence that a title plant will be built for a specified county;
  - b. Evidence of significant financial loss due to the inability to provide abstracts for the division;
  - c. Evidence that the provisional waiver is necessary in order to produce a revenue stream to justify the expense associated with building a title plant; and
  - d. Professional references from two licensed Iowa attorneys or one participating plant-abstractor attesting to the applicant's ability to abstract.

5. Permanent Waiver Request: for Attorney

Applicant, at a minimum, should also provide the following:

- a. For attorney applicants with experience abstracting under the supervision and control of an exempt attorney-abstractor, Applicant, at a minimum, should also provide the following:
  - i. Evidence of the applicant's abstract experience;
  - ii. Professional references;
  - iii. Samples of abstracts prepared by the applicant;
- b. For attorney applicants without experience working under the supervision and control of an exempt attorney-abstractor, Applicant, at a minimum, should also provide the following:
  - i. Evidence of the applicant's abstract experience;
  - ii. Professional references;
  - iii. Samples of abstracts prepared by the applicant;
  - iv. The applicant's business plan;
  - v. Evidence of clients and volume of additional transactions that will be brought into the title guaranty abstract/attorney system as a result of the waiver;
  - vi. Evidence of the number, availability, service and quality of other abstractors available to perform abstracting and whether the grant of a permanent waiver will adversely impact the business of other participating abstractors;
  - vii. Evidence of whether the applicant demonstrates the inability to abstract under the supervision and control of an exempt attorney.

6. Permanent Waiver Request: for Non-Attorney

Applicant, at a minimum, should also provide the following:

- a. Evidence of the applicant's abstract experience, maintenance of a title plant by the applicant in any other county, and degree of participation by the applicant in the title guaranty division standards in excellence program;
- b. Professional references;
- c. Samples of abstracts prepared by the applicant;
- d. The applicant's business plan;
- e. Evidence of clients and volume of additional transactions that will be brought into the title guaranty abstract/attorney system as a result of the waiver;
- f. Evidence of the number, availability, service and quality of other abstractors available to perform abstracting and whether the grant of a permanent waiver will adversely impact the business of other participating abstractors.

## Application for Tract Index (title plant) Waiver

Q 1. What type of type of title plant waiver are you requesting?

A1. (Permanent waiver for attorney) I am requesting a Permanent Waiver for an attorney with abstracting experience under the supervision and control of an exempt attorney-abstractor.

Q 2. What is a general description of your business?

A2. My legal practice is and has been for the last 15 years, primarily focused in real estate law; particularly real estate based loan transactional work. I represent banks and mortgage companies in their real estate mortgage loan closings. I also represent real estate developers in all aspects relating to real estate development. A minority of my practice involves trust estate planning and probate work. I also represent a number of shall corporations.

Q3. What is your intention, if any, to develop a 40-year tract index?

A3. I do not intend to develop a 40 year tract index.

Q4. What are the relevant facts that you believe would justify a waiver, as stated below:

i. Why does the title plant requirement described in Iowa Code Supplement section 16.91(5)“a”(2) imposes a hardship to you?

(1) Does the title plant requirement cause you deprivation, suffering, adversity, or long-term adverse financial impact in complying with the title plant requirement that is more than minimal when considering all the circumstances?

(2) Is your hardship a financial hardship alone?

A4-i. Code Section 16.91(5) “a”(2) does impose a hardship on me from a number of perspectives.

(a) The requirement would impose a financial hardship. Over the years I have investigated the expense and time involved in building a 40 year tract index. To engage an outside title company or data entry company to build the index has been bid within a range of \$15,000.00 to \$45,000.00. This is prohibitive expense in difficult economic times. If I were to attempt to develop the index, the time necessary to do so would not allow for the

attention to other, paying work thereby depriving me of income for a considerable, and untenable, length of time.

- (b) The requirement would put me at a competitive disadvantage vis a vis other attorneys and title companies that do not have to devote the time to build, develop and **maintain** an index. These competitors can simply rely upon the County Recorder's index.
- (c) The difficulty in building an index, with its attendant consumption of non-income producing time would undoubtedly cause an emotional and physical toll on me as I built and maintained the index. If I contracted for it, the high expense of it would cause stress from the avoidable diversion of income from my family to the contractor building the index.

ii. Why is the waiver clearly in the public interest? Would the granting of a waiver:

- (1) be beneficial to the public as a whole?
- (2) increase competition among abstractors?
- (3) encourage the use of title guaranties throughout the state?
- (4) make title guaranties more competitive than out-of-state title insurance?
- (5) increase the divisions market share?
- (6) Improve the quality of land titles?
- (7) protect consumers?
- (8) encourage maximum participation by participating abstractors and participating attorneys physically located in all 99 counties.

A4-ii. The waiver is clearly in the public interest. I am a very competent real estate attorney who has been abstracting under the supervision of two of the most active and respected attorney-abstractors for over **13 years**. Base on my competence and experience, my continuations as an attorney-abstractor will improve the

quality of land titles which will ensure land titles are clear and marketable. This has the related benefit of protecting consumers from unnecessary litigation to clear clouds on title.

While my waiver will initially increase competition with other abstractors, it will very quickly ensure the benefit of encouraging the use of title guaranties and the divisions market share. As Mr. Dettman's supporting letter attests, as other attorney-abstractors soon retire, there is a need for younger attorney-abstractors to replace them. I am currently 44 years old and plan to continue practicing for a very long time. My presence will replace those attorney-abstractors no longer practicing.

Further, the more attorneys, that represent mortgage lenders, are participating abstractors, the more business the Division will receive. As related, I have a healthy list of mortgage lender clients.

iii Would the granting of a waiver be absolutely necessary to ensure availability of title guaranties throughout the state?

(1) Would the granting of a waiver mean that title guaranties are uniformly accessible throughout the state to buyers and lenders with competitive pricing, service, and quality and that there are two or more abstractors physically located in all 99 counties.

A4-iii. The waiver will ensure the availability of title guaranties throughout the state, as related above, and due to the fact that some of the mortgage lenders I represent operate in multiple counties in Iowa.

Q5. Does your waiver request include a signed, sworn statement from you attesting to the accuracy of the facts provided in the application?

A5. Please see attached Affidavit.

Q6. Do you have experience working under the supervision and control of an exempt attorney-abstractor? If yes:

i. What is the evidence of your abstracting experience?

ii. What are your professional references?

iii. What is your business plan?

iv. What is the evidence of clients and volume of additional transactions that will be brought into the title guaranty abstract/attorney system as a result of the waiver?

vi. What is evidence of:

- a. the number, availability, service and quality of other abstractors available to perform abstracting?
- b. whether the grant of a permanent waiver will adversely impact the business of other participating abstractors?

A6. I do have extensive experience working under the supervision and control of exempt attorney-abstractors.

Please see the attached Application.

Q7. Will you advocate for the use of Title Guaranty with your clients and cooperate with marketing efforts to increase use of Title Guaranty over out of state title insurance?

Q8. Have you given the Division Board enough information so they can weigh the benefits of the traditional title plant with other alternatives to ensure buyers and lenders high quality of title guaranties throughout the state, rapid service, and a competitive price?

AFFIDAVIT

STATE OF IOWA                    )  
COUNTY OF SCOTT            )     ss:

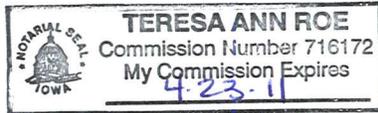
I, John M. Carroll, after being duly sworn, depose and state as follows:

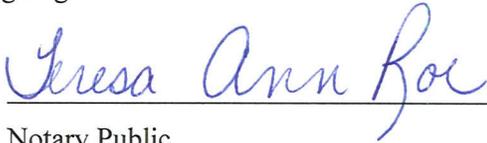
1. I have completed the Application and Questionnaire for Tract Index Waiver.
2. That all of the information that was provided is true and correct to the best of my knowledge.
3. Further Affiant sayeth naught.

October 21, 2010

  
\_\_\_\_\_  
John M. Carroll

On this 21<sup>st</sup> day of October, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared John M. Carroll, to me personally known, who being by me duly sworn, and voluntarily executed the foregoing Affidavit.



  
\_\_\_\_\_  
Notary Public

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April 1, 2010

Mr. Matt White  
Iowa Finance Authority  
Title Guaranty Division  
2015 Grand Avenue  
Des Moines, IA 50312

Via US Postal Service

RE: Application for Abstractor License of John M. Carroll

Dear Mr. White,

I have been informed by John that he intends to make Application for a Tract Index (title plant) Waiver from the Division. Please consider this correspondence my letter of support of that Application.

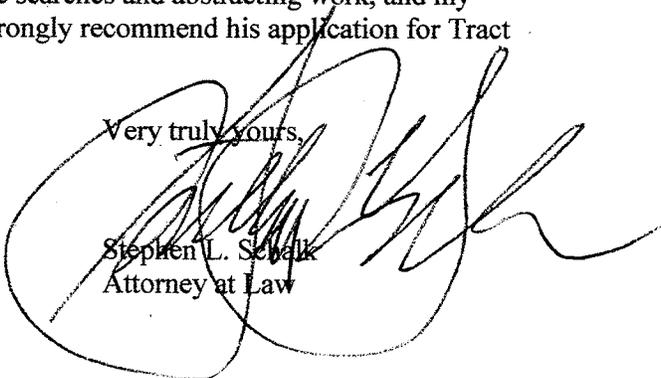
I am a participating abstractor licensed with Title Guaranty. My abstract license is #8567. I have been a participating abstractor with the Division since prior to 1986.

John re-located to my office building in April 2001. As part of our arrangement, I have been supervising John's title search and abstracting activities. He has been providing title search and abstracting work for my practice. I have also supervised his title search and abstract work in furtherance of his own, extensive real estate practice.

In the nine (9) years which I have been supervising and reviewing his abstracting work, I have found it to be a very high quality. His level of competence is equal to any current attorney-abstractor presently licensed with the Division, here in Scott County. He possesses an excellent knowledge of real estate law in general, and of the current title standards. I am also aware that John was supervised by another attorney-abstractor, Marc R. Engelmann, for four (4) years prior to our relationship.

Based on my knowledge of John's ability as a lawyer focusing on real estate law, his knowledge and high competence performing title searches and abstracting work, and my supervision of that work over nine (9) years, I strongly recommend his application for Tract Index (title plant) Waiver be approved.

Very truly yours,

  
Stephen L. Schalk  
Attorney at Law

Joe R. Lane (1858-1931)  
Charles M. Waterman (1847-1924)  
C. Dana Waterman III  
Charles E. Miller\*  
James A. Mezvinsky  
David A. Dettmann\*  
Terry M. Giebelstein\*  
Rand S. Wonio  
Curtis E. Beason  
Robert V. P. Waterman, Jr.\*  
Peter J. Benson\*  
Michael L. Noyes  
R. Scott Van Vooren\*  
Thomas D. Waterman\*  
John D. Telleen\*  
Richard A. Davidson\*  
Michael P. Byrne\*  
Edmund H. Carroll\*  
Jeffrey W. Paul\*  
Theodore F. Olt III\*  
Cameron A. Davidson\*  
Judith L. Herrmann\*  
Robert B. McMonagle\*  
Christopher J. Curran\*  
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Jason J. O'Rourke\*  
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Courtney M. Kay-Decker\*  
Troy A. Howell\*

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February 22, 2010

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Mr. Matt White  
Iowa Finance Authority  
Title Guaranty Division  
2015 Grand Avenue  
Des Moines, IA 50312

Re: Application for Abstractor License of John M. Carroll

Dear Matt:

I have been informed by John Carroll that he intends to make Application for a Tract Index (title plant) Waiver from the Iowa Finance Authority Title Guaranty Division. Please consider this correspondence my letter of support of that Application.

I am aware that John has been engaging in title searches and abstracting since 1997, under the supervision of two participating attorney-abstractors. From 1997 until mid-2001, Marc R. Engelmann supervised John's title search and abstracting. Marc is the Chair of the Scott County Bar Association Abstract and Real Estate Committee and an experienced and respected attorney-abstractor.

In 2001, John joined the office of Stephen L. Schalk, a participating attorney-abstractor. Steve has been supervising John's title searched and abstracting work. I am aware that Steve has provided a letter in support of the application in that regard. For Steve, John has performed abstracting work for his clients, as well as John's own practice that Steve has reviewed and signed the abstractor's certificates for those abstracts.. I am not aware of any problems or issues regarding John's abstracting work and can assert that it is performed with high competence.

Mr. Matt White  
Iowa Finance Authority  
Title Guaranty Division  
February 22, 2010  
Page 2

John has focused his practice in real estate law since the mid-1990's. I find him to be an experienced and knowledgeable practitioner in that field. I also know that his abstracting work is of high quality after 13 years of supervision by participating attorney-abstractors.

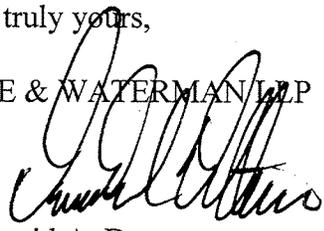
As you and I have discussed on many occasions, I believe there is a need locally for additional, quality attorney-abstractors to replace those who have retired and are nearing retirement.

For all these reasons I support John's Application for Tract Index Waiver.

Very truly yours,

LANE & WATERMAN LLP

By

  
David A. Dettmann

DAD:sbr