

BEFORE THE IOWA FINANCE AUTHORITY, TITLE GUARANTY BOARD

IOWA ABSTRACT SERVICES, L.L.C.)
APPLICATION FOR EXTENSION OF) RULING GRANTING APPLICATION
TRACT INDEX WAIVER) FOR EXTENSION OF TRACT INDEX WAIVER
)

INTRODUCTION

Iowa Abstract Services, L.L.C. (hereinafter IAS), an abstractor in Pottawattamie County, has applied for an extension of its provisional waiver of the 40-year title plant and tract index (hereinafter title plant) requirement. The Title Guaranty Board (hereinafter Board) granted IAS the provisional title plant waiver at its December 13, 2011, Board meeting and approved the written ruling at its March 6, 2012, meeting. IAS was assigned Title Guaranty #8828.

That provisional waiver was granted by the Board subject to a requirement that the title plant be in compliance with Iowa Code §16.91(5)a(2) by December 13, 2012. Mr. Prichard informed Title Guaranty on or about October 19, 2012, that the IAS title plant would not be completed by December 13, 2012. An Application for Extension of Tract Index Provisional Waiver (Extension Application) was provided to IAS on or about October 19, 2012, and a completed Application was received by Title Guaranty on October 25, 2012, with an amended Extension Application on October 30, 2012. The Extension Application included two letters of support of the Application. An extension of provisional waiver request is described in 265 IAC 9.7(8)"a".

For the reasons explained below, the Board grants IAS's request for an extension of its December 13, 2011 provisional waiver.

RECORD

The record before the Board includes the following:

- Iowa Abstract Services, L.L.C.'s Application for Waiver.
- Two letters in support of the Application for Waiver.
- Recommendation from Title Guaranty Director granting the one year waiver.
- Iowa Abstract Services, L.L.C.'s Application for Extension of Waiver.
- Letters of support or opposition for the Extension.

- Recommendation from Title Guaranty Director granting the extension of the waiver.

On December 4, 2012, the Board held a hearing on IAS's Application for Extension of Provisional Waiver (Extension Application). Charles Prichard, as manager of IAS appeared before the Board. The Board has taken into consideration the information contained in the Extension Application as well as the testimony provided at the December 4, 2012 Board meeting.

APPLICABLE LAW, ANALYSIS AND RULING

IAS has the right to apply for an extension, and the Board may, at its discretion, extend the waiver for up to one additional year pursuant to 265 IAC 9.7(8)a.

The process for extension of a waiver is similar to the original application for provisional waiver, without the necessity of confirming the continued public purpose and hardship requirement. Because the Board is allowed to rely upon the hardship and public purpose criteria and findings under which the original ruling was approved, it is unnecessary to reestablish these criteria in an Application or this written ruling. For reference, a copy of the original written ruling is attached.

ANALYSIS

Has IAS satisfied 265 IAC 9.7(8)a?

After considering the record, the Board in its discretion finds that 265 IAC 9.7(8)a has been satisfied. IAS has submitted a completed (amended) extension application to Title Guaranty on or about October 30, 2012. The Extension Application identified the company requesting the extension, described the business generally, identified the county, expressed a statement of intent to develop and complete the 40-year tract index, described the circumstances of why the initial waiver period was not sufficient to complete the title plant, and included a signed statement attesting to the accuracy of the facts contained in the Application.

The Board finds several factors contributing to the title plant not being completed by December 13, 2012. The Extension Application and testimony from Todd Prichard reflected that the indexing for the title plant has been ongoing and is updated through June 2010. The

Extension Application and the testimony from the Board meeting reflect that because IAS did not plan on utilizing the existing title plant software and index that they did not spend time updating the existing database. The Board finds that it was mainly this factor that contributed to the plant not being complete in one year as originally intended.

The Board finds that from the Extension Application and its supporting documents, as well as testimony before the Board, that Mr. Prichard does have the intent to complete the title plant. The Board notes that IAS has entered into an agreement on purchasing the digital records from the Pottawattamie County Recorder. Further, testimony reflects that there has been a recent renewed effort made in the updating of the title plant, in large part through the planned hiring of a vendor to complete the digital plant with those digital records obtained from the Recorder. In testimony at the Board meeting, Mr. Prichard stated that a vendor will be chosen in or about January of 2013 and once the software is in place the title plant should be updated in four to eight weeks.

Additionally, the Board has considered the letters in support given by two attorneys and from the Iowa Land Title Association.

RULING

IAS asks the Board for an extension of the provisional waiver granted December 13, 2011, to allow it to continue to participate in the Title Guaranty program as an abstractor while completing their title plant. The Board notes that granting an extension of provisional waiver of the title plant requirement has a long-standing precedent in prior Board actions. Historically, when this Board has granted an extension of a provisional waiver it places requirements on the abstractor to have the plant built in a certain time period. Iowa Administrative Code 265 IAC 9.7(8)a gives the Title Guaranty Board the authority, at its discretion, to grant an applicant an extension of up to one additional year.

The Board finds the following:

- Since the grant of the provisional waiver, IAS has made some progress towards completion of their title plant, and that a renewed effort is currently being made.
- The original goals for a waiver continue, and to allow IAS to provide abstracting in Pottawattamie County while completing the title plant furthers the public purpose of Title Guaranty.

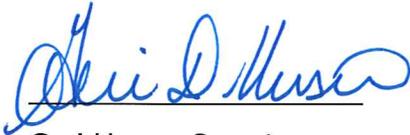
- The resulting title plant will benefit buyers and lenders in Pottawattamie County through added availability of Title Guaranty, along with additional competition leading to good service, competitive pricing, and the increased use of Title Guaranty.

For the reasons set forth above, the Board grants IAS's Application for Extension of Provisional Waiver of their Title Plant Waiver to June 4, 2013, with the following conditions. Upon completion of the title plant, IAS will need to be certified as up-to-date pursuant to Title Guaranty requirements and 265 IAC 9.7(10). Further, certification of the title plant must occur prior to the June 4, 2013, Board meeting before the Board may grant up-to-date title plant status to the IAS. Additionally, IAS must provide Title Guaranty monthly status reports on their progress towards completion of the title plant including a report in January on their decision and choice of a software vendor for their title plant.

SO RULED this 5th Day of March, 2013.



Deb Petersen, Board Chair



Geri Huser, Secretary

