

**Title Guaranty
Board Meeting Minutes
August 6, 2014**

Board Members Present:

Pat Schneider
Kim Downing-Manning
Chuck Winkleblack
Tim Reilly
Dan Seufferlein (telephone)

Staff Members Present:

Dave Jamison, Iowa Finance Authority Executive Director
Geri Huser, Iowa Title Guaranty Director
Mark Thompson, Iowa Finance Authority General Counsel
Matt White, Deputy Director
Linda Berg, Business Development Director
Marie Jeanblanc, Business Development Specialist
Carla Pope, Senior Project Coordinator
Ann Marie Malave, Claims Attorney
Tara Lawrence, Commercial Underwriting Attorney
Gerald LoRang, Underwriting Attorney
Bob Skelley, Residential Underwriter
Jason Sandegren, Commercial Services Specialist
Andrea McGinn, Intern
Drew Meyers, Intern

Others Present:

Dean Hoag, Jr. Statewide Abstract
Mary Hoag, The Title Resource Network
Brenden Hoag, Statewide Abstract & Title
Sandy Guy, The Title Resource Network
Ron Lewis, Statewide Abstract & Title
Jan Gemar, ILTA
Gary Reeder, ILTA
Raymond Berger, Service Abstract Company
Alex Berger, Service Abstract Company
Kay Berger, Service Abstract Company
Vonnie Berger, Service Abstract Company
David Truitt, Truitt Abstract & Title
Debra Truitt, Davis County Abstract & Title
Tom Bernau, American Abstract & Title
Tom Levis, American Abstract & Title
Dan Edwards, American Abstract & Title
Jim Nervig, Brick Gentry Law Firm
Bill Blue, Blue Advantage Title Systems, LLC
Melinda Blue, Blue Advantage Title Systems, LLC
Brandon Blue, Public
Krista Blue, Public
Joan Johnson, Iowa Title Company
Randee Slings, Iowa Title Company
Tim Peters, Iowa Title Company (telephone)
David Dunakey, Iowa Attorney Abstracting Association
Brittney Frericks, Court Reporter
Charles Hendricks, Attorney at Law

Call to Order

Ms. Schneider called the August 6, 2014 meeting of the Iowa Title Guaranty Board of Directors to order at 1:57 p.m.

All Board Members, Title Guaranty staff and members of the public introduced themselves.

Statutory Update – Mark Thompson

Mr. Thompson explained why Iowa Finance Authority Executive Director Dave Jamison is acting Iowa Title Guaranty Board Secretary. He stated that during the 2013 legislative session a bill (House File 6-07) was introduced to dissolve the Iowa Ag Authority and bring them in as a Division within IFA. During this process some provisions from Chapter 175 were moved into IFA's Chapter 16. They revised the Code to fit within the IFA framework. Amendment 12-24 added the word "Executive" before "Director" where it references who the Board Secretary is within the Iowa Ag Division. The code drafter mistakenly made this correction when referencing the Iowa Title Guaranty Board Secretary. Because the change was passed Dave Jamison is now acting ITG Board Secretary. During the next Legislative Session IFA will update.

Review & Approval of Board Meeting Minutes

Motion: On a motion by Mr. Winkleblack, seconded by Mr. Reilly, the Board unanimously approved the June 6, 2014, Board meeting minutes.

Clay County Abstract Company, LLC - Provisional Title Plant Waiver Written Ruling (Clay County)

Matt White reported that Clay County Abstract Company, LLC made appropriate progress in the plant building process. As required Clay County Abstract Company, LLC has obtained all required records necessary to begin the plant. The proposed Written Ruling was presented and included the elements required by Iowa Code and/or the Iowa Administrative Code and the factors evidencing those determinations along with conditions to the grant of the waiver as directed by the Board at its June 4, 2014 meeting.

Motion: On a motion by Mr. Reilly, seconded by Ms. Downing-Manning, the Board unanimously approved the Written Ruling granting Clay County Abstract Company, LLC a Provisional Title Plant Waiver for Clay County.

Guaranty Abstract Company, LLC Update (Union County)

Mr. White presented a progress update on the building of the title plant. Mr. White stated that it was his opinion that good progress was being made in the building of the title plant.

Residential and Commercial Forms Manual

Ms. Pope discussed the Residential Forms Manual with emphasis on the index. She explained the index shows which forms require Board approval, if the form is adopted from an ALTA form, and the date of the last legal and staff review. If the form is adapted from an ALTA form it will include the ALTA copyright logo on the bottom on the page. She mentioned that any form that does require Board approval will be periodically updated by the ITG staff. She advised the Residential Forms manual was circulated, noticed and open for public comment beginning on June 26th. There were comments received from ILTA and Ms. Pope that were included in the Board materials. The comments that were received do not require Board approval, however, the staff will take these comments into consideration. Ms. Pope requested the Board approve Resolution 14-06 adopting the forms manual

Motion: On a motion by Mr. Winkleblack, seconded by Mr. Seufferlein, the Board unanimously approved Resolution 14-06.

Ms. Lawrence took the podium to discuss the Commercial Forms Manual. She advised all forms included in the current manual will be included in CAP 2.0. Some of these forms have been reviewed and approved by the Board in the past, however, since there is no formal documentation she requested the Board approve all the forms. The index is set up the same as the Residential Manual. She noted that there were no public comments received on the manual. Sections 3 and 4 of the index are forms that the Commercial Staff are currently reviewing and updating. Some of these forms will be brought back to the Board for approval at a later date. Ms. Lawrence asked that the Board approve Resolution 14-07.

Motion: On a motion by Ms. Downing-Manning, seconded by Mr. Winkleblack, the Board unanimously approved Resolution 14-07.

Monroe County Abstract Company – Provisional Title Plant Waiver (Monroe County)

Mr. White presented for the record a summary of his legal analysis, review of the provisional title plant waiver requirements and summarized the information accompanying the application. Mr. White stated that his recommendation to the Board and the director were based on his belief that the hardships, clearly in public interest/absolutely necessary and other requirements in the **Iowa Code and/or the Iowa Administrative Code** were met. The Board asked Mr. White some questions related to information in the Application. Ms. Schneider requested additional public comments regarding Monroe County Abstract Company.

Mr. Dave Truitt, an abstractor from Wapello and Davis County, set out his understanding of the background and the situation on the request from this applicant.

The Director recommended approval of the provision waiver subject to the conditions set out in the Director's Recommendation.

Motion: On a motion by Mr. Winkleblack, seconded by Ms. Downing-Manning, the Board directed ITG staff to prepare a written ruling for the October 2014 Board meeting approving the waiver application subject to the conditions set out in the Director's Recommendation.

Blue Advantage Title Systems, LLC d/b/a Bill Blue & Associates, Professional Abstractors – Provisional Title Plant Waiver (Polk County)

Mr. White presented for the record a summary of his legal analysis, review of the provisional title plant waiver requirements and summarized the information accompanying the application. Mr. White stated that his recommendation to the Board and the Director were based on his belief that the hardships, clearly in public interest/absolutely necessary and other requirements in the **Iowa Code and/or the Iowa Administrative Code** were met. The Board asked Mr. White some additional questions related to information in the application. Ms. Schneider asked for any additional public comments regarding Blue Advantage Title Systems, LLC.

Mr. Blue appeared before the Board and presented additional details on his application.

Mr. Jim Nervig, Brick Gentry Law Firm, appeared as the attorney for American Abstract Company. He referred to the letters in the Board packets reflecting his client's opposition to a grant of waiver to Blue Advantage Title Systems, LLC as well as the Berger and Hoag upcoming waiver requests. Mr. Nervig stated that he did not believe that any of the applicants had met the hardship standards as set by statute and previous Court rulings. Mr. Nervig asked that his comments be considered by for all the remaining applications for waivers.

Mr. Charles Hendricks took the podium. He disagreed that an abstract built without a full plant is inherently inferior, and that a standard abstract can be built without a tract index. Also that ISBA Title Standard 1.5 addresses that a plat 10 years old can be the beginning of an abstract – no need for a 40 year root abstract. He stated that all abstractors in Polk have the same indexes. He addressed Bill Blue's modernization and providing for the needs of the public, and expressed his opinion that Mr. Blue is an asset to the system in general and urged the Board to grant his waiver request.

Joan Johnson from Iowa Title Company appeared before the Board. She stated that her company's concerns tracked Mr. Nervig's and voiced her opposition to the waiver request.

Randee Slings with Iowa Title Company addressed the Board. She stated that there is an advantage to using a title plant because the records are indexed by legal description. Records posted by grantor or grantee can be mis-posted by the county recorder. Easements and other documents outside of grantor/grantee index cannot be searched by a legal description.

Tom Bernau, American Abstract & Title appeared before the Board. He stated that he saw no evidence in the Blue Advantage Title Systems application and testimony of Mr. Blue that the hardship and public interest requirements were met.

The Director recommended approval of title plant waiver subject to conditions set out in the Director's Recommendation.

Motion: On a motion by Mr. Reilly, seconded by Mr. Winkleblack, the Board directed ITG staff to prepare a written ruling for the October 2014 Board Meeting, approving the waiver application subject to the conditions set out in the Director's Recommendation.

Board meeting adjourned for a recess at 4:07 p.m., meeting resumed at 4:13 p.m.

Alexander Berger, Attorney at Law – Permanent Title Plant Waiver (Statewide)

Mr. White reviewed the statutory and Administrative Rule requirements for the Board's consideration of a title plant waiver request from an attorney. The Board was asked if there were questions about this process, and hearing none Mr. White moved on to the Alex Berger title plant waiver request.

Mr. White presented for the record a summary of his legal analysis, review of the provisional title plant waiver requirements and summarized the information accompanying the application. Mr. White stated that his recommendation to the Board and the Director were based on his belief that the hardships, clearly in public interest/absolutely necessary and other requirements in the **Iowa Code and/or the Iowa Administrative Code** were met.

Mr. White stated that Mr. Alexander Berger's application detailed his abstracting process was and provided evidence of Mr. Berger's abstracting experience. The materials included a detailed explanation of the longtime abstracting history of Mr. Alexander Berger under Mr. Raymond Berger's direct supervision.

Mr. Raymond Berger provided a letter of reference attesting to the abilities of the applicant and his plan to continue to mentor the applicant. Abstracting samples were reviewed by ITG and found to be sufficient.

The Chair asked Mr. Alexander Berger if he had comments, and he addressed the Board. Chair Schneider asked how many counties do they abstract in for their business, and Mr. Berger stated all 99. He verified that he can do these searches in compliance with ITG, Blue Book and Supreme Court requirements.

Chair Schneider called for public comment. Mr. Dave Truitt, an abstractor from Wapello and Davis County stated that he just went through a provisional waiver process. He stated he found that while he could abstract for ITG he found that the financial penalty was not that great while building the plant. He stated that his comments should also be considered when reviewing Mr. Hoag's waiver request.

The Director recommended approval of the provision waiver subject to the conditions set out in the Director's Recommendation.

Motion: On a motion by Mr. Seufferlein, seconded by Mr. Winkleblack, the Board directed ITG staff to prepare a written ruling for the October 2014 Board meeting approving the waiver application subject to the conditions set out in the Director's Recommendation.

Brenden Hoag, Attorney at Law – Permanent Title Plant Waiver

Mr. White presented for the record a summary of his legal analysis, review of the provisional title plant waiver requirements and summarized the information accompanying the application. Mr. White stated that his recommendation to the Board and the Director were based on his belief that the hardships, clearly in public interest/absolutely necessary and other requirements in the **Iowa Code and/or the Iowa Administrative Code** were met.

Mr. White stated that Mr. Brenden Hoag's application detailed his abstracting process was and was evidence of Mr. Hoag's abstracting experience. The materials included a detailed explanation of the longtime abstracting history of Mr.

Brenden Hoag under Dean Hoag, Jr's direct supervision. Mr. Dean Hoag, Jr. provided a letter of reference attesting to the abilities of the applicant and his supervision of Mr. Brenden Hoag.

The Chair asked Mr. Brenden Hoag if he had any comments, and he and his father Dean Hoag, Jr. appeared before the Board and made a presentation to them.

Mr. Charles W. Hendricks appeared before the Board. He handed the Board a packet of information to supplement his statement to the Board. He stated that it was his belief that the abstracting samples submitted by Mr. Hoag did not meet the minimum standards of the Blue Book and/or the ITG Minimum Standards. He stated that the attorney references in the application are from attorneys who are employed by companies affiliated with or owned in part by Mr. Brenden Hoag. Mr. Hendricks also provided his opinion that there was not proof of abstracting experience as stated in the application. He showed a "LinkedIn" page that largely did not reference work history coinciding with the work history provided by Mr. Hoag. He stated that June to December 2010 he was affiliated with Community Title and at that time Mr. Hendricks never heard of Mr. Hoag being mentored or working with his father on abstracting. He also referenced the "clearly" in the public interest requirement and his understanding of the definition.

Mr. Winkleblack asked Mr. White about the abstracts potentially not meeting standards, and Director Huser asked if Mr. White reviewed the abstracts and believed that they met the standards. Mr. White responded that he did believe that they met the minimum standards. Director Huser reported to the Board that we do take objections into consideration in our analysis, but due to the timing of receipt of the information from Mr. Hendricks this could not be done.

Mr. Truitt took the podium. Mr. Truitt asked Mr. White that if it is not in the abstract sample, how do you know if something that is required is not there, Director Huser stated that this may be an issue when reviewing an abstract product.

Chair Schneider called for a motion and Mr. Reilly asked if the requirements would be the same as for Mr. Berger. Director Huser stated that if that was acceptable to the Board, and to Mr. Brenden Hoag, that the requirements could stay as drafted. Mr. Seufferlein asked Director Huser if the recommendation was the same based on the additional information presented at the Board meeting by Mr. Hendricks. Director Huser responded that as earlier stated all objections are considered before recommendation. The problem here is that there is no time to analyze what has just been submitted. She restated that there is a process and a checklist that is followed, and there is no opportunity to review the recently submitted document. The Director stated that the Board can revoke or rescind a waiver if it is discovered that the facts upon which it was based are misrepresented. Mr. White stated that the contracts allow for audits at any time, with or without notice to the participant.

Motion: On a motion by Mr. Winkleblack, seconded by Mr. Reilly, the Board directed ITG staff to prepare a written ruling for the October 2014 Board meeting approving the waiver application subject to the conditions set out in the Director's Recommendation.

There were no other agenda items discussed and the Director waived giving a Director's report.

Adjournment

Ms. Schneider adjourned the meeting at 5:37 p.m.

Dated this October 7, 2014

Respectfully submitted:

Approved as to form:



Geri Huser
Director, Title Guaranty



Pat Schneider
Chair, Iowa Title Guaranty Board