

Title Guaranty Division Board Meeting Minutes

March 25, 2008

Board Members Present:

Deborah Petersen
Walter Murphy
Mitchell Taylor
Pat Schneider
Surasee Rodari

Staff Members Present:

Loyd Ogle, TGD Director
Matt White, TGD Deputy Director
Lon Kobernusz, IFA Accountant
Becky Petersen, TGD Director of
Field Operations
Linda Berg, TGD Business Development
Director
Susan Mock, TGD Administrative Assistant
Becky Wu, IFA Accountant
Mark Thompson, IFA General Counsel

Others Present:

Bill Blue – American Abstract Company
Bob McCloney – United Land Title Company
Sandy McCloney – United Land Title Company
Grant Dugdale – Attorney General's Office

Call to Order

Mr. Taylor called the March 25, 2008, meeting of the Title Guaranty Board of Directors to order at 10:30 a.m.

Review & Approval of Board Meeting Minutes

The Board discussed the December 4, 2007, meeting minutes.

Motion: On a motion by Ms. Deborah Petersen, seconded by Mr. Rodari, the Board unanimously approved the December 4, 2007, Board meeting minutes.

Review of Financial Reports and Transfer of Funds to IFA's Housing Programs

Mr. Ogle delivered the financial report. He introduced Ms. Wu, who is taking over TGD's financial duties from Mr. Kobernusz, and he thanked Mr. Kobernusz for all his hard work.

Mr. Ogle said that TGD has \$135,000 to transfer to IFA's housing programs, based on financials through the end of January.

Mr. Ogle noted that TGD exceeded its budget for the month. TGD's numbers tentatively were down somewhat for February and March. TGD went to a wireless system, which had some impact on those numbers. Overall, revenue is generally flat compared to last year. Given the state of the current housing market, there is quite a bit of dropoff.

Several Board members posed questions to Mr. Ogle regarding the financial report.

Motion: On a motion by Mr. Rodari, seconded by Ms. Deborah Petersen, the Board unanimously approved the transfer of \$135,000 to IFA's housing programs.

Election of Officers

Mr. Taylor said he would not seek or ask for a motion to be the chair of the TGD Board again. Mr. Ogle said the Board needed to elect a chair and vice chair.

Motion: On a motion by Mr. Taylor, seconded by Mr. Rodari, the Board unanimously approved the election of Ms. Deborah Petersen as chair and Mr. Murphy as vice chair of the Title Guaranty Board of Directors.

Ms. Deborah Petersen chaired the remainder of the Board meeting.

Director's Report

Mr. Ogle thanked Mr. Taylor for his service as chair of the TGD Board.

Mr. Ogle gave the director's report. He began with the pending bills in the Legislature. The session was started with four potential proposals. One was to eliminate small judgment liens against properties. The Governor's office was not comfortable with TGD pursuing it, so that bill was not introduced. The second bill was one to license escrow and closing companies. That bill was introduced. That bill will be much less regulatory than the Nevada statute upon which it was based. This bill was not aggressively pushed this session. There are plans for a conference regarding closing companies in which this bill will be discussed. The intention next year is to introduce the bill and get it passed. The third bill will open up the Closing Protection Letter program to include closers passed the Senate and passed the House committee. It will allow TGD on a very limited basis to provide CPL coverage in transaction where a Title Guaranty Certificate is issued but someone other than TGD's participating attorney or participating abstractor is the closer. That bill is anticipated to pass at any time. The final bill is in regard to the mortgage release program. Right now TGD is under a strict liability standard to release mortgages. This bill changes the standard from strict liability to negligence. The bill has passed the Senate and passed House committee.

Mr. Ogle moved on to the plant waiver rules and process. Mr. Ogle wanted to assign attorneys at TGD to work with any members of the Board to review the proposed rules and assist them in drafting alternative language to any portion they did not like. This way there would be alternatives when the proposal is being discussed. It is the goal that at the June Board meeting, the Board would have proposed administrative rules and approve a recommendation to the IFA Board that they notice a draft as part of the formal ruling process. When Ms. Petersen queried where TGD was in regard to the Hendricks case, Mr. Dugdale said there would not be a decision from the Iowa Court of Appeals or Iowa Supreme Court for about 18 to 24 months. Mr. Dugdale advised the Board that they should go on with its rulemaking.

Mr. Ogle said for the most part, the proposed rules reflect what the Board has done in the past. There are some tighter standards, especially in regards to a Hendricks-type waiver request.

Board members discussed the proposed rules.

Mr. Ogle said staff will be assigned to members of the Board who want to be involved in actively writing alternative language to the proposed rules.

Mr. Ogle discussed the revisions to the rules regarding the Closing Protection Letter program. He asked the Board to make a recommendation to the IFA Board to make notice to the rules, contingent upon the Legislature passing the CPL bill. There are revisions to the Title Guaranty Manual as well. Mr. Ogle asked the Board to ask the IFA Board to notice the rules, and then the IFA Board will set forth the rulemaking process. Mr. Ogle said at the June meeting, the Board would be asked to approve the Manual in its final form.

Motion: On a motion by Mr. Taylor, seconded by Ms. Schneider, the Board unanimously approved noticing the changes to the rules regarding the Closing Protection Letter program.

Mr. Ogle requested that the Board approve noticing the proposed rules regarding the Mortgage Release Program. Once the rules are put in place, TGD would make changes in the Mortgage Release Program. Currently TGD does not release mortgages over a half million dollars. TGD is also under the strict liability standard for releasing mortgages. Once the bill passes where TGD is no longer under the strict liability standard, the Administrative Rules will be changed to split into two types of transactions. TGD would raise the release amount to \$1 million, with the exception being if it is a TGD transaction where TGD or one of its participants is closing the loan and TGD is providing coverage. Then TGD would raise the amount released to \$20 million. Ms. Becky Petersen explained that as they developed the commercial program, they found TGD has to be competitive and get final policies out quickly after closing.

Motion: On a motion by Mr. Murphy, seconded by Mr. Taylor, the Board unanimously approved noticing the changes to the rules regarding the Mortgage Release Program.

Deputy Director's Report

Mr. White delivered the deputy director's report. Mr. White said TGD still has a normal number of claims. As more foreclosures happen, the more claims TGD will tend to get.

Mr. White also discussed the Mortgage Release Program. It is still ongoing and about the same procedure as it has been. As more Closing Protection Letters and Rapid Certificates are done, TGD will see volume go up.

Mr. White brought up the following resolution regarding changing the amount of professional liability insurance:

WHEREAS, the Iowa Finance Authority (the "Authority") is a public instrumentality and agency of the State of Iowa (the "State") established and empowered by the provisions of Chapter 16 of the Code of Iowa, 2007, as amended, to issue title guaranties on real property located in the State through its Title Guaranty Division (the "Division"), and

WHEREAS, under 265 IAC 9.6(2)c the Division requires a participating attorney shall maintain errors and omissions insurance at all times while acting as an agent of the division, with such coverage and in such amounts as the Division board may direct from time to time by resolution, and

WHEREAS, current requirements are that participating attorneys rendering title opinions to be used for the purpose of issuing Title Guaranty Commitments, Certificates and/or Endorsements must agree to maintain professional liability insurance with limits of not less than \$250,000.00 per claim and not less than \$500,000.00 total annual limit, and

Whereas, the Division has determined it would be beneficial to amend the professional liability insurance requirements for attorneys rendering title opinions to be used for the purpose of issuing Title Guaranty Commitments, Certificates and/or Endorsements to limits of not less than \$200,000.00 per claim and not less than \$500,000.00 total annual limit, and

WHEREAS, after consultation with Division management this change will help the Division fulfill its statutory goals, and will be for the benefit of the people of the state of Iowa, and

WHEREAS, the Division wants to implement this change effective immediately, and

NOW, THEREFORE BE IT RESOLVED By the Board of the Title Guaranty Division:

That the amendment to professional liability insurance requirements are hereby adopted by a majority vote of the division board, and that the Division Director and his staff are empowered to make the necessary changes to the Participation Manual, and any other related documentation, forms or guides necessary to conform to this agreed upon change.

Mr. White explained that the Board, by rule, sets the amount of insurance that is required of attorneys and abstractors. The current amount is \$250,000 per claim and \$500,000 annual limit. It turns out that pricing for the \$250,000 claims policy is more expensive than the \$200,000 claims policy. Mr. Ogle said that \$200,000 per claim and \$600,000 aggregate is a much more common pricing structure than the \$250,000/\$500,000 structure. Ms. Becky Petersen said otherwise attorneys have to jump up to \$1 million aggregate, which is a huge difference. Although TGD's \$500,000 annual limit will not be raised, Mr. Ogle said as a practical matter, some attorneys will switch from \$250,000/\$1 million to \$200,000/\$600,000.

The Board discussed the matter further.

Motion: On a motion by Ms. Schneider, seconded by Mr. Murphy, the Board unanimously approved the above resolution.

Business Development Director's Report

Ms. Berg gave the business development director's report. Staff at IFA who deal with FirstHome and military loans are working diligently with the lenders that participate in those programs promoting Title Guaranty, not just on the FirstHome and military loans, but for all their business. There has been a slight change at U.S. Bank. Now anytime the borrower requests Title Guaranty, U.S. Bank will honor that and use Title Guaranty on those loans. One of the things in the works is a new and more specific borrower brochure on the advantages of owner's coverage. Ms. Berg also worked with Mr. and Ms. McCloney in a workshop for lenders in the Newton area. Her objective was twofold: 1) To give them information about Title Guaranty, and 2) to give them information about the services that the McCloneys offer for closings and Title Guaranty.

Mr. Rodari left the meeting at 11:54 a.m.

Field Operation Director's Report

Ms. Becky Petersen delivered the business development director's report. She discussed TGD's training and compliance activities over the last quarter. TGD is wrapping up its auditing season. The goal was to conduct 45 field audits. Fifty-two audits will get done this year. They will do some mail audits for some lower-volume issuers. Training will be a focus. They identified some training issues in the course of their audits. Five Regional Academies are scheduled all around the state. Audits by and large turned out very well.

Next Meeting Date and Time

The next Board meetings will be June 3, 2008; September 9, 2008; and December 2, 2008; all at 10:30 a.m.

Adjournment

Motion: On a motion by Mr. Murphy, seconded by Mr. Taylor, the Board unanimously voted to adjourn at 12:05 p.m.

Dated this June 3, 2008,

Respectively submitted:

Approved as to form:

Loyd W. Ogle, Director
Title Guaranty Division

Deborah Petersen, Chair
Title Guaranty Division