

# Title Guaranty Division Board Meeting Minutes

September 1, 2009

**Board Members Present:**

Deborah Petersen  
Pat Schneider  
Mitchell Taylor  
Tim Reilly  
Surasee Rodari

**Staff Members Present:**

Loyd Ogle, TGD Director  
Matt White, TGD Deputy Director  
Linda Berg, TGD Director of Business  
Development  
Becky Wu, IFA Accountant  
Nancy Wallis, IFA Administrative Assistant

**Others Present:**

Bill Blue – American Abstract  
Dean Hoag Jr. – Republic Abstract  
John Eisenman – ILTA

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## Call to Order

Ms. Deborah Petersen called the September 1, 2009, meeting of the Title Guaranty Board of Directors to order at 10:35 a.m.

## Review & Approval of Board Meeting Minutes

The Board discussed the June 2, 2009, meeting minutes.

Motion: On a motion by Ms. Schneider, seconded by Mr. Rodari, the Board unanimously approved the June 2, 2009, Board meeting minutes.

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

Mr. Ogle delivered the financial report. TGD is already exceeding its budget targets. There is a mini refinance boom now, but it is not like previous years. There is \$396,000 available for transfer. Mr. Ogle took questions from the Board about the financial report.

Motion: On a motion by Mr. Rodari, seconded by Ms. Schneider, the Board unanimously approved the financial reports.

Motion: On a motion by Mr. Reilly, seconded by Mr. Rodari, the Board unanimously approved the transfer of \$396,000 to IFA's housing programs.

## Director's Report

Mr. Ogle gave the director's report. He discussed the proposed change to the Gap Coverage Endorsement in regard to Closing Protection Letters. Any time the Closing Protection Letter is issued for a transaction, TGD is on the hook whether the Gap Coverage Endorsement has been issued or not. The changes require that if a Closing Protection Letter is issued, the lender will automatically receive the Gap Coverage

Endorsement. Mr. White explained that when a Closing Protection Letter is issued, it has the same language in it as if there were only one endorsement. On a Closing Protection Letter deal, the Gap Coverage Endorsement says that it has to be recorded in a certain number of days. On a Closing Protection Letter deal, that supersedes the coverage in the Endorsement. It will be split up so that a rider will be issued to the Closing Protection Letter to give the Gap Coverage Endorsement. TGD will keep the Endorsement for when it is stand-alone and not under one of TGD's closings.

Mr. Ogle provided a legislative update. Last session, TGD introduced a bill that would regulate closing companies. TGD has also been working with the banking superintendent during session and off session on that bill. What was ultimately decided was that the banking superintendent would be the best entity to be the regulator, and the banking superintendent wanted to rewrite the bill. The bill made funnel, but the banking superintendent wanted the bill pulled, rewritten, and run this session. TGD will support the banking superintendent's efforts this year.

Mr. Ogle discussed the Iowa mechanic's lien law. Iowa is a hidden mechanic lien state, where no one knows whether a mechanic's lien will be filed until it actually happens. It causes problems in closing loans, in the new construction area in particular. The Iowa State Bar Association ran a bill last year, and the association will introduce it this year. The bill sets up a state construction registry to simplify the closing process for people involved in new construction.

Mr. Ogle thought the ILTA will run a bill to license abstractors this year. TGD will support that effort.

Mr. Ogle gave a flood waiver update. Since the last Board meeting, several waiver requests were approved by the IFA Board. These involve properties in Cedar Rapids and Mason City where the homes were destroyed by flooding and abstracts lost. The cities receive money from FEMA to buy out these properties and turn them into permanent green space. They ran into the problem of not being able to use Title Guaranty because of the cost of re-creating the abstract for properties that probably will not end up in future transactions. Waivers were approved for three entities in Linn County to do a long-form search in place of creating a new abstract, only for those properties, and only for one year. The same thing happened in Mason City. Mr. Reilly noted that in Black Hawk County, where some flooding occurred, lost abstracts have not been an issue.

### **Deputy Director's Report**

Mr. White gave the Deputy Director's Report. He noted that claims stayed about the same, at \$36,000 worth. TGD received about 54 claims. More than usual deal with mechanic's liens. There are also problems with spousal signatures on mortgages. The ISBA is also looking into the spousal signature problem, perhaps for a legislative fix. Of the 54 claims, over half have been dispensed with. TGD is still involved in litigation on two. The Board discussed claims further.

Mr. White also discussed the Mortgage Release Program. The numbers are still fairly stable. The numbers may increase as more attorneys, abstractors, and closers using the Rapid Certificate Program. Mr. Ogle explained that 1 ½ full-time staff people are used to

administer the program that TGD does not receive revenue on. TGD may have made it too easy for people to use the program. Staff does a lot of research on applications that are not complete or completed incorrectly in order to perfect the application to release the mortgage. TGD's proposal is that if a mortgage is being released as part of the Rapid Certificate Program, then there would be no charge for using the program. If the general public is coming in requesting a release not related to Title Guaranty, then the charge for using the program would be \$30. The Board and staff discussed the issue further.

### **Business Development Director's Report**

Ms. Berg delivered the Business Development Director's Report. The second annual Settlement Conference is set for October 14. At more than a month out, 48 people are registered. The big draw this year is the change in RESPA. The Annual Conference will be November 5. The theme is "Only in Iowa." Both conferences have six hours of CLE credits approved. For the annual conference, it includes one hour of ethics.

### **Field Operations Director's Report**

Ms. Berg gave the Business Development Director's Report. The compliance and audit group has completed all of its audits for 2008. They have been training of closing companies and attorneys. More lenders have been requesting Rapid Certificate, and as a result, more lenders are using field issuers. Now attorneys are coming on board with TGD who may not have before. Field-issued certificates are in excess of 85 percent for the last quarter. Ms. Berg took questions from the Board.

The Board took a break at 11:22 a.m. and reconvened at 11:35 a.m. Ms. Schneider left at 11:30 a.m.

### **Recommendation to Notice Rules**

Mr. Ogle explained that there was difficulty in using the Title Guaranty Manual. The Board is not only currently approving contracts but approving a lot of explanatory information. What staff wants to do is not only to reorganize and make the Manual simpler to understand, but to split the Manual into a Staff Supplement. New items can be added to the Supplement as they come up instead of having to do a 30-day notice and formal Board action. The Board will make a recommendation to the IFA Board in October. The IFA Board will formally notice the rules. TGD would go through the public comment period. There was some discussion between the Board and the audience.

Motion: On a motion by Mr. Reilly, seconded by Mr. Rodari, the Board unanimously made a recommendation to the IFA Board that the rules be noticed.

### **Approval to Charge for Mortgage Release Certificates**

Mr. Ogle explained that the approval will give him the flexibility to set the date to decide when to start charging for Mortgage Release Certificates. Ms. Deborah Petersen asked if the charge should be for \$50 instead of \$30 but wondered if the \$50 fee would have an adverse impact. Mr. Ogle explained that they are going from no fee to a fee that they would start conservatively at \$30. The Board continued discussing the issue.

Motion: On a motion by Mr. Reilly, seconded by Mr. Taylor, the Board unanimously approved setting the cost of Mortgage Release Certificates for releases not part of the Rapid Certificate Program at \$30.

**Request for Extension of Provisional Plant Waiver  
for American Abstract & Title Company in Dallas County**

Mr. Ogle reminded the Board that about a year ago, they approved a provisional waiver of the 40-year title plant for American Abstract & Title Company in Dallas County. At that time, Mr. Blue and others indicated that it was not realistic to build the plant in one year. The waiver was granted with the provision that the officers of American Abstract come back and demonstrate that they made substantial progress. Mr. White and one of TGD's interns, Ashley Watts, visited the plant and noted the progress they made. Mr. White addressed the Board, explaining their progress. It is staff opinion that they made substantial progress in their work. Mr. Blue also addressed the Board regarding this waiver. Mr. Blue hopes to complete the plant in one year.

Motion: On a motion by Mr. Reilly, seconded by Mr. Rodari, the Board unanimously approved extending the provisional plant waiver for American Abstract & Title Company in Dallas County for one year.

**Hendricks Opinion**

Mr. Ogle spoke about the ruling on the Hendricks case regarding plant waivers.

**Next Meeting Date and Time**

The next Board meeting is tentatively set for Tuesday, December 8, 2009, at 10:30 a.m.

**Miscellaneous**

Mr. Eisenman asked Mr. Ogle for an update on his Florida trip. Mr. Ogle explained that the State of Florida was doing a study of their title insurance industry. He gave a presentation on the Iowa program. He dispelled a lot of myths about the TGD program.

**Adjournment**

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

Dated this December 8, 2009,

Respectfully submitted:

Approved as to form:

Loyd W. Ogle, Director  
Title Guaranty Division

Pat Schneider, Vice Chair  
Title Guaranty Division