

What is Title Insurance?

The land title transfer system in America works so well that most consumers never take the opportunity to learn how or why it works or the personal and societal benefits derived from this highly effective system of assurance.

However, when an individual sits at a closing table to sell one house and buy another, the main reason such a complex real estate transfer can be quickly accomplished is because an independent, third party title/settlement professional has already scoured the public record (property records, tax records, and court records) to establish legal ownership of the property being sold, cured any title or public record defects (one third of all transactions reveal a title or public record defect), accounted for and transferred all of the money intended to change hands, and insured the entire transaction against any mistake, fraud, risk or defect, whether it is known or unknown.

As a practical matter, this means that buyers are more willing to purchase property because they are insured against property fraud and defects in the public record. Lenders are more willing to make loans because ownership by the borrower of the collateral, or real estate, is guaranteed through title insurance. The secondary financial markets are willing to buy mortgage-backed securities because, in the event of a default, their right to the underlying collateral is assured.

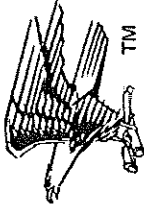
Title companies and their agents are involved in completing all aspects of the closing process, from preparation of documents and recording instruments, to preparation of closing forms and collecting and disbursing funds. Before a transaction is completed, a title search of the records is made in an effort to locate potential problems so that they can be corrected and the transfer can proceed. While most problems can be located in a title search by skilled professionals, there can be hidden hazards that even the most thorough search will not reveal. Examples include forgeries in the chain of title, a claim by a previously undisclosed relative of a former owner, or a mistake in the public records, all of which can be covered by title insurance. Liens, easements, rights-of-way, life estates, air and subsurface rights, and future interests are also discovered in a title search and insured by a title insurance policy.

There are two types of title insurance: an Owner's Policy protects the buyer's interests while a Loan Policy protects the lender's interest. An Owner's Policy is typically issued in the amount of the real estate purchase price, and remains in effect for as long as the owner or their heirs retain an interest in the property. In addition to identifying risk before a transaction is completed, the Owner's Policy will pay valid claims and all defense costs against claims on the title. A Loan Policy assures the lender of the validity, priority and enforceability of its lien (mortgage) — serving as protection for the lender's security interest in the property. A Loan Policy is issued in the amount of the loan, and liability decreases as the mortgage is paid off by the borrower.

Since the sale, purchase and transfer of real estate is governed by local law and custom, practices of the title industry vary by locality and are regulated by state governments. Who pays for the title insurance is also a matter of local custom. In some parts of the country, the seller purchases the Owner's Policy for the buyer, in effect assuring them their title is clear while in other parts of the country, both the Loan Policy and Owner's Policy are issued simultaneously, and in still others, the buyer must ask for an Owner's Policy and pay for it separately.

Title insurance is substantially different than other types of insurance coverage for two reasons: 1) it is paid by a one-time premium that provides protection for as long as the owner or their heirs retain an interest in the property and, 2) title insurance procedures seek to eliminate risk rather than simply price risk. While the emphasis on risk prevention is a labor intensive and costly component of doing business, but the coverage offers the best possible opportunity for avoiding challenges to title and assuring consumers peace of mind.

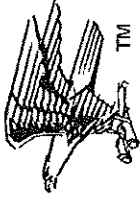
**AMERICAN
LAND TITLE
ASSOCIATION**



Public Benefits of Title Insurance

The 3,000 member companies of the American Land Title Association (ALTA) include title insurance agents, underwriters, real estate settlement service providers, real estate attorneys and title abstractors. Working together as an industry these companies and their employees ensure that privately owned residential and commercial real estate is quickly and legally transferred, indemnifies owners from claims against their property and guarantees lenders recourse to collateral in the event of a default. Like a light switch that always delivers electricity, the land title transfer system in America works so well that most consumers never take the opportunity to learn how or why it works or the personal and societal benefits derived from this highly effective system of assurance.

**AMERICAN
LAND TITLE
ASSOCIATION**



- Because of the title insurance industry, Americans close their loans faster than any other country – 30 days on average --- and the speed of the transaction saves consumers tens of billions of dollars annually in additional interest costs.
- At no cost to taxpayers, the title industry collects \$1.75 billion per year in back income taxes.
- At no cost to taxpayers, the title industry collects \$3 billion per year in delinquent real estate taxes.
- At no cost to taxpayers, the title industry collects \$325 million per year in delinquent child support payments.
- The title industry spends \$225 million per year to correct errors in the public property records that otherwise would lead to serious impairment to the property rights of millions of Americans.
- The title industry is an important source of revenue for local governments, paying \$170 million per year to purchase copies of recorded documents.
- Because of the title insurance industry, people can be confident about purchasing property anywhere in the country because they are insured against fraud and defects in the public record.
- Because of the title insurance industry, mortgage lenders are more willing to lend because ownership by the borrower of the collateral (the real estate) is guaranteed.
- Because of the title insurance industry, mortgage-backed securities (MBS/CMBS) can be created and traded, because in the event of a default, recourse to the underlying collateral is guaranteed.

COPY OF STATUTE
Postponement of Foreclosure Sale

Statute 580.07, Subd. 2.

Subd. 2. A scheduled sale can be postponed by the mortgagor or owner anytime after the first publication notice of the mortgage foreclosure sale, but at least 15 days prior to the sale date. Postponement reschedules the sale five months from the original sale date and automatically reduces the redemption period to five weeks.

The Mortgagor shall:

1. Execute a sworn affidavit per Subd. 3
2. Record the affidavit with the County Recorder
3. File the recorded affidavit with the Sheriff and Attorney foreclosing the mortgage
 - 3.a. Recording of the affidavit and postponement of the foreclosure sale pursuant to this subdivision shall automatically reduce the mortgagor's redemption period to five weeks per section 580.23.
 - 3.a.1. Recording excludes Saturday, Sunday and legal holidays. Documents will legally be recorded the next business day following.
 - 3.b. The postponement of a sale does not require any change in the published or served notice of mortgage foreclosure sale, but the sheriff's certificate of sale shall indicate the actual date of the foreclosure sale and the actual length of the mortgagor's redemption period.
 - 3.c. An affidavit complying with Subd. 3 shall of be prima facie evidence of the facts stated therein, and shall be entitled to be recorded.
 - 3.c.1. The right to postpone a foreclosure sale pursuant to this subdivision may be exercised only once, regardless of whether the mortgagor reinstates the mortgage prior to the postponed mortgage foreclosure sale.

Subd. 3.

2.18 STATE OF

Sample Affidavit Form

2.19 COUNTY OF

2.20 _____ (whether one or more, "Owner"),

2.21 being first duly sworn on oath, states as follows:

2.22 **1.** (He is) (She is) the owner(s) or mortgagor(s) of the real property (the
2.23 "Property") situated in _____ County, Minnesota, legally described in the
2.24 attached published Notice of Mortgage Foreclosure Sale (the "Notice"), and make this
2.25 affidavit for the purpose of postponing the foreclosure sale of the Property pursuant to
2.26 Minnesota Statutes, section 580.07, subdivision 2, for five months from the date
2.27 scheduled in the attached Notice.

2.28 **2.** The Property is classified as homestead under Minnesota Statutes, section
2.29 273.124, is occupied by Owner as a homestead, and is improved with not more than
2.30 four dwelling units.

2.31 **3.** Owner has elected to shorten Owner's redemption period from any foreclosure
2.32 sale of the Property to five weeks in exchange for the postponement of the foreclosure
2.33 sale for five months.

2.34 _____ (signature(s) of owner)

3.1 Signed and sworn to (or affirmed) before me on (date) by (name(s)
3.2 of person(s) making statement).

3.3 _____ (signature of notary public)

3.4 Notary Public

3.5 **EFFECTIVE DATE.** This section is effective one month after the date of final

3.6 enactment, and applies to foreclosure sales scheduled to occur on or after said effective

3.7 date (*June 15, 2009*).

DISCLAIMER:

*Documents presented for recording must contain a Drafted By Statement.
This information is provided as a public service ONLY. Please consult with a legal counsel of your own
choosing before proceeding.*

****This form can be found on the Department of Commerce website:
http://www.commerce.state.mn.us/UCB/60.8.1.pdf**

(Top 3 inches reserved for recording data)

AFFIDAVIT OF POSTPONEMENT **Minnesota Uniform Conveyancing Blanks**
Minn. Stat. 580.07 **Form 60.8.1 (2009)**

State of Minnesota, County of _____

_____ (whether one or more, "Owner"), being first duly sworn on oath, states as follows:

1. (He is)(She is)(They are) the owner(s) or mortgagor(s) of the real property (the "Property") situated in _____
(insert name of County)
County, Minnesota, legally described in the attached published Notice of Mortgage Foreclosure Sale (the "Notice"), and make this affidavit for the purpose of postponing the foreclosure sale of the Property pursuant to Minnesota Statutes, section 580.07, subdivision 2, for five months from the date scheduled in the attached Notice.
2. The Property is classified as homestead under Minnesota Statutes, section 273.124, is occupied by Owner as a homestead, and is improved with not more than four dwelling units.
3. Owner has elected to shorten Owner's redemption period from any foreclosure sale of the Property to five weeks in exchange for the postponement of the foreclosure sale for five months.

Check here if all or part of the described real property is Registered (Torrens)

Owner

(Signature)

(Signature)

Note: The published Notice of Mortgage Foreclosure Sale must be attached to this document and recorded in order for it to be enforceable.
Note: After recording, Minn. Stat. 580.07 subd.2 requires that a copy of this recorded affidavit be filed with the County Sheriff and delivered to the attorney foreclosing the mortgage.

Signed and sworn to before me on _____ by _____

(month/day/year)

(insert name(s) of person(s) making statement)

(Seal, if any)

(signature of notarial officer)

Title (and Rank): _____

My commission expires: _____

(month/day/year)

THIS INSTRUMENT WAS DRAFTED BY:

(insert name and address)

Bob Bambenek

County Recorder

177 Main Street

Winona, MN 55987

Phone: (507) 457-6340

Fax: (507) 454-9371

The Recorder

Summer 2009

In This Issue:

June Recordings

Mortgage Foreclosures Drop

Foreclosure Postponement

Century Farm

New Happenings

Recorder's Services

Office Staff:

Bob

Nancy

Lori

Carmell

Sarah

Robin

Julia, *Intern*

June Recordings Up

Recordings during the month time when many locations of June were up 32% over in the US are experiencing June 2008. Increases in sharp declines in recording residential property sales and numbers. Residential sales mortgage refinancing are also affect property values cited as reasons for the in the County. Stable values increase. Increased have enabled property recordings are positive at a owners to refinance.

826
Total Recordings in June 2008.
1,092
Total Recordings in June 2009.

Mortgage Foreclosures Drop

Mortgage foreclosures in Winona County dropped during the first 6 months of 2009 compared to the same period a year ago. Forty foreclosures have been recorded in the first half of 2009 compared to 46 during the first half of 2008. Nationally, foreclosures hit the highest numbers to date in April and had been increasing in Winona County for three years.

FORECLOSURES BY YEAR	
2006	42
2007	62
2008	89
2009 (1 st half)	40

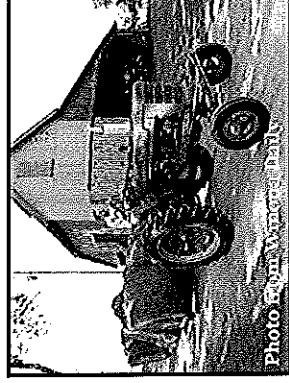
FORECLOSURE COUNT BY LOCATION	
JANUARY - JUNE 2009	
WINONA	22
LEWISTON	5
ST CHARLES	3
STOCKTON	2
ROLLINGSTONE	2
GOODVIEW	1
TOWNSHIPS	5

New Foreclosure Postponement

Effective June 15, 2009, this least 15 days prior to the with the County Recorder. new law allows for the sale date. Postponement The recorded affidavit needs postponement of mortgage reschedules the sale five to be filed with the Sheriff foreclosure sales. A months from the original and the Attorney foreclosing scheduled sale can be sale date and automatically the mortgage. Statue postponed by the mortgagor reduces the redemption 580.07, subd. 2. or owner anytime after the period to five weeks. A first publication notice of the sworn affidavit needs to be mortgage foreclosure, but at executed and recorded

2009 Century Farm

Recognized at the Winona County Fair was the Keller family farm honored as the Century Farm of the year. The farm, now owned by family member Dan Keller, totals 705 acres. The property has been in the family since 1907 and is located in Wilson Township. The farm has passed through three generations of the Keller family. This is the 152nd farm to be recognized as a Century Farm in Winona County, which awards farms that have more than 50 acres and have been in a family's name for more than 100 years.



Bob Bambenek

County Recorder

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What is Abstract Property?

Property dependent on a chain of title for marketable ownership. Recorded documents are reviewed for accuracy and to determine if parties other than the current deed owners have an interest.

What is Torrens Property?

Property established by the creation of a Certificate of Title. Each time a property is voluntarily transferred by the owner, a new Certificate of Title is created, and only information currently relevant to title is identified.

New Happenings

Auditor/Treasurer Offices Combine

Due to the retirement of Cherie MacLennan, County Auditor, the Winona County Board of Commissioners has opted to combine the offices of Auditor/Treasurer. Current Treasurer, Sue Rivers, will assume the role and responsibilities of Auditor/Treasurer. Cherie MacLennan will step down from her role on August 31, 2009 after 23 years of service to the County.

New County Administrator

Duane Herbert, administrator from Barron County, Wisconsin, has been appointed as Winona County Administrator. He replaces Robert Reinert, who retired on July 31, 2009.

Agricultural Land Sales

Although 2009 recording numbers are ahead of last year, there have been very few recorded land sales. Consequently, the sealed bid sale of slightly over one hundred tillable acres east of Lewiston is drawing considerable interest. With the decline in spring sale prices west of Winona County, many parties are inquiring about current land sales and prices. Hopefully, the second half of 2009 will provide some recorded sales.

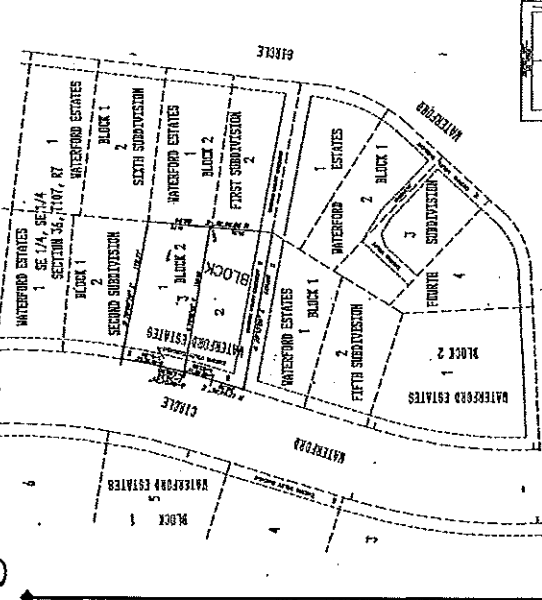
County Property Lines

Property line issues and disputes are common throughout Winona County. When surveys are completed by registered land surveyors, it is in the best interest of the owner to record the survey. When existing land parcels are split, most often a survey is required to be recorded. There is no fee to record surveys. Contact the Recorder's Office,

Winona County Recorder Services

The Recorder's Department strives to meet recording requirements and return documents in a timely manner. In addition to the public computers and copies of land records, numerous informative materials are available. Included are plats, covenants, plat

Waterford Estates, 5th Division Winona, Minn. Recorded in 2005



Example of Plat. Property Details are available at the Recorder's Office.

in advance, for assistance with needed copies of recorded documents and assistance with Winona County Planning requirements.

Document Image Conversion

Over 600,000 permanent land record microfilm images have been verified for conversion to digital image. One million images are expected to be transferred to computer readable format. Phase one will cover documents for the early 1990's. The expected start date is late fall 2009.

Winona State Intern

Winona State University interns have assisted in the Recorder's Office for several years. Julia Juracek, an advertising/marketing major has spent the summer with us. Her knowledge has helped our office with numerous foreclosure reports, analysis of customer service, and the design of this updated newsletter.