



Dear Stewart Partners,

We hope you enjoyed the spring weather this past weekend. Patriot's Day was a busy day in Boston, as we had both the Marathon and the Red Sox in Town!

In this week's Mid-Week Update, we wanted to remind you of all the information available to you on Stewart's Virtual Underwriter website, including a list of standard exceptions to use when preparing title commitments and policies. Speaking of title commitments, if you missed the recent MCLE webinar on Marking Up Title Commitments, Eliminating Exceptions & Getting Endorsements presented by Stewart's Jutta Deeney and Tracie Kester, you can sign up to watch a recording of the webinar on the MCLE website, www.MCLE.org. The program is being offered on Friday April 19 from 9:30 AM to 12:30 PM and again on Monday April 29 from 1 PM to 4 PM.

This week's update also features information on the Massachusetts registered land system, with links to helpful resources. We're also providing you with information on upcoming REBA events in May and June. Lastly, in case you missed it in last week's update, we are providing links to a charity golf event that is raising funds for Habitat for Humanity.



Stewart's Virtual Underwriter – Your Resource for Special Exceptions, and so much more!

We hope you are familiar with all of the information available to you on Stewart's Virtual Underwriter website, www.virtualunderwriter.com. The website houses all of the Bulletins issued by Stewart, including the Special Alerts, as well as Underwriting Bulletins.

The Virtual Underwriter website is also home to the National Standard Exceptions Library, which can be found here: <https://www.virtualunderwriter.com/en/standard-exceptions.html>. The Manual is arranged alphabetically, and to find a topic you can use the table of contents or the "find" function in your browser [CTRL+F in Windows].

Although it's called the "National" Standard Exceptions Library, most of these topics apply in New England States as well. For example, you may be insuring property that has pedestrian access only. Under the "Access" topic, you'll find the language to use in your policy for just that situation. A much more common scenario is when the property being insured abuts water. If this applies, you can click on the "W" in the Table of Contents to bring up the "Wetlands" topic. There are exceptions based upon the type of body of water in question (e.g., navigable river, ocean, etc.) and you can cut and paste them right into the

commitment or policy. Often the topic will also include helpful comments, along with hyperlinks to sections of the Underwriting Manual that provide additional information on the subject.

Of course, if you have a question about whether you need to insert an exception in the commitment or policy, or the wording to be used, please contact a Stewart underwriting counsel for assistance.



Dealing with Land Court Transactions in Massachusetts—Tips, tricks, and traps By: Mark A. Jones, Assoc. Senior Underwriting Counsel, Massachusetts and Rhode Island

Massachusetts is one of the few states in the country that still has a land registration system modeled after the Australian Torrens System. For those of you who may have started out your conveyancing career as a title examiner you may have rejoiced whenever you had a title that was Registered Land. Although a Registered Land title is typically easier to search in that we can rely on the current certificate of title and encumbrance sheets as to the status of the title, along with an abbreviated search of the recorded side, a Registered Land title can create some obstacles.

Title Policy Schedule B exceptions—A Land Court Certificate of Title is the document that states who is the owner of the property. Attached to the Certificate of Title are the encumbrance sheets. Any matters shown on the encumbrance sheets that are not released or marked as expired should be included as exceptions in the title policy. One trap to be aware of is that in addition to matters shown on the encumbrance sheet, the face of the Certificate of Title will often include encumbrances that relate back to original Registration of the land. Always review the face of the Certificate of Title to determine if there are any encumbrances that should be listed as exceptions on Schedule B of the title policy.

“Both ways” recordings—Whenever you have property in both the Recorded Land side and Registered Land side, you will want to be sure to collect double recording fees for any deeds and mortgages, as well as any releases for mortgages that are being paid off. Getting releases on record for mortgages can be challenging because the Land Court may reject the documents from the lender due to the Land Court’s stricter requirements, or the lender may only send it to one of the recording systems and not both. Practice tip: In the latter case you may be able to get a certified copy of the recorded release on one side and get it recorded/filed with the other side provided the document number and book/page are both referenced in the release.

The effect of death on a Registered Land Title—When title is transferred upon the death of the owner, the Land Court has additional requirements. For example, when the first Tenant by the Entirety dies, an Affidavit of No Divorce is required. When the last owner dies, and the Personal Representative is conveying the property, the Land Court in Boston will need to approve the deed before it will be accepted for recording at the local Registry of Deeds Land Court counter. The Memo from the Chief Title Examiner on Land Court Guideline #14 contains an abundance of information on how to deal with titles after the death of the owner and the various requirements. See Memo from the Chief Title Examiner: Land Court

Guideline 14. Death: The Effect of Death upon Registered Land Titles

(<https://www.mass.gov/memorandum/memo-land-court-guideline-14-death-the-effect-of-death-upon-registered-land-titles>).

Good standing certificates—Although not required to be accompanied with a deed for recorded land conveyances, the Land Court generally will not accept a deed or mortgage from an LLC for filing without a good standing certificate. For further information and signature authority requirements, see Land Court Guideline 30, part of the Land Court Guidelines on Registered Land here: <https://www.mass.gov/doc/land-court-guidelines-on-registered-land/download>.

Expired encumbrances and Affirmative/ALTA 34 coverage—Often as underwriters we are asked to delete exceptions from the policy because they are expired. Expired private restrictions or mortgages are a few examples. If the encumbrance is on the recorded land side and we are comfortable that the restriction or mortgage has expired this is usually not an issue. But the fact that an encumbrance may be expired does not mean we can delete it from the policy for a property in the Land Court system. The reason for this is that the Land Court will continue to list the encumbrance on the certificate of title unless affirmative steps are taken. For discharges, Land Court Guideline #61 describes the process to have an expired mortgage removed via a Request for a Discharge Notation and payment of a fee. Other expired items, such as Executions that have not been brought forward or UCC Financing Statements, may be marked as expired upon request to the local Land Court. Any other encumbrance must be removed via an S-Petition. If an encumbrance such as a restriction is expired, it still must be taken as an exception to coverage in the policy. However, in many situations we can offer affirmative coverage for actual enforcement of the matter either in the policy itself or via the ALTA 34 endorsement (link to ALTA 34 endorsement on Stewart’s Virtual Underwriter website here: <https://www.virtualunderwriter.com/en/forms/2013-8/FM131292075000000003.html>)

Expired Trusts—In recorded land it is common practice to allow a trustee to wind down the affairs and convey out of an expired trust provided there isn’t language that automatically vests title in the beneficiaries. Land Court is not as forgiving when it comes to expired trusts. Typically, an S-Petition is required depending on the circumstances. (See Land Court Guideline #62 for more information).

S-Petitions and 5B Affidavits - S-Petition... the dreaded S-word. When dealing with recorded land many times we can cure title defects by recording a 5B Affidavit. Unfortunately, the Land Court typically does not accept affidavits for recording so the only process to cure a title defect is to file a “Subsequent to Registration” or “S-Petition” with the Land Court in order to amend the certificate of title. (Link to Subsequent to Registration Complaint Cover Sheet here: <https://www.mass.gov/doc/subsequent-to-registration-complaint-cover-sheet/download>).

We hope this information was helpful and as always please reach out to an underwriter with any questions.



Upcoming REBA Events

This year's REBA spring conference is a virtual event, featuring a live broadcast from 1:30 PM to 2:45 PM on May 6, 2024, and several on-demand educational offerings. For information on CLE credits and to sign up, the link is here: <https://reba.net/about-us/2024-spring-conference/>

Save the Date! The Women's Networking Section of REBA is holding its 10th annual fundraiser at the Women's Lunch Place in Boston on Thursday, June 6, 2024 at 6 PM. This year's event is called "Trivia Trattoria" and as the name suggests, it will be a night of Italian food and there will also be a trivia contest. As always, proceeds will go to the Women's Lunch Place. Sign-ups for teams of 5 for the trivia contest are available now, as are sponsorships. Stewart Title Guaranty Company is proud to be a Prosecco Sponsor of this event, and we hope you will join us for dinner and trivia. More information can be found here: <https://womenslunchplace.org/reba>



Stewart Supports Our Community

The Massachusetts office of Stewart Title Guaranty Company is a sponsor of the Give Moor Charity Tournament at the Blue Hill Country Club in Canton, Massachusetts. The May 13, 2024 event will raise money for local families in need of housing and will benefit the South Shore Habitat for Humanity. For more information about this event follow this link: <https://event25299.perfectgolfevent.com/>



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