

ABSTRACT OF TITLE CERTIFICATE REVISIONS

INTRODUCTION

At the request of the Oklahoma Land Title Association (OLTA), which is the State abstractor's association, the Real Property Section of the CBA created a working Committee on August 28, 1982 known as the "Abstracting Standards Committee". This Committee is being chaired by Kraettli Q. Epperson of Oklahoma City and includes the following members: Dale L. Astle (Tulsa), Henley Blair (Oklahoma City), Diane Meier (Oklahoma City), Joe Rolston (Oklahoma City) and David Rowland (Bartlesville).

The purpose of this new committee is to work with the OLTA Uniformity and Standards Committee chaired by Bob Luttrull (Muskogee) which includes the following members: Virginia Austin (Newkirk), Edd Dennis (Oklahoma City), Owen Harper (Bartlesville) and Celestia Williams (Moore). The first major assignment and accomplishment of the joint efforts of these two committees was the updating and revision of the OLTA Uniform Certificate for Abstracts of Title. Other projects have been discussed and will probably be initiated during the balance of 1983.

The revised Certificate, as submitted, was approved by the OLTA full membership at its annual meeting in Oklahoma City on April 30, 1983.

CHANGES

The substantive changes to the Certificate are described below, accompanied by a brief discussion of the reason for each change. In addition, a copy of the new Certificate is set out herein.

Land (paragraph 1): The Uniform Commercial Code exception clause [i.e., "(except instruments filed only under the Uniform Commercial Code)"] has been removed since it was redundant and therefore unnecessary. Such instruments, if filed only in the chattels filings, were excepted by the other language in the paragraph since such chattel filings did not "affect title to ...real estate...". Fixture filings are still shown in the abstract since they do "affect title to ...real estate...".

Acknowledgments (old paragraph 2): The sentence has been removed which certified "The acknowledgments of all such instruments filed or recorded for a period of less than ten years are statutory, except as is otherwise shown in this abstract." This sentence was deemed unnecessary and removed for two reasons: (1) the determination by an abstractor as to whether an acknowledgment was proper might be construed as the unauthorized practice of law and (2) the current usual practice is to either photocopy the instrument, including the acknowledgement, or to type the acknowledgment in full.

Court (paragraph 2): The paragraph certifying to matters affecting title to real estate as shown in the records of the Court Clerk has been rearranged and expanded to include instruments filed in the County Clerk's

office on or after October 1, 1978 (per 12 O.S. §706). The Certificate now excludes those judgments filed on or after October 1, 1978 if filed only in the Court Clerk's office because they do not affect title to real estate unless filed in the County Clerk's office. The word "foreign", which modified the word "executions", has been removed from this paragraph so that the Certificate now expressly certifies as to all "executions" and not just "foreign executions". The old paragraph provided:

The records of the Office of the Court Clerk of said County disclose that there are no foreign executions, court proceedings, suits pending, nor liens of any kind affecting the title to said real estate in any of the courts of record in said County and there are no judgments or transcript of judgments, indexed and docketed on the judgment docket against any of the following named parties affecting the title to said real estate, except as shown in this abstract.

Taxes (paragraph 3): The paragraph covering taxes has been slightly modified to improve its clarity. An additional sentence has been inserted to separately but expressly certify as to any lien from personal property taxes. The old paragraph provided:

The records of the Office of the County Treasurer of said County disclose:

That said real estate has been assessed for advalorem taxes for each year covered by this certificate for which advalorem taxes could be a lien against real estate; and during said period of time there are no advalorem taxes which are a lien on said property, due and unpaid, nor tax sales thereof unredeemed, nor tax deeds given thereon, except as shown in this abstract.

There are no unpaid special assessments certified to the office of the County Treasurer due and unpaid, nor tax sales thereof unredeemed, nor tax deeds given thereon, except as shown in this abstract.

Qualifications (paragraph 4): In order to establish a uniform but accurate statement about the certifying abstractor's qualifications, the former statement that "the undersigned has a complete set of indexes to the records of said county," has been replaced with "The undersigned has a set of indexes in compliance with the standards of the Oklahoma Land Title Association." The reason for this change is that OLTA now accepts for membership not just those abstractors with a complete set of indexes from sovereignty but also those who were granted an abstractor's certificate based on a grandfather clause in 1932, as long as they now have a least a 40-year set of indexes. The procedure of abstracting from sovereignty was not shanged.

Page Numbers and Dates (last unnumbered paragraph): For ease of examination and to establish a uniform standard, the page numbers and the certification dates of the subject abstract have been placed at the bottom of the certificate page instead of the top.

CONCLUSION

In conclusion, the abstractor's certificate has been updated to reflect the current status of the law and the language clarified for the mutual benefit of the abstractor and the examiner. If you have any comments or suggestions on the certificate as changed, or on the uniformity of the contents of abstracts in general, please contact me since we will probably continue our joint OLTA - OBA/Real Property Section efforts if additional work is needed.