

Title Examination Standards Committee Meeting
May 21, 2022 Minutes

Meeting called to order at 9:38 a.m.

Barbara realized she is running the meeting and started.

Motion made and passed to accept the March and April minutes. Unanimously.

Hot topics

- Case from OK Supreme Ct – A case about a monument at a cemetery plot that fell on a child and killed him. It is a public cemetery. Owners of lots are given the lots. Who owns the cemetery plot where the headstone is located? (2022 OK 46 *Kamphaus v. Town of Granite*)
 - OK Supreme Ct is holding that the lot owners have an easement and will revert to the city if abandoned. City has no responsibility to maintain the headstone. So, it is to the heirs of the individual owner of the plot. Justice Gurich is just asking for our comments on it.
 - Easement would be owned by the heirs/successors of the deceased person
 - Discussions over final ownership of title, who would be responsible for it, plots as an easement, contractual agreements governing the plot/maintenance
 - Then we went down a rabbit hole on the whole issue...
- TODD (sent to everyone). Owner was the wife, TODD is from husband and wife, to husband and wife as joint tenants. Wife dies first, husband dies shortly thereafter. So, upon the death of the first, then upon the death of the husband, what happens? There are no grantee beneficiaries.
 - If grantee beneficiary is deceased he cannot accept.
 - Also, when she died, she could not then transfer the title.
 - Argument that it is not in joint tenancy because we don't have the unities (was not effective until her death)
 - Need two probates
- Title is held by A and B, Trustees of the Trust. A executes. Do we need MOT?
 - Back and forth on it. There is a presumption that A had the power without B, but everyone says they require a MOT but per the statute you may not. Might be the difference between title and insurance.
 - Statute on 3 or more trustees indicates you might need the MOT if you have less than the number convey
- “And/Or” in the names of grantees
 - Is that enough to be survivorship language?
 - Consensus seems to be no.
 - What is only one of the original “and/or” grantees later conveys to new individuals? How would you treat this?
 - We seem to agree it defaults to the general law on this...TIC unless there is language of survivorship
 - Rick Tucker has a current case that deals with this.
- Single man owns a house. Gets married, then divorced. In divorce, wife gets the house. File the divorce decree. Wife dies. Divorce Decree does not have a legal description only address.

- Consensus of the group is to do a nunc pro tunc in the divorce to include the legal description.
- BUT, then we talked about ex-husband conveying to her to fix it. Then we discussed if it would go to her, her estate, the PR...brought up TESC Standard 17.1 where a conveyance to the estate is adequate.

Legislative Report

- Many bills got pushed due to social issues/bills going on right now.
- SB1460 passed (probate procedure)
- SB1340 passed (testamentary trust)

Probate Procedure

- Does the new bill cause the need for a new standard or changed standard?
 - Consensus seems to be that we don't need anything

Indian Standards

- There were two standards passed (one will be included this year)
- Sub committee needs to meet again to pick it back up and keep going now that those have been passed, then will decide what is next.
- Discussed next chapter of the McGirt saga
 - Questions about the taxation power of the state as to tribal members/reservation income
 - Tyler is tracking a case covering this issue now

SLTA

- Revisit of the SLTA issue
- Rusty position – the SLTA does not cure jurisdictional defects except in two very specific situations
 - There is one case on it (Woods v. Simpson) (see docs Rusty sent for synopsis)
 - This is in our standard, but it is buried in a comment. And he would like it more pronounced. We have tried something before but the committee declined to pass anything.
 - Need to make it clear
 - Discussion also about 29.6 needing to be deleted.
 - Kraettli introduced the idea of an “ungood” case. Along those lines, Barbara used the word “unconfused.”
- Do we need a committee to work with OLTA and OBA to work on some of this?
- We are going to table this until next month and have another discussion as another committee member who is not here might have another position on it.

Transfer on Death Deeds

- What if all beneficiaries do not accept?
- Committee still working to get verbiage on lapsing of a TODD and enure the verbiage is within the bounds of the statute