

# Traverse Area Title

## Service, Inc.

Spring / Summer Issue 2009



### THIS ISSUE:

Welcome Mike Farrer

New for this issue-  
"Use Mike"

Title Insurance Policy  
Endorsement

The Birthday Corner

Donna's Corner

## Traverse Area Title welcomes Mike Farrer

Mike has been examining title in the Grand Traverse Area since 1983. He has been a licensed title insurance agent since March 8, 1978. Mike started in the title business in 1973 under his fathers mentorship in South Western Michigan. Currently, Mike is serving in his seventh year as Treasurer and on the Board of Directors of the Home Builders Association of the Grand Traverse Area. Mike has lectured at and served on several committees of the Michigan Land Title Association. He has handled such construction projects as the many phases of the Grand Traverse Resort in Acme, Grand Traverse Mall, Grand Traverse Crossings and countless residential closings from remodels to million dollar homes. He has closed shopping centers, conservancy easements, large commercial offices and even the original purchase of Building 50 from the State of Michigan.



Traverse Area Title is proud to have Mike Farrer join our already experienced staff of Sabrina Gaylord, Assistant Closing Officer, Donna Knopf, Closing Processor, Melissa Novak, Senior Closing Officer and Terry Bovee, Owner and Examiner.

# “Use Mike”

As a Reference.

## A quarterly column

Questions? Use Mike as a reference. No, he doesn't know everything, but he does have a lot of experience. He may have done what you are trying to do or he may know someone who has.

Who do I call?

How do you \_\_\_\_\_?

Can this be done?



## Don't forget about 1031's

In a typical transaction, the property owner is taxed on any gain realized from the sale. However, through a Section 1031 Exchange, the tax on the gain is deferred until some future date. Section 1031 of the Internal Revenue Code provides that no gain or loss shall be recognized on the exchange of property held for productive use

in a trade or business, or for investment. A tax-deferred exchange is a method by which a property owner trades one or more relinquished properties for one or more replacement properties of "like kind", while deferring the payment of federal income taxes and some state taxes on the transaction. The theory behind section 1031 is that when a property owner has reinvested the sale proceeds into another property, the economic gain had not been realized in a way that generates funds to pay any tax. In other words, the taxpayer's investment is still the same, only the form has changed (e/g vacant land exchanged for apartment building). Therefore, it would be unfair to force the taxpayer to pay tax on a "paper" gain. The like-kind exchange under Section 1031 is tax-deferred, not tax-free. When the replacement property is ultimately sold (not as part of another exchange), the original deferred gain, plus any additional gain realized since the purchase of the replacement property, is subject to tax.

## FIRST TIME HOME BUYERS CAN TURN TAX CREDIT INTO CASH

First-time buyers eligible for the \$8,000 federal tax credit who apply for mortgages insured by the Federal Housing Administration may soon also be eligible for bridge loans or cash advances that they can use for the downpayment, closing costs or other loan expenses pending receipt of their tax credit check from the IRS. The FHA change was announced this month by Housing and Urban Development Secretary Shaun Donovan.

As many as half of all would be first time buyers do not have enough cash on hand for a downpayment and closing costs, according to building and real estate industry estimates. By advancing these buyers as much as \$8000 at closing, many more would be able to afford the purchase. Officials at NAHB say the bridge loan feature could double the total number of home purchases stimulated by the 2009 tax credit program to more than 300,000, depending on how many private lenders and state housing agencies participate.

The new bridge loans and cash-advance features of the federal credit may not be available immediately though private lenders, mortgage industry leaders say. Among the key questions to be answered: Where will non-depository mortgage companies get the \$8,000 in advance to provide upfront to buyers?

Although most major banks offer second-mortgage programs, the FHA guidelines stipulate that the tax credit advances cannot be secured by a lien on the property, but only by the tax credit to be received by the purchaser, In the meantime, would be buyers who believe they're eligible for the credit should shift into high gear shopping for a house- the Cinderella closing date of November 30 is looming- even if they will need a bridge loan or a cash advance to complete the deal. The odds are good that by the time they're ready to get a mortgage and go to closing, at least some local FHA-approved lenders will be actively in the market with bridge loans.

The basic, no frills, title insurance policy is good enough for almost every transaction and the extra cost homeowners title insurance policy provides even more coverage for the one to four family residential owner. But then some buyers, or their attorneys, want additional assurances for reasons that might seem strange and unnecessary to many sellers but very important to a given buyer.

Many endorsements have been requested so many times they have been turned into standardized endorsements by the American Land Title Association and used by all title insurance companies. For instance, many buyers want the assurance that the land they are buying constitutes a single tax parcel. Generally that is very easy to determine even by the buyer. But when the title insurance company puts that assurance in writing in the form of an endorsement to the policy, it's backed by hundreds of millions of dollars of reserves, if not billions. And if that's what the customer wants, that's what the customer should get.

Other endorsements are similar to those used by other title insurance companies but not identical—the wording varies quite a bit. One such endorsement insures against violations of the plat act or land division act. There seems to be a lot of variation in the choice of words used by each title insurance company but all these endorsements basically accomplish the same thing.

## The Birthday Corner



8/8 Ron Folkersma -CBSR

8/12 Mark Hagan -CBSR

Still other endorsements are written to be used once or twice and perhaps never again. These customized endorsements address unique concerns of a buyer or attorney due to the unique nature of the title to a particular piece of land.

We've used the so-called "Great Lakes access endorsement" once in the past and then, much to our surprise, we recently had a request to use it again. It provides a very limited assurance. Briefly, it assures the buyer that "There are no recorded documents describing the land and executed by a former owner of the land whereby any right, title, estate or interest was granted or reserved which would prevent the insured's access to Grand Traverse Bay other than those documents referred to in Schedule B of the policy." That's a long winded sentence but it satisfied a high priced lawyer who didn't want the title insurance company to weasel out of a claim in the event his client lost money due to some ancient access limiting phrase in a recorded document.

The most common customized endorsement we use assures the buyer that no former owner kept for himself or conveyed to someone else any interest in oil, gas, minerals, underground disposal or storage rights, etc. other than the specific transactions shown in Schedule B of the policy. You'd have to read the actual endorsement(s) to know all the details, but that's briefly what it does.

Some of the standardized endorsements and most of the customized endorsements, especially anything dealing with oil, gas, etc., cost extra. Often we simply tell the person making the inquiry that the customized endorsement is cost prohibitive—it isn't worth it.

But if your buyer client has a concern, it doesn't cost anything to ask.



Do you need to get your clients in and out? We can do that. Just let us know in advance and we can have 2 closing agents available, one to sign with the buyer and the other to sign with the seller. We know about that busy schedule and we are here to help you in any way possible, just ask.

Serving the community since 1992, our dedicated staff has over 100 years combined experience in the Title Insurance field. Attorney-owned, we are prepared to assist you with any type of title concern you may have.

Customer satisfaction is top priority with Traverse Area Title Service, Inc. If you or your clients have a special need or a unique title or closing issue, please let us know so we can discuss helpful options with you.

Traverse Area Title Service Inc. is online go to <http://www.traverseareatitle.com/>  
To view our website

This newsletter was created by Melissa Novak of Traverse Area Title Service Inc. If you have any suggestions for our Newsletter please contact me at [Melissa@traverseareatitle.com](mailto:Melissa@traverseareatitle.com) If you choose not to receive this newsletter you may contact me at [Melissa@traverseareatitle.com](mailto:Melissa@traverseareatitle.com) and type unsubscribe in the contact line.

**INSPECTION OF ON-SITE SEWAGE DISPOSAL SYSTEMS AT THE TIME OF PROPERTY TRANSFER ORDINANCE**

AN ORDINANCE PURSUANT TO, ACT 246 OF PUBLIC ACTS OF 1945, AS AMENDED (NOW MCL 41.181) TO REQUIRE THE INSPECTION OF ALL ON-SITE SEWAGE DISPOSAL SYSTEMS (OSDS) UPON THE SALE, TRANSFER, OR CONVEYANCE OF PROPERTY SERVED BY THE OSDS, TO REPEAL ANY ORDINANCE OR PORTION THEREOF IN CONFLICT HEREWITH; AND TO PROVIDE FOR THE ADMINISTRATION OF THIS ORDINANCE

Frequently Asked Questions

Long Lake Township On-Site Sewage Disposal System

TOT Inspection Program

- ❑ The seller (or his or her agent) is responsible for completing the owner's statement form and for arranging for an inspection. Unless other arrangements are negotiated between the buyer and seller, the seller is responsible for the cost associated with the inspection.
- ❑ In the sale or expectation of a sale, any person who acts for a fee as an agent of the owner or buyer, provides an abstract of title or title insurance, or provides escrow services shall advise the owner and buyer in writing of the requirements of the TOT Inspection Ordinance for properties in Long Lake Township.
- ❑ A copy of the completed and signed owner's statement and inspection form should be provided at closing and included with all closing documents.
- ❑ Some property transfers do not require an inspection. These include systems that were installed or inspected under the ordinance standards by a registered inspector within the last 36 months. Other property transfers that do not require an inspection include foreclosures, transfers into a trust, or conveyances to create or eliminate joint ownership. See Section 4 of the ordinance (definition of sale).

For more information on the TOT Inspection Program please visit Long Lake Townships web site at: <http://www.longlaketownship.com/>

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