

# Spooky Claims



Susan Withers  
Field Customer Service Representative

Creative design by Ashley Niesner  
Stewart Title Guaranty Company

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## Housekeeping

- New for this month – your phones will be automatically muted by the host/moderator. This will allow for less disruption and noise, and an improved recording of the webinar.
- If you have any questions for the speaker, please use the online chat feature.
- If you have a more complicated question, or one that may require more discussion, please wait until the end of the webinar when your phones will be unmuted.

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- Note: PowerPoint and audio for the September “Entities and Their Documentation” webinar is now available at [www.stewarttexas.com](http://www.stewarttexas.com)
- For Escrow Officer Credit please email password and attendees names to [ken.wrider@stewart.com](mailto:ken.wrider@stewart.com) for certificate (Please do this as soon as possible. Certificates will not be produced after the start of our next webinar)
- Attorneys e-mail bar card number to Ken Wrider for CLE credit
- (Send to your training administrator if applicable)
- We are now recording!

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## Top 5 Source of Claims (70% of this year's claims)



- Closing Instructions Not Followed
- Missed Lien
- Missed Ownership Interest
- Unpaid Property Taxes
- Mechanics Liens – Construction Loans

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## Next Greatest Source

- Searching Error
- Missed Easement
- Mechanic's/Materialman's Liens—  
Owners Title Policy
- Basic Risk
- Taxes – Special Assessment



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## Final Caveats



- Surveys
- Incorrect Description Used
- Failure to Follow Procedure
- Forgery

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## Closing Instructions Not Followed

- Deed to A & B; Deed of Trust signed by A only
- Manufactured Home Units
- Texas Dept. of Housing & Community Affairs
- Documents not recorded or recorded in wrong county
- Deed and Deed of Trust do not have same legal description
- Liens not properly paid off



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## Missed Lien

- Lien not released; Use affidavit as Release of Lien
- Need "Not Same Person" Affidavit; Identifying information (complete name, SS#, TDL, etc.)
- Abstract of Judgment against sellers; Common name



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## Missed Ownership Interest

- Intestate Succession
- Divorce filed
- Missing deed
- Chain each tract; Plot acreage descriptions
- Owners have similar name, but different entities
  - Trust Vs. Corporation Vs. Partnership



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## Unpaid Property Taxes

- Personal instead of Real; Watch for MHUs
- Taxes on Mineral Interests
- Unpaid HOA Assessments
- Buyer uninformed
  - Proration, Rendition
- Taxes collected by multiple counties; Partial Payments



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## Mechanics Liens ~ Construction Loans

- Use P-8 Exception
- Merits of obtaining Owner's Title Policy at conversion to permanent financing



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## Searching Error

- Check 1<sup>st</sup> deed from developer for restrictions
- Search names, especially if changed at closing table
- All variations of property description – “old” lot and block, “new” metes & bounds; Unrecorded subdivision
- Minerals matter



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## Missed Easement

- Check restrictions and declarations
- Access? Owner's, neighbor's?
- Commercial properties – Look for even more
  - Parking, Shared exterior lighting, advertising



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## Mechanic's/ Materialman's Liens ~ Owner's Title Policy

- Frequent Memory Lapses
- Affidavit for other services – Appropriate for MML?
- Perfected?



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## Basic Risk

- Demand from heirs claiming title, but ancestor not in our chain
- AJ against seller not properly indexed
- Suit filed by barred MLA affiant
- Demand from attorney about prior conveyance, but nothing of record
- Lien paid, lender foreclosed anyway



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## Taxes – Special Assessment

- Improvements not previously rendered
- Also watch for exemptions which may no longer apply
  - Talk to Tax-Assessor; Want seller to pay taxes, not us!



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## Surveys:

### Encroachments, Parties in Possession

- Order, Contract Warranty for Lot A; Survey showed house on A & B
- Fence not on property line; No exception due to survey
- Boundary issues – If aware, take exception
- ‘Survey Coverage’



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## Incorrect Description Used or Furnished

- READ the metes & bounds; Are they properly attached?
- Subdivision name, recording plat, county correct?



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## Failure to Follow Procedure

- Policy errors – Legal, insured’s name, etc.
- Title based on unrecorded documents; then does not recorded
- Warranty Deed has wrong grantor, no grantee – Proof Read!
- Home Equity – Provide copies of docs
- Math errors on HUD-1
- Bring-to-date



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## Forgery



- Buyer claiming forgery
- Fraudulent Affidavits to Heirship – Watch for distressed properties (Tax Sales)
- Fraud & Forgery Watch Program
  - Stewart offers rewards for fraud/forgery prevention
    - Stewart Legal Services/Fraud & Forgery Watch Program
    - Mary Kay Hemenway
      - [mhemewa@stewart.com](mailto:mhemewa@stewart.com) OR 1-800-729-1902 ext 8264

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## Websites/Contacts

- Texas Department of Housing & Community Affairs
  - <http://www.tdhca.state.tx.us/mh/>
  - Direct Dial - (512) 475-2200
  - Toll Free - (800) 500-7074
- Virtual Underwriter
  - <http://www.vuwriter.com>
- Forgery & Fraud
  - FBI investigates Mortgage Fraud
    - Austin Field Office – Matt Gravelle (512) 794-3049
    - Will provide names & phone numbers for other areas

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## Thank You!

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- Attorneys email bar card number to Ken Wrider for CLE credit
- Next Texas TIPS Online November 20, 2008, "Survey Issues" by John Rothermel
- Questions/Comments? Email [fred.schraub@stewart.com](mailto:fred.schraub@stewart.com)
- [www.stewarttexas.com](http://www.stewarttexas.com) for presentation materials within 5 business days of the webinar

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