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Report of Committee on Standards for Title Examination

Wyoming State Bar

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REPORT OF COMMITTEE ON STANDARDS FOR TITLE EXAMINATION

The Committee on Standards for Title Examination believes that it would be very helpful both to the members of the Wyoming State Bar, and to their clients, if the Wyoming State Bar would adopt a set of standards for title examination.

It is well known and fully realized by the members of the bar, that even though an Abstract of Title may show a perfect record of title, it is still possible that the title may be defective. The obvious possibilities include forgery of an instrument in a chain of title, improper delivery, lack of capacity on the part of a Grantor, adverse possession, and many, many others. In the examination of an Abstract of Title, it is not essential or advisable to insist upon a perfect record of title, but it is only necessary to exercise common prudence.

Your Committee believes that lawyers generally, in examining Abstracts of Title, require minor defects in instruments to be corrected because they know that in time other lawyers may examine the same Abstract of Title, and are likely to require these minor defects to be corrected, notwithstanding the fact that they do not constitute any real hazard with respect to the merchantability of the title.

Your Committee believes that the formulation and adoption of a set of standards for Title Examination by the Wyoming State Bar will serve to greatly alleviate if not dispense with entirely the vicious circle which arises from this situation. No member of the Bar wants to take any chances with respect to his professional reputation as a careful, prudent lawyer. If there is a set of standards generally adopted by the members of the bar, throughout the State of Wyoming, and he relies on such Standards, your Committee believes that any such danger will be obviated, and will place the overly meticulous, hyper-technical title examiner in a bad light with the general public, rather than the attorney who requires only that a title be merchantable.

Your Committee finds that Bar Associations in neighboring states have adopted standards for title examination, and that where such standards have been adopted, they have been found to be most helpful.

Accordingly, your Committee on Standards for Title Examination introduces to this, the 1946 Annual Meeting of the Wyoming State Bar in session at Casper, Wyoming, October 18, 1946, and moves the adoption of the following Resolution:

RESOLVED that the Wyoming State Bar needs a set of standards for title examination;

That as many such standards as time will allow should be discussed and adopted by the present meeting;

That any such standards so adopted should be printed at the expense of the Wyoming State Bar, and distributed generally among its members;

That provision should be made for discussion of standards for title examination, and adoption of such standards by subsequent meetings of the Wyoming State Bar, and for their printing and distribution generally among the members of the bar.

Respectfully submitted by your committee on Standards for Title Examination.

E. BYRON HIRST,
S. J. LEWIS,
OLIVER W. STEADMAN.

STANDARDS FOR TITLE EXAMINATION

Adopted at Meeting of State Bar Association, 1946

STANDARD NUMBER 1.

Problem: When an attorney discovers a title situation which he believes should be corrected, what step should he take first if he has knowledge that the same title has been examined by another attorney who has not objected to the defect?

Answer: He should communicate with the previous examiner, explain to him his objection and afford opportunity for discussion.

Comment: The committee suggests that the Wyoming State Bar consider some method, such as signing the most recent certificate on the abstract, whereby the examiner may be able to determine what other attorneys have examined the abstract.

STANDARD NUMBER 2. NAMES AND ABBREVIATIONS.

Problem: Should common abbreviations, derivatives and nicknames for Christian names, such as Geo. for George, Jno. for John, Chas. for Charles, be accepted where the chain of title contains such names spelled in full?

Answer: They should be accepted.

Comment: Absolute certainty with reference to the identity of parties appearing in a chain of title is impossible to attain. All that should be required is reasonable certainty.

STANDARD NUMBER 3. NAMES—CORPORATIONS.

Problem: Where a corporation appears in the chain of title, should the addition or omission of the word "The" before the name of

the company, and the use of "Co." for company or "Corp." for corporation make a difference in the title?

Answer: No.

STANDARD NUMBER 4. STRANGER TO TITLE—INSTRUMENT BY.

Problem: If a deed or encumbrance appears in the chain of title executed by one who has no record interest, is such deed or encumbrance to be considered a defect in the title?

Answer: No.

STANDARD NUMBER 5. ACTIONS—EFFECT OF DEFECTS.

Problem: What is the effect of defects not involving jurisdiction of the court in actions quieting or affecting title, or in the foreclosure of liens?

Answer: Such errors do not render title defective, and should be disregarded. Among commonly found errors of this kind are: (a) Misjoinder of parties; (b) misjoinder of actions; (c) existence of a ground of demurrer or motion to dismiss (other than on jurisdictional grounds); (d) existence of ground for motion for change of venue, if no such motion was filed.

STANDARD NUMBER 6. RELEASE OF LIEN—RE-RECORDED ENCUMBRANCE.

Problem: An encumbrance appears of record followed by a similar instrument, in which it is stated that the latter is given to correct some defect in the former, or which appears from the record to be a re-recording of the former. A release subsequently appears of record releasing one encumbrance, but not describing specifically the other. Is such release sufficient to release both?

Answer: Yes.

Note: It is considered better practice that the release describe and expressly release both encumbrances.

STANDARD NUMBER 7. RELEASE OF LIEN—ERRORS IN RECITALS.

Problem: If a release of an encumbrance contains errors in its recitals as to date of record, or book or page of record, or date or parties to such encumbrance, is such release sufficient?

Answer: If there is sufficient correct data given in such release to identify reasonably the encumbrance intended to be released, it should be approved.

STANDARD NUMBER 8. REVENUE STAMPS.

Problem: What is the effect of lack or revenue stamps on a deed?

Answer: The omission of revenue stamps on a deed does not effect the marketability of the title.