



Talking Title

Behind the red tape

BY JENNIFER SCHWARTZ, CLTP

Land acquisition is a well-known part of land projects, but it wouldn't be possible without one thing we don't hear too much about — accurate title work. Title work entails researching current ownership of land, prior conveyances and rights of the owner to convey interests for easements/leases/etc. While most title work is straightforward and completed quickly, there will always be difficult scenarios that force the researcher in a situation to wade through often unexpected complexities in order to move forward with a project.

Our first example of a difficult title situation comes from an unresolved issue that has been in the works for over a year now. Initially, a land agent requested a wind lease for a property containing almost 150 acres originally owned by Randolph Hansen*. According to the landowners in contact, this land was passed down to Randolph's son, Weston Hansen, when Randolph passed away. Unfortunately, there was no probate filed



and no records of land conveyances from Randolph or Randolph's estate to Weston. To further complicate ownership, upon Weston Hansen's passing, a probate was opened, but that probate was marked as confidential by the courts, restricting our access to the distribution of property to verify land conveyances, as well as restricting access to the Last Will and Testament.

At this point, we only had an affidavit explanatory of title that stated the land was owned as follows: 1/6 Gilbert Family Trust, 1/6 Vaughn Hansen, 1/3 Kenneth Hansen, and 1/3 Dylan Hansen (Weston's only child). Further deeds showed the Gilbert Family Trust and Vaughn Hansen had conveyed each of their 1/6 interests to Kenneth Hansen. While this document was a great starting point, we couldn't verify the validity of the land conveyances due to lack of probate for Randolph and lack of available documentation for Weston's probate. After speaking with Kenneth's attorney, we are at an impasse; the attorney believes the issue is resolved with the Affidavit Explanatory of Title, while the title team considers the title as clouded.

Finally, in recent weeks, it has been brought to light that Weston had more than one child (Dylan); he had adopted a daughter during a previous marriage, Josephine Roberts. In the probate documents we received, it was stated that Dylan was the executor of the probate due to being the sole heir, which we now know wasn't the scenario.

So where does that leave this situation? Well, it continues to be a work in progress. Dylan is working to sell his 1/3 interest to Kenneth, leaving him the sole owner of the entire property. This entire situation will have to be addressed in greater detail by a title agency. We can only hope that this issue is resolved soon so we can move forward with leasing the ground.

Another example of a difficult title situation is of another recent leasing effort for a wind project. In this scenario, a land agent had requested a lease for over 400 acres owned by one party, but upon conducting title research, it was discovered that there was a fruit tree/forest easement on several parcels. The landowner had stated that fruit tree/forest easements were never recorded but instead, were just filed with the State for tax purposes. As one would expect, this put a hold on the entire request until we could figure out the implications of leasing ground with an unrecorded easement. Conversations were had on leasing only the ground without the unrecorded easements, or waiting until the leases expire, where we can then lease the entirety. Between calls with the landowner, County Assessors, County Auditors and our client, in addition to considerable internet research, we finally found an answer!



In Iowa, fruit tree/forest grounds can be placed in a reserve program which gives a landowner a tax abatement each year to maintain a certain threshold of those specific trees. Should those numbers decrease for any reason, the client would need to notify the Assessor's office so they could adjust the acreage of reservation on the property, thus adjusting the amount of tax abatement for the landowner. Per the Iowa Forest Reserve Law Fact Sheet, "If the forest reserve area is not maintained or is used for any economic gain other than as a forest reservation the assessor shall assess the property at fair market value as of January 1st of that year." In this instance, we could lease the entire property but should there be any facilities located on the property, the landowner would receive less tax abatement from the State. We determined in the end that this would be offset by the payments received from leasing the ground.

Just like landowner interactions, title work can be difficult and sometimes result in complications that may or may not be easily resolved. Navigating the complexities and intricacies of property rights for land projects requires a high level of attention to detail and a thorough understanding of the legal intricacies. Identification of potential issues, and their resolutions, ensure a seamless progression of land projects, thus making it a crucial part of the process for mitigating risks and achieving project success. 🌟

Disclaimer: Each state has different rules/regulations/laws pertaining to land rights, please consult with title experts in your state for how to handle specific situations.

**All names have been changed for privacy reasons.*



Jennifer Schwartz has been employed by JCG Land Services, Inc., since November 2017 as a document specialist primarily focused on electric transmission and renewable energy projects. She is active in IRWA Chapter 41 as a Chapter president and website author and Region 3 Young Professional chair. When she's not working or participating in IRWA functions, she can be found at home curled up with a good book or at the gym aiming toward her first powerlifting meet!