

L.A.W.S. LEDGER

2022—Volume 1

May 9, 2022



Claret Cup & Mt. Garfield
Photo by Angela Classen

NEXT MEETING: MAY 18, 2022

The next meeting of the Legal Assistants of the Western Slope is scheduled for Wednesday, May 18, 2022, at 4:00 p.m. at the offices of Hoskin, Farina & Kampf, 200 Grand Avenue, Suite 400, Grand Junction, Colorado.

Our guest speaker will be Andrew Teske who will speak on HOA law, including what HOA board members should know, current legislation and the paralegal's role in this practice area.

If you plan to attend, please RSVP with Penny Landeis by phone (970-986-3400) or e-mail (plandeis@hfak.com) so we can have an accurate head count. Also, feel free to invite your friends! Let's spread the word about our great organization!

Inside this issue:

President's Message	2
Calendar of Events	2
Speaker Bio	3
Legal Education Article	4
The Importance of Membership	7
Word Search Puzzle	8
Legal LOL	9
Big LawBowlski Info	10
LAWS Officers	11

GOALS OF L.A.W.S.

- To provide local access to continuing education
- To encourage a high order of ethical and professional attainment
- To promote the legal assistant profession
- To inform and educate the public and legal community about the effective utilization of legal assistants

MESSAGE FROM THE PRESIDENT

Hello Spring....well, maybe!!! We do live in Colorado. Hope you are all having a good year so far.

We are back to having meetings. Although only four a year, it is good to get together and communicate with each other and have that support. I recently read the President's Message from NALA, it was an older issue but made me think as I am guilty of this myself. Put the cell phones down and actually talk to those around you~~whether it be at the dinner table, restaurant, on the couch. We need to make that personal connection. And, we are all so busy with work that it is good to disconnect at times to refresh our minds. So, enough of my soapbox message!

We are going to have a great speaker this meeting and hope you all can all attend if not in person, then possibly via electronic. We love to have new and old faces alike. Please attend if possible in whatever form.

We all need to remember the small things in life. A smile from a stranger, your child or grandchild giving you a hug, your favorite movie, the trees in bloom (sorry all you allergy sufferers), tulips and daffodils in bloom. Whatever it is, however small, smile and enjoy!



Penny Landeis, President

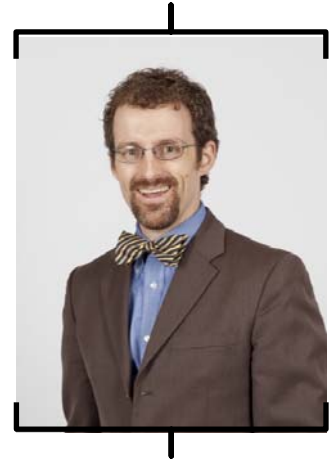
CALENDAR OF EVENTS

May 18, 2022	LAWS meeting
June 22, 2022	LAWS meeting
August 24, 2022	LAWS meeting
October 19, 2022	LAWS meeting

SPEAKER BIO

Our speaker will be Andrew Teske, who will give a presentation on HOA law, including what HOA board members should know, current legislation and the paralegal's role in this practice area.

Andrew Teske practices at Hoskin Farina & Kampf, P.C. He joined HFK in 2005 when he moved to Grand Junction, and was elected a shareholder in 2012. Andrew's areas of practice have been business law, and complex civil and water litigation, including commercial, real estate and construction disputes, but the last 15 years or so his main focus has been on real estate, common interest communities and homeowners associations, both commercial and residential. He has also frequently worked with developers and individual owners in the process of creating and living within common interest communities, and served as litigation counsel in a variety of association-related court cases. He reads declarations of covenants, association bylaws and other governing documents on a near daily basis and his experience has given him a long familiarity with the Colorado Common Interest Ownership Act and other governing federal, state, and local law impacting owners associations. He also serves as the Chairman of the Grand Junction Planning Commission and is familiar with local law and regulation concerning subdivision development in Grand Junction, Mesa County and other places in western Colorado. He is married, has three children, enjoys cycling, woodworking, tries to play golf, and coaches a youth lacrosse team.



EDUCATIONAL ARTICLE

FEATURES

WHAT IS AN ALTA SURVEY?

Written by Mitch Duryea, PLS



Title companies, lenders, investors, and others depend upon an ALTA/NSPS Land Title Survey to complete a commercial real estate transaction. Title companies are being requested to provide an Extended Coverage Title Insurance Policy together with certain endorsements to “insure title to land without exception to the many matters which might be discoverable from survey and inspection and not be evidenced by public records.”¹ The title companies, lenders, and others depend upon the Professional Land Surveyor to prepare a technically accurate ALTA Survey for these purposes. While many use these surveys, not many know the details of what comprises ALTA Surveys. This article will provide a background and working definition of the ALTA/NSPS Land Title Survey by looking at the elements in the name itself.

AMERICAN LAND TITLE ASSOCIATION (ALTA)

ALTA was founded in 1907 and is the national trade association for the Title Insurance industry. Its membership includes over 6,000 title insurance agents, abstractors, and underwriters. The mission of ALTA is to “improve the skills and knowledge of providers in the real property transactions,” and “ALTA members search, review and insure land titles to protect homebuyers and mortgage lenders who invest in real estate.”²

Title Insurance has its roots in the historical case of *Watson v. Muirhead*³. In this case, Waston purchased a

parcel of land that Muirhead, a conveyancer, prepared an Abstract of Title. In his abstract, Muirhead did not include a certain lien. After Waston took title, the lien holder demanded and was awarded settlement of this lien. Muirhead was successful in defending the suit because he had followed the standards of practice of the time (1868). This case led to the establishment of the Real Estate Title Insurance Company in Philadelphia.⁴

NATIONAL SOCIETY OF PROFESSIONAL LAND SURVEYS (NSPS)

The American Congress on Surveying and Mapping (ACSM) was established in 1941 to be an international organization for those involved with the surveying and mapping professions. ACSM became the umbrella organization for four specialty-member organizations, including the National Society of Professional Surveyors (NSPS), which was incorporated in 1990. NSPS is the national professional organization representing those in the profession of surveying and mapping. In 2012, ACSM merged into NSPS and ceased to operate.⁵ In 2016, with the merger complete, the reference to ACSM was replaced with NSPS and became the Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys.

LAND

Land is defined as real property being fixed, immovable, »

FEATURES

and permanent. It is also generally described as the land and whatever is erected, growing, or affixed to the land. Real property has four dimensions: width, length, depth (elevations), and time.⁹

TITLE

Title is the “means by which a person has just possession of a property; it is the evidence of ownership.”¹⁰ Title is generally acquired by written methods such as a deed, patent, or other recorded instruments. Title may also be obtained through unwritten methods, including riparian/littoral rights, adverse possession, or prescriptive rights. Title can be transferred by various court actions, including Wills/Decrees of Distribution, Quiet Title, and Eminent Domain proceedings. Title may also be obtained through oral or verbal agreements.

The title company is being asked to issue a Title Insurance Policy. A title policy is “an insurance policy insuring the title to real property for the protection of persons acquiring interests in real property either as owner, lender or lessee.”¹¹

SURVEY

ACSM defined surveying as the “Science, Technology and Art of making the measurements necessary to determine the relative position of points on, above, or below the surface of the earth, or to establish such points.”¹² Surveyors use a variety of sciences in their work, including physics, mathematics, error theory, chemistry, and geology. Surveyors have many tools of technology in their toolbox, including Total Stations, Global Positioning Systems (GPS), Laser Scanning, aerial and UAV mapping systems, and CAD programs to collect and process field data. The Art of Surveying is taking all this science-based technical data and producing a product (map, plat, or report) that can be used by a third party. In the case of commercial real estate and title insurance needs, this product is the ALTA/NSPS Land Title Survey. This map is prepared for the purposes of providing the information required by a title insurance company to issue an extended coverage policy with additional lender-required endorsements.

THE MINIMUM STANDARD DETAIL REQUIREMENTS

Beginning in 1962, the Title Insurance industry and Land Surveying profession have joined together to establish the requirements for surveys to be used for the purposes of issuing extended coverage title insurance policies. These standards have been updated and revised through the years, with the first revision of the 1962 standards in 1986. Since then, there have been eight

revisions to these standards. The current Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys became effective February 23, 2021.¹³ These standards are divided into eight sections that outline the responsibilities for both the land surveyor and the title company for the completion of the survey.

Section 1 defines the purpose of the requirements. “Members of ALTA have specific needs, unique to title insurance matters, when asked to insure title to land without exception as to the many matters which might be discoverable from survey and inspection, and which are not evidenced by the public records.”¹⁴ Members of NSPS are charged with conducting surveys and preparing the corresponding map and/or plat that are professionally prepared by a property registered/licensed Land Surveyor where the property is located. They must ensure these surveys are complete and accurate to meet the needs of ALTA members.

It is important to understand that while these standards have been developed by ALTA and NSPS, there are others, including owners, buyers, lenders, and investors, who are depending upon the survey. These other users need to be familiar with the requirements contained in the eight sections of the standards.

Section 2 is the formal request for a survey. Section 3 outlines the Standards of Care for the surveyor. This section includes the requirement that the surveyor be in compliance with the state laws for surveying where the property is located. Section 4 is the requirements of the title company regarding Records Research. Section 5 is the details of data that need to be collected as part of the fieldwork. The details for the survey map or plat are contained in Section 6, including the listing of the encumbering and appurtenant, along with the requirements and limitations for the legal description easements to the property being surveyed. Section 7 is the certification that is to be used on the survey, and Section 8 lists the deliverables of the survey.

Table A of the Standards are the Optional Survey Responsibilities and Specifications. These optional items provide additional information required for specific endorsements (*i.e.*, Zoning Compliance) or other information required by the lender. Table A also allows for other items or information that are not specifically listed in Table A nor contained in the eight sections. These Table A items are to be negotiated between the surveyor and client. While the surveyor would prefer these items be negotiated before the project begins, it is understood that the lender may not have been »

FEATURES

determined at the beginning of the due diligence process. These other users need to understand what the surveyor has been contracted to provide in order to properly review and comment on the survey.

In reading the Minimum Standard Detail Requirements, keep in mind that this is a single document that provides the general specifications. The document does not always fit every specific site or state requirement. For example, Section 6 states that the survey must be a minimum size of 8 1/2 inches by 11 inches in size. This is a requirement in some states. Table A item 1 requires setting missing property corners. In **some** states, like Oregon and Washington, when new property corners are set, a separate Record of Survey map needs to be prepared and filed with the county where the property is located.

SUMMARY

What is an ALTA/NSPS Land Title Survey? I have developed the following working definition:

- A graphical representation (map or plat)
- Illustrating the status of title (on and off record)
- Of a piece of real property
- In accordance with the Technical Standards of NSPS
- For the purposes of issuing an extended coverage Title Insurance Policy by a member of ALTA.

The primary purpose of the ALTA/NSPS Land Title Survey is to provide the information required to be

provided by the surveyor to meet the needs of the title company, buyers, lenders, investors, and others involved in commercial real estate transactions.

Resources

- 1 *Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys (Effective March 15, 1962)*
- 2 <https://www.alta.org/about/>
- 3 *Watson v. Mainland*, 57 pa, 161 (February 10, 1868)
- 4 First American Title Insurance Company (1980). *Fundamentals - A Guide to Title Insurance*
- 5 <https://landsurveyorsites.com/scam>
- 6 *Brown's Boundary Control and Legal Principles*, 7th Edition
- 7 *Definitions of Surveying and Associated Terms*. American Congress on Surveying and Mapping, 2006
- 8 *Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys (Effective 2/23/2021)*



Mitch Duryea, PLS, is the President of Duryea & Associates P.S. located in Spokane, Washington. Duryea & Associates is a professional surveying and mapping firm that specializes in preparing ALTA/ACSM Land Title Surveys throughout the western United States. Mr. Duryea received his Bachelor of Science in Surveying and Photogrammetry from California State University, Fresno, and a Master of Science in Higher Education from

Kaplan University. He is an Assistant Professor in the Geomatics program at Oregon Tech. Mr. Duryea has also taught Land Surveying classes as an Adjunct Instructor at City College of San Francisco, Evergreen Valley College in San Jose, and Gonzaga University in Spokane.

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MEMBERSHIP

The Importance of Membership

Written by Debbie Overstreet, ACP

**"ALONE WE CAN DO SO LITTLE.
TOGETHER WE CAN DO SO MUCH."**

— HELEN KELLER

At an early age I recognized the value of organizational membership. I grew up as – and continue to be – a resident of Porter, Oklahoma, a small farming community. Members of the community volunteered their time to mentor the youth in the 4-H program. You may be familiar with the four-leaf clover logo with the white "H" on each leaf. The H's stand for head, heart, hands, and health. The program's motto is "To make the best better." But it is the pledge that guides: "I pledge ... My Head to clearer thinking, My Heart to greater loyalty, My Hands to larger service and My Health to better living for my club, my community, my country, and my world." In my teens I moved on to membership in the Future Farmers of America (FFA). FFA strengthened the foundation provided by 4-H. Both 4-H and FFA provided a supplemental education in healthy living, training in animal science, community awareness and engagement, and leadership development.

Fast forward several years, I found that community awareness and engagement were still within me. Understanding the need for community involvement, I became actively involved in the local Lions Club and Chamber of Commerce. It was a natural progression to become actively involved in my state and local paralegal associations, as well as NALA after obtaining my paralegal certification. Each of the organizations offer mentoring, networking opportunities, and leadership development.

A benefit of membership in an organization is the opportunity to network with others that have similar interests and goals. While most join NALA for the certification and continuing legal education programs, NALA offers its members much more. There are several ways a member can be involved. Some members prefer to obtain and maintain their Certified Paralegal designation. Members that wish to broaden their knowledge can do the following: earn their Advanced Certified Paralegal designation; complete live webinars, on-demand webinars, or complimentary education; and read NALA publications such as *Facts & Findings*. For those members that wish to be actively involved, you can attend the annual NALA

Conference & Expo, contribute articles to *Facts & Findings*, participate in NALA Commons, volunteer to serve on a NALA committee, or run for a position on the NALA Board of Directors. You can even produce a NALA YouTube training segment! Each membership type is an important part of the association.

It is important for the future of any association to encourage member involvement. Just as an employer must encourage active involvement and continually educate and encourage emerging leaders, so must associations. NALA's Board of Directors and committee members are all volunteers committed to the success of the association and each member. As NALA members, each of us are encouraged to contribute our time and talents. Whether it is through participation in online forums or attendance at the annual conference, NALA provides you the opportunity to associate with members from across the country. Through its leadership development training, NALA members are provided a deeper understanding of the paralegal profession and association leadership. In fact, the leadership development courses provide valuable training that can be used in all facets of your personal and professional life.

As paralegals, we are trained to serve others – our attorneys, our clients, our community.

If you ask any of the past or present NALA Board of Directors or committee members why they chose to serve, the majority will answer that NALA offers them the opportunity to pay it forward. NALA provides all members the ability to volunteer their time and talents to the association that has been an important part of the success of their professional careers. As with any association, NALA needs members invested in the future. Members provide valuable insight, new interests, increased energy, and provide for future leadership. Each member increases NALA's capacity for service and ensures that NALA will continue to be the preeminent resource for individual and professional success.



Debbie Overstreet, ACP, has been in the legal field since 1980. She has worked in both the public and private sector and is currently employed as a Lead Realty Specialist with the U.S. Army Corps of Engineers in Tulsa, Oklahoma. Ms. Overstreet is a graduate of NALA's leadership program (LEAP), has served as NALA's Affiliated Associations Secretary, Affiliated Associations Director, Regional Director, Professional Development Committee member, Treasurer, Secretary, and is currently serving as NALA Vice President. In addition to volunteering as a presenter at several NALA conferences and as a paralegal mentor, Ms. Overstreet currently serves on the Paralegal Program Advisory Board at Community Care College in Tulsa. She resides in Porter, Oklahoma, with her husband, Gregg Overstreet. They have five children and eight grandchildren.
✉ debbieoverstreetacp@gmail.com



HOA RESTRICTORS



HOA's and common interest communities have varying types of rules and restrictions — find the HOA related terms below.

R T E U M D C G A K L M M U F Z W O S U K K N D J O D B E U
V I O L A T I O N R T D Q M W T Q I K H S X V T W G L H G D
D A U G G J Y P X T C U H L I D M R Q M Q C D I Q H E V X T
I D L K F Y O L T L D H P Y N L P X V M A E P Q O I L E O D
I V U P T B E P W V C I I A Z V J E O M Z Q M G X O R E Q Q
T F E A S V J I D P I U X T V T N Q Q A L V I Z A U H W V O
G J T W C B P X B E D S G A E L D W A K U K R D S G B F M E
Q N X J A V B C X H V O T K P C S T H X J A A C O Y T H O W
R T I N U M U I N I M O D N O C T Y Y X V P H Z L I S I N E
X N B P E S Y I H T W I S N E C U U U M S S W A H S D Q X N
P H M J A I C L Z X W Y P X D M Z C R C U G W H Z N H Z L B
U N K K O C Z S O W M H L H U H S Y B A M S G L K C T T U V
D J C F D A S C K S K D W X H F C S W D L X Q D Q R S V Z V
T V D U B E Q D C S Q K A A Q Q L M E O I C C J H B U M A U
F B D K E V F H N O B D B J K O A Y V S A M O P N O R D N J
L O O L F I M O Z A S R N K W E R M M I S R Z M A F B O N D
M A R X R T I Y Q B L O B X R T Z R A L L A B W M G I Y U F
O R I K D I Z K C Z V S X A F I N E S N Y I S E Z I G P A L
L D O J S F I C J G H X N S P X N N P R A R H Q U V T V L S
P M W E O W I C T O Q O B O O E F W Y S C G L M W R T T M W
T H Y F D O M W B L M W R F Q T H Z B C O F E Y I I A F E G
N I F Q A B J F N M F S T R U H O X K S D M T R K P F I E E
J F B W S S D U O C D P O S A C K B G V V S R V C W H W T W
X N B D I F O C X S X P K V B K X H V D X W R Q U K H U I H
G L U M Y G S R A D Q P D I I X B P Q B W G R W N F H T N B
H B H U D S E V R E S E R R J V A C S P Y J E E D A B J G J
W C F R R F U Z P W E M Z R R V C W K R J U P B S N G B P B
J D A O E G Y J X K A T R N S C W R F R Z R R I P J K W T Y
O Z S U V Q Z T B M O H L Y P H P N B B Z D L X A P K E G T
O T W Q P Q T S X N Q L Z S T S B G E L S A Q L G J E D K N

ANNUAL MEETING

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CCIOA

CCRS

COMMON AREA

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LANDSCAPING

MANAGER

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RESERVES

VIOLATION

LEGAL LOL

Grammar Giggle – Let's Be Sat

By www@proofthatblog.com | January 24, 2022 |

confusing words, grammar giggles, legal assistant, legal proofreading, legal secretary, misspellings, paralegal, proofreading

I saw this on a recent winery tour. The correct word should be "seated." "Sit" (and its past tense version, "sat") means "to be in a position of rest." "Seated" means "arrange for someone to sit somewhere," which is what the Hostess would do once you check in with them.



Used with permission of Kathy Sieckman, author of "Proof That Blog!"

<https://proofthatblog.com/>

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THE PRO BONO PROJECT OF MESA COUNTY PRESENTS

The 10th Annual

BIG LAW BOWL\$KI



Thursday, May 12th
5:30 PM



amanda@probonomc.org Freeway Bowl
\$100 per team of 4 1900 Main St.

THE DUDE STILL ABIDES

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Legal Assistants of the Western Slope (LAWS) was established to create and maintain good fellowship among association members, the National Association of Legal Assistants, Inc. (NALA), and members of the legal community.

LAWS is an affiliated association of NALA.

LAWS is dedicated to offering educational opportunities to legal support staff. Presentations offered during our meetings are designed to give our members new information and resources in the fast-paced, rapidly changing environment that impact our growth.

