

December 12, 2006

Stephen Forbes  
Editor in Chief  
Forbes Magazine  
60 Fifth Avenue  
New York, New York 10011-8868

Dear Mr. Forbes:

The membership of the New York State Land Title Association, Inc. (NYSLTA) which includes licensed insurance companies, title agents, abstractors and others who work diligently to provide quick, efficient and secure transfers of title throughout the State of New York, was appalled by the recent article ("Inside America's Richest Insurance Racket") that appeared in your magazine.

Mr. Scott Woolley, the author of the article, opined that title insurance is an outdated product. Yet institutional lenders, life insurance companies, pension funds, governmental agencies and other investors in major commercial real estate transactions as well as the vast majority of residential purchasers and lenders make sure they have title insurance at the time they make their investment. Evidently, they don't agree with the author's conclusion.

Mr. Woolley referred to the fact that a substantial portion of the premium collected by the underwriter is paid to title agents. What he failed to point out was that the title agent performs the title search, prepares the title certificate, clears the title, attends the closing, issues the policy, records the documents, pays rent, salaries and benefits, electricity and heating bills for its office to enable its employees to perform tasks required when insuring title, all out of the agent's portion of the premium. They perform the same tasks that a title insurance underwriter branch office does when it issues a policy directly (i.e., without an agent involved), except for the actual assumption of liability, payment of premium taxes and the maintenance of statutory and voluntary reserves which are the obligation of the title insurance company. When viewed from the perspective of a small business owner (which most agents are), it's not the win-win situation that Mr. Woolley alleges.

The author also complained about the small amount of the premium dollar collected that is returned to the consumer, presumably by way of claims payouts. That argument might have some merit if Mr. Woolley were writing about property and casualty insurance, like fire and auto, where policies insure against events that may occur after policy issuance, and rates are based upon an actuarial analysis of the likelihood that such loss will occur. Title insurance

is very different in that its primary focus is to eliminate risk prior to policy issuance and to protect the insured against defects in title that arose prior to the date of the policy. The risk elimination process is labor intensive and costly, and is intended to eliminate or substantially reduce claims. In our view, the fact that our claims experience is dramatically different than that of the property and typical casualty insurer indicates that title insurers are performing their risk elimination function very well. However, despite the intensive and costly risk elimination process undertaken when writing a title insurance policy, losses from frauds have risen sharply, a category of loss also covered by title insurance.

Our members could go on to refute the other arguments expressed by Mr. Woolley in his article. However, there is an old saying that “actions speak louder than words”. Over the past several years, the title insurance industry helped millions of Americans securely and effectively convey, mortgage and refinance their real property in the greatest real estate boom in our country’s history. Consumers were able to do so without crisis or upheaval, leaving the problematic and unglamorous details of their transactions to the title representative at closing, and have emerged from the process better off for the protections afforded by the title insurance policy. That’s not bad for an industry that Mr. Woolley calls outdated!

Very truly yours,

Thomas P. Tafuri  
NYSLTA President