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**Fixing Real Estate Headaches:
Deeds, Trusts, and Title Issues**

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FIXING REAL ESTATE PROBLEMS

1. Introduction.

Real estate issues can delay administration, cause attorney fees to skyrocket, and generally put everyone in a bad mood. Practitioners may spend numerous hours solving a real estate problem that they may never again encounter. The purpose of this paper is to identify select real estate issues that occur in probate and trust administration and present solutions to those issues. This paper will hopefully save practitioners valuable time addressing issues they may only experience once or twice in their career.

2. Helpful Sources.

Fixing problems is much easier if you have the right tools. In dealing with real estate issues, practitioners should keep the following resources in mind:

2.1 Texas Title Examination Standards.

The Texas Title Examination Standards are guidelines intended to assist title examiners and others called upon to assess the marketability of land titles, focusing on the manner in which a prudent examiner approaches matters that may be encountered during the course of examination. The standards are compiled by a board consisting of Texas experts in the title examination field.¹

In other words, the title examination standards tell you how to make title examiners happy. Many times, a real estate deal hinges on resolving issues that appear on the various schedules of a title commitment (usually Schedule C). The title examination standards generally tell you what is needed to resolve those issues. Understanding these standards and reviewing them in advance can cut off potential issues down the road.

For instance, many title companies request a full copy of the trust in question. This might cause delays if the trust is old, complicated, or has issues (e.g., the trust was amended several times or the trustee was appointed in an unusual way). However, the title examination standards state that an examiner may rely on a certification of trust “as an alternative to being furnished a copy of the trust agreement.”²

2.2 CAD Maps and Records.

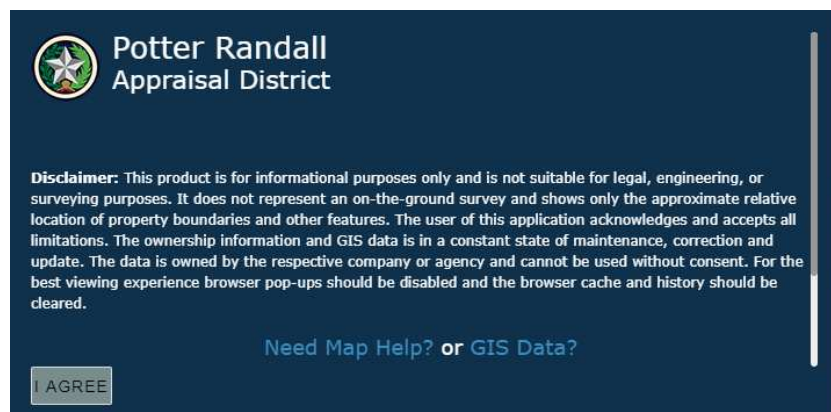
What property does my client own and where is it located? Who owns this piece of property? These questions were much harder to answer just ten years ago. Nowadays, many county appraisal districts have online records that make it easy to search ownership records. Many also have interactive maps that allow you to click on parcels and see ownership information. CAD records typically include who owns a parcel, when it was transferred to them, and who the prior owners are.

¹ Tex. Title Examination Stds, Preface.

² Tex. Title Examination Stds 9.10.

One major caveat: county appraisal district records are a great place to *start*, but practitioners should always confirm the data. CAD records are generally correct and reliable, but they do not always accurately reflect ownership. As such, CAD records should be used primarily as a *starting point*, and the information in the CAD records should be confirmed by referring to actual recorded documents.

Additionally, while a CAD map may purport to show plat lines, it cannot be relied on as an accurate survey. In fact, most CAD sites will require you to agree to the following disclaimer prior to accessing the map:



2.3 Online Recorded Documents.

The days of stand-up trips to the county clerk's office are almost over thanks to new technology. Now, websites like tx.countygovernmentrecords.com and www.texasfile.com provide instant access to recorded documents for most counties. While these sites charge for copies (typically around \$1/page), it will save practitioners significant time compared to requesting deeds from a county clerk or even from a client.

2.4 CLE Libraries.

Do not reinvent the wheel. When researching a topic, many practitioners start with Lexis or Westlaw. However, when digging into a new topic, the Texas Bar CLE and REPTL libraries can be invaluable. Not only can you find articles with general overviews of new topics, you can also find forms that can serve as a starting point.

3. Interacting with the Title Company.

When dealing with any of the issues described in this paper, the endgame is nearly always to sell or transfer real estate. In those instances, a title company will likely be involved. Practitioners should speak with the title company *prior* to spending significant time and effort to cure the issue in question. It is possible your plan of action will not satisfy the title company, thus it is important to keep in mind the following:

- a) If the title company is not satisfied, it will not issue a title policy (at least not one without unacceptable exceptions);

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Title search: Fixing Real Estate Headaches: Deeds, Trusts, and Title Issues

Also available as part of the eCourse

[Answer Bar: Dealing with Mineral Rights in Estate Planning and Probate](#)

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