

> The Connection <

December 2007

WELCOME

Welcome to the December edition of *The Connection* newsletter. It has been an eventful 2007 for Stewart Title with many exciting developments in our products and services.

One of the major highlights for the year was the launch of our StewartCONNECT member program. StewartCONNECT was officially launched in August and to date we have had great responses from practitioners.

As reflected in every aspect of our business, Stewart Title developed the StewartCONNECT program in an effort to strengthen your role and work with you in offering the best possible protection and service to your clients. It

was introduced to allow you to easily integrate title insurance into your current risk management strategies, whilst demonstrating our support of the profession in partnering with you for mutual success.

StewartCONNECT membership provides a number of benefits to solicitors and conveyancers and I encourage you to contact our office or visit our website for further information if you haven't already joined.

Another big development for Stewart Title Limited this year was the opening of a New Zealand branch. Overseen by the head office in Sydney, Stewart Title will offer lender and purchaser title insurance throughout New Zealand. The opening of the New Zealand

branch will enable us to service our lenders doing business in both Australia and New Zealand and also make our product available to solicitors facilitating property transactions and New Zealand based mortgage lenders.

I hope that the final newsletter for 2007 finds you well and from everyone at Stewart Title, we wish you a very Merry Christmas and Happy New Year. We look forward to working with you in the New Year.

Regards



Anna MacDonald,
General Manager

APPOINTMENTS

Despina Veselinovski as Business Development Manager Victoria & South Australia



We are pleased to welcome Despina Veselinovski to our team as the new Business Development Manager for Victoria and South Australia. Despina is responsible for the management and direction of marketing strategies, business development activities and ongoing education and training of our StewartCONNECT members.

Prior to joining Stewart Title, Despina worked as a conveyancer and property solicitor in suburban general practice law firms. Despina's experience includes successfully representing clients in Court, negotiating settlements, and training staff in conveyancing.

In addition, Despina has also worked as an in-house lawyer in London from 2005 to 2006. Despina was fortunate to gain valuable legal experience from another jurisdiction together with life experience from her travels around Europe and Asia.

Despina graduated from Melbourne University in 2003 with a double degree in Law and Commerce, having majored in Marketing Management.

She can be contacted about any marketing and business development related issues on 03 9827 6190 or via email at despina.veselinovski@stewart.com

UNDERWRITING NEWS

Duty to disclose known defects

Conveyancers and solicitors must disclose any known defects relating to a property to be insured at the time of ordering a title insurance policy.

This duty to disclose any known defects continues from the time that the policy is ordered up until settlement.

Examples of known defects include *but are not limited to* the following:

- illegal structures on the property to be insured;
- structures encroaching on adjoining properties or onto easements or right(s) of way;
- proposal(s) of a statutory authority with respect to the land; and
- access issues.

When disclosing a known defect to us, we ask that you provide

us with copies of the documents and/or information that you consider relevant to the risk.

Examples of documentation and/or information may include:

- special Conditions;
- correspondence with the vendor's solicitor;
- building Report which indicates that a structure may be illegal; or
- information obtained verbally from the purchaser who has become aware of a known defect during discussions with the vendor.

With respect to Special Conditions we ask that you forward to us Special Conditions that:

- Specifically disclose a known defect, for example:
"The vendor discloses that the

pergola was constructed without the approval of local council".

- Discloses that a known defect "may" affect the property, for example:
"The vendor discloses that the pergola may not have been approved by local council".

Once a known defect has been disclosed to us, the underwriting department will make a decision as to coverage. Stewart may in some cases decide not to cover known defects, but in all cases we attempt to offer the best possible coverage over the known defect.

Please be aware that a failure to disclose a known defect may affect the outcome of your client(s) claim.



CLAIMS NEWS

Testimonial

In our last edition of *The Connection*, we discussed a recent claim in relation to a septic system that was not being operated in accordance with council's approval to install and/or operate.

We have now finalised this claim. This is what our insured had to say:

"What wonderful service!

We can't thank Stewart Title enough for all their help and support.

This Insurance has really saved us a lot of time and money and we would definitely recommend Stewart Title to all."

S & L Jones - Grafton NSW

To make a claim or enquire about a claim related issue, please contact our Claims Department on 1800 300 440 or by fax on 1300 881 432.

RECENT LENDER CLAIMS

Stewart Title prides itself on resolving title insurance claims in a professional manner. Here is a recent lender claim paid by Stewart Title Limited:

Enforceability of Mortgage – Defence of Title

Following settlement of the loan, our insured lender lodged the mortgage for registration at the Land Titles Office. A change of name statutory declaration which accompanied the mortgage was rejected by the Land Titles Office on the basis that it was not properly witnessed.

Our insured's mortgage was unable to be registered unless the statutory declaration was re-executed by the borrowers. The borrowers quickly fell into default and refused to co-operate with our insured lender.

The mortgage needed to be registered in order for our insured to enforce its security.

The Resolution

The claim was covered under the Residential Lender Policy. Under the Policy, Stewart Title has an obligation to defend the validity of the insured mortgage as an encumbrance against the title to the security property.

Stewart Title engaged lawyers on behalf of the insured to obtain another statutory declaration from the borrowers. Another statutory declaration was subsequently obtained from the borrowers, allowing our insured's mortgage to be registered without resort to expensive and time consuming litigation.

Stewart Title covered all legal costs in obtaining the replacement statutory declaration and registration of the mortgage allowing our insured lender to concentrate on other matters. If the borrowers had not co-operated, Stewart Title would have commenced legal proceedings to enforce our insured lender's security.



STAFF PROFILE

Charlotte Kildea as Business Development Manager NSW

Charlotte joined Stewart Title Limited in September 2003 as a Customer Service Associate and in 2004 Charlotte was promoted to Business Development Coordinator. Charlotte showed a great flare for Business Development and in January 2007 was promoted to Business Development Manager NSW.

As Business Development Manager NSW, Charlotte is responsible for building new business opportunities while maintaining contact with existing clients. Charlotte also handles policy coverage queries and policy development and promotes Stewart Title's products to the purchaser market.

While at Stewart Title, Charlotte has undertaken further education in marketing and now holds a Diploma in Business & Marketing.

Charlotte can be contacted about any business development related matters on 0402 188 205 or via email at charlotte.kildea@stewart.com

EVENT NEWS

The team at Stewart Title had a busy end to the year attending and sponsoring a number of events:

- **AICNSW CPD Event**
6 August 2007
- **AICNSW CPD Event**
20 August 2007
- **AICNSW CPD Event**
3 September 2007
- **AICWA Business Breakfast**
12 September 2007
- **AICWA Business Breakfast**
13 September 2007
- **AICVIC Nightlife Seminar**
19 October 2007
- **AICNSW State Conference**
27 October 2007
- **AICNSW CPD Event**
13 November 2007
- **AICNSW CPD Event**
19 November 2007

Stewart Title was a proud sponsor of the Australian Institute of Conveyancers (NSW Division) State Conference held at the Stamford Plaza, Mascot. Following the National Conference in March, the NSW AIC had a successful event with great attendance from around the state and Stewart Title was pleased to have been part of this event.

Stewart Title Christmas Parties

Victoria

The Naval & Military Club
28 November

New South Wales

The Tearoom, Queen Victoria
Building
5 December

Western Australia

The Old Swan Brewery
12 December

StewartCONNECT Pack Your Bags Prize Draw Winners

We would like to congratulate Cheryl Wenban from Torrens Conveyancing in New South Wales and Martin Galea from Principle Conveyancing Services in Victoria who were the lucky winners of the StewartCONNECT Pack Your Bags Prize Draw.

As winners Cheryl and Martin will each have a weekend away for two to beautiful Noosa, Queensland staying at the Noosa Sheraton Resort & Spa with return airfares, breakfast and transfers included. Stewart Title would like to thank everyone who has become a member of the StewartCONNECT program and we look forward to a long and rewarding relationship with you.



Charlotte Kildea presents the NSW winner Cheryl Wenban from Torrens Conveyancing with the StewartCONNECT prize.

APPOINTMENTS

Kathryn Mitchell as Operations Manager



Stewart Title is pleased to welcome Kathryn Mitchell to the Sydney office as Operations Manager. In this role, Kathryn is responsible for the management and direction of the Customer Service, Administration and Information Technology

departments of Stewart Title.

Over the past 8 years Kathryn has worked in the fast moving consumer good industry and offers highly developed skills in the management of customer service teams, strategic business planning and change management. Her goal is to improve the overall quality of the customer experience.

Kathryn holds a Bachelor of Arts (Hons) Japanese degree from the University of Sydney and a graduate Certificate in Marketing from the Sydney Institute of Technology.

Kathryn can be contacted in regards to any operational or customer service issues on 02 9081 6212 or via email at kathryn.mitchell@stewart.com

UNDERWRITING NEWS

High Court decision in *Black v Garnock* [2007] HCA 231

As practitioners will no doubt be aware, the High Court of Australia handed down its decision in *Black v Garnock* on 1 August 2007.

At Stewart Title Limited, we have received a number of queries from conveyancing practitioners about whether title insurance covers the risk that a purchaser's transfer cannot be registered because of the prior registration of a writ or caveat.

The answer is **"YES"**.

Clause 2.1(d) of the Residential Purchaser Policy provides cover for actual loss sustained by the insured in circumstances where *"someone else lodges a dealing which prevents your interest in the Land from being registered or recorded"*.

The "actual loss" would include any legal costs incurred in bringing proceedings to defend the insured's title, including the costs associated with the commencement of any legal proceedings necessary to rectify the insured's title and obtain registration of the insured's transfer.

The decision in *Black v Garnock* is likely to increase cost, complexity and uncertainty in conveyancing transactions. ("Property Law Committee responds to *Black v Garnock*"; *Law Society Journal, September 2007 - (2007) 45 (8) LSJ*.)

Title insurance is one option now available to assist conveyancing practitioners in

effectively managing this risk.

One of the issues for lenders arising from the decision is that lenders, unlike purchasers, do not have a caveatable interest in the security property upon exchange of contracts.

Stewart Title's Residential & Commercial Lender Policies also cover the risk to the lender that a writ or caveat registered prior to lodgment of the lender's mortgage prevents registration of the mortgage and potentially gives rise to a costly priority dispute.

For further information please contact Paul Watkins, General Counsel, Australia on (02) 9081 6213 or paul.watkins@stewart.com





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