

WHO OWNS THIS PROPERTY?

Title and acquisition agents team up to find the answer



BY BOW BRANNON

Before undertaking any right of way acquisition project, appropriate title research will be necessary for determining property ownership. With very few exceptions, title research is unaffected by the type or size of a project. Whether it is needed for a large public sector project or a small private one, when it comes to uncovering the tract's title history, the process is the same.

Accuracy is Critical

During the acquisition process, all activities center on the owner or owners of record, including survey permission, negotiation for the grant of easement

rights and fee acquisition. The acquisition agent relies heavily on the accuracy of the tract title file, as it is used in obtaining the signatures of all ownership interests, as well as compensating owners respective to their percentage of ownership. It is also needed to identify leaseholders and tenants who may also be entitled to compensation.

In the process of tracking down a property's ownership, a variety of obstacles can arise. In many instances, information is outdated, inaccurate or missing altogether. While new techniques for data retrieval, improved online indexing and other advances

have positively impacted the research process, in the end it often comes down to one person who goes the extra mile to uncover the tract's ownership. The most potent tools at that person's disposal are tenacity, perseverance and an uncompromising adherence to documented facts.

The Right Resources

Clients typically gain access to land information through local title companies and other various sources. Some clients, enticed by the promise of cost efficiency, elect to engage local title companies only to be disappointed when the title files

“It often comes down to one person going the extra mile...”



Age of Specialization

Obviously, when title and acquisition are working toward the same end, both groups benefit from cooperation and open communication. However, the relationship has not always been collaborative.

In the past, an agent was typically given a paper map with a proposed route drawn on it. They would take the map to the appraisal district office and compare it with the county parcel maps, if any existed, to determine which tracts would be crossed by a proposed route. The agent would then develop a line list based on this information and pull the appropriate tax cards. Using the contact information from the tax cards, they would contact the landowners to obtain survey permission. While survey was underway, the agent would visit the courthouse to research the title on other impacted tracts. With all this information in hand, the agent could begin the negotiation process for acquiring the right of way and securing agreements with the landowners. Following construction, the agent would then take on the role as the landowner's liaison, providing support as needed. If there were damage settlements, the agent would handle the negotiations and arrange for payments.

While the process sounds like an organized way to get things done, problems would often arise. For example, knowing your way around the courthouse doesn't necessarily make you a gifted negotiator. An agent skilled in doing research may stumble when trying to start a conversation with a property owner they have never met. With so much at stake, that agent may find it difficult to cultivate the kind of meaningful dialogue needed to negotiate easement rights and get a signed contract. Conversely, an acquisition agent with years of experience may not be the adept at digging through records and following paper trails.

It is apparent that more than one skillset is needed to do it all. The agent who is both an effective negotiator and a top title researcher

is truly a rare bird. As a result, the folks working on today's right of way projects have become more compartmentalized, specializing in what they do best. This is a good thing for several reasons. People are happiest, and thus most productive, when they are doing what they do best. So basically, this type of specialization can be good for the agents, good for the company, and good for our clients.

Gaps in the Chain

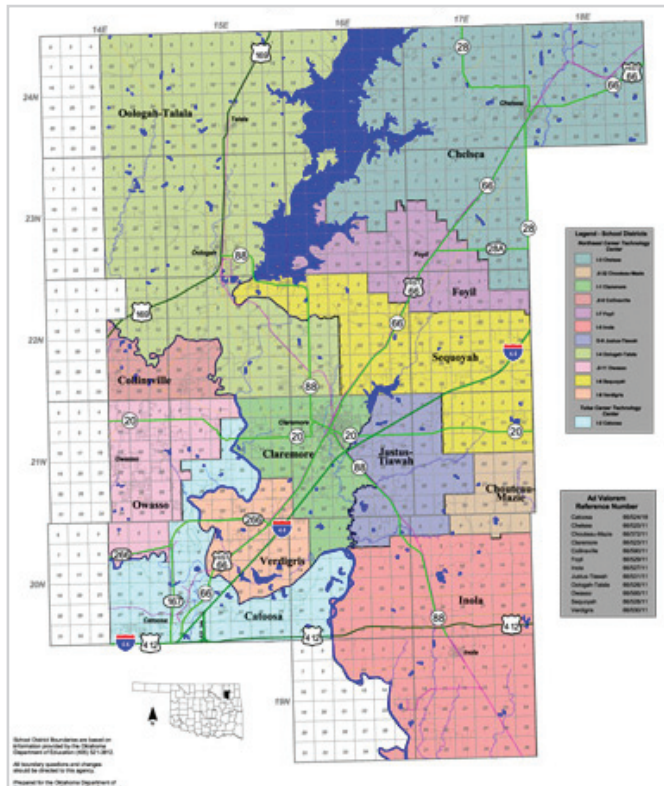
You might not be surprised to find that this compartmentalization has produced more than just a little contention between title and acquisition professionals, especially when asked about whose job is more critical to accomplishing the task at hand. The truth is, there are some facts that can only be learned through landowner contact, while other information can only be uncovered through research. Those of us who work in corporate title departments believe that both groups are the most effective when there is cooperation and communication between them.

The research process usually begins with tax owner information gathered from tax rolls. When that information is not available, getting started can be difficult. With one project my firm worked on, the tract indicated an "unknown owner" according to the county tax office. The title agent asked the acquisition agent to see what information he could find about who was currently living at the property. The agent simply visited the property and got a name from the mailbox. This gave the title agent a starting point, and she was able to find the deed for the current owner.

Sometimes title research uncovers a gap in the title chain that is the result of documents not filed of record. As a title agent, one generally adheres to the premise that "it's not real if it's not filed of record." In one case, the acquisition agent and title agent were working together to get an unrecorded document filed. Title was run on a subject

produced don't fully meet their needs. Even though title companies might have in-house access to a title plant, their business model is designed for issuing title insurance, not acquiring easement rights. As a result, their reports may not always include the detailed level of documentation that is critical to the project.

As a right of way consulting firm, we created an in-house title department that is solely dedicated to producing files for acquisition projects. Our title agents are trained in the research process and informed about special procedures that might be unique to each project. This in-house resource has proven to be invaluable, as the title agents remain focused on the ultimate goal, which is acquiring the easement rights, and recognize that the acquisition agent's success depends on the accuracy and expediency of their work.



County parcel maps help the title agent identify which tracks will be impacted by a project so they can proceed with tracking down each property's owner.

it thinking he owned it. No one was aware of this issue until the acquisition agent began making phone calls to the supposed owner and actually drove out to the tract to have a look around, only to find the parcel fenced off. The acquisition agent was on the front line with the landowners and faced with a series of unknown variables. Yet, by communicating with the title agent, the two were able to evaluate their

travelling to their homes. Eventually, they uncovered 45 heirs to this man and were able to locate and get signatures from 43 of them. If it weren't for that partnership, this essential piece of the project would have never been completed on time.

In another situation involving heirship, the agent ran title on a small lot in Harris County, TX. The title was complete as far as Harris County and the state were concerned, but when our acquisition agent made contact with the husband and wife who owned the property, it turned out the husband had passed away in another state and without a will. Fortunately, the agent was able to get a copy of the death certificate from the widow. Once we added that to our title file, applied Intestate Law and drafted an Affidavit of Heirship for the widow, we were able to perform Title Curative Measures to get it all straightened out. This scenario is actually not uncommon, and it gives title and acquisition agents a chance to collaborate to solve what could be an otherwise difficult issue.

tract that listed the Veteran's Land Board as the owner with a contract for sale on the property. The acquisition agent spoke with the resident on site who insisted he had paid off the Veteran's Land Board and his deed was of record. The title agent did an exhaustive search of the courthouse records, but was unable to locate the deed. So the acquisition agent contacted the landowner to get a copy of the original deed. The landowner gave the agent the deed so it could be recorded. Shortly thereafter, he was able to sign the easement as the owner.

options calmly. Together, they determined that some additional title materials would resolve the issue, and everyone was satisfied. The project was able to move forward and the correct landowner got compensated.

Conflict in Ownership

Occasionally, title turns up something that surprises just about everyone. Like the time there were two people who both claimed ownership of the same tract. Sometimes a title report could use an extra map or an older document that explains exactly who owns what where. Sometimes you end up telling folks good news, "You own more than you thought!" Other times it's bad news, "Sorry, but your fence is actually not your fence."

In Search of Heirs

Some title chains can be very complicated, and the deeper you dig, the more complex it becomes. When landowners acquire property through heirship via the probate courts, some heirs may choose not to go through the probate court to divide the assets of an estate. This leaves the decedent's will and the heirs completely undocumented, and the state laws of descent and distribution must be applied.

In Summary

Acquiring right of way is an endeavor that presents many challenges. These stories from the field give us a glimpse of what can happen when we meet those challenges together, each of us using our particular talents to aid the other. We have a common goal, and for us to do the best job possible, cooperation and communication between title and acquisition is critical. Our future success depends on it. 🌟

One of our title supervisors was working a tract where the owner, an out-of-state absentee landlord, didn't know he owned a particular parcel. Roughly 16 years earlier, a neighbor put up a fence around

One of our company's acquisition agents working on a tract began researching title by pulling the tax card and vesting deed. The vesting deed was a normal grantor-to-grantee conveyance and dated back to the early 1930's. He went to the address on the tax card to discuss survey permission and found that the individual on the tax card was no longer alive and had not been for a long time. A title agent got involved and found that the legal description of the tract had a lease signed by several heirs. So the title agent and acquisition agent began tracking down individuals by phone and



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