

# Resolving Land Title Issues in Right of Way

IRWA-CHAPTER 26

Let's Talk Right-of-Way

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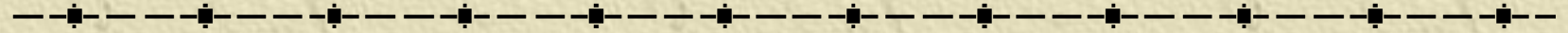
Wendi McAleese

February 22, 2017

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*Topic:*

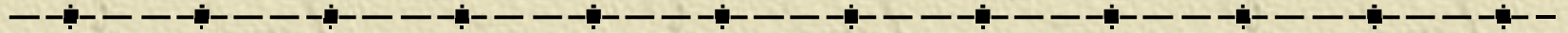


**Resolving Land Issues in  
Right of Way**

**OR**

**Why Can't You Just Answer  
the Question?**

# Title Status



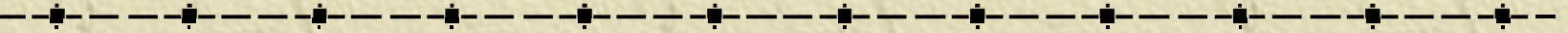
✦ Clear Title

✦ Marketable Title

✦ Insurable Title

✦ Clouded Title

# Clear Title



- ✦ Completely without issues
- ✦ Earliest public record title search reports
- ✦ Sometimes it's difficult to get there

# Marketable Title

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- ✦ Marketable Record Title Act (MRTA)
  - ✦ MRTA Chain is free from defects
  - ✦ Minor issues are not always corrected
  - ✦ Statute effective 30 years from root of title

# MRTA-Interests Extinguished

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- ✦ **712.04 Interests extinguished by marketable record title.—Subject to s. 712.03, a marketable record title is free and clear of all estates, interests, claims, or charges, the existence of which depends upon any act, title transaction, event, or omission that occurred before the effective date of the root of title. Except as provided in s. 712.03, all such estates, interests, claims, or charges, however denominated, whether they are or appear to be held or asserted by a person sui juris or under a disability, whether such person is within or without the state, natural or corporate, or private or governmental, are declared to be null and void. However, this chapter does not affect any right, title, or interest of the United States, Florida, or any of its officers, boards, commissions, or other agencies reserved in the patent or deed by which the United States, Florida, or any of its agencies parted with title. History.—s. 4, ch. 63-133; s. 1, ch. 65-280; s. 2, ch. 2010-104.**

# Insurable Title

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- ✦ Uniform title standards
- ✦ Mutual Indemnity Agreement
- ✦ Indemnification letter
- ✦ Hold Harmless and Indemnification
- ✦ Underwriter acceptance of risk

# Clouded Title

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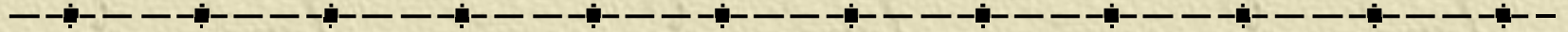
✦ Issue is not corrected

✦ Risk accepted by insured

✦ Insurance policy will except issue from coverage



# Examples

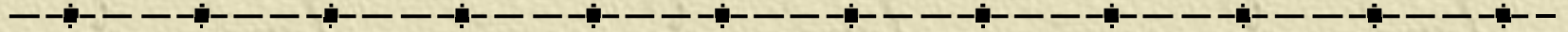


✦ Probate

✦ Mortgages

✦ Legal descriptions

# Probates



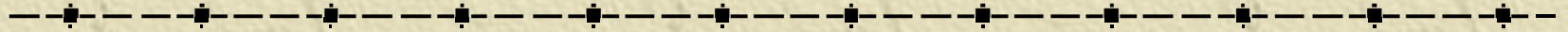
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# Mortgages



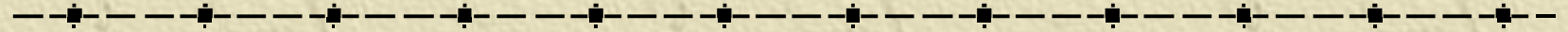
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# Legal Description



✦ Clear Title

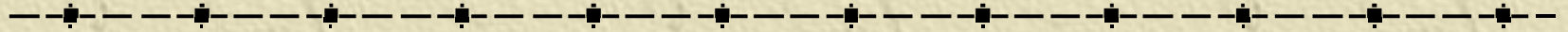
✦ Marketable Title

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# Client Considerations

## Clear Title



✦ Deep pockets

✦ Right-of-way construction

✦ Use of courts

# Client Considerations

## Marketable Title

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✦ Saves time

✦ Lessens landowners involvement

✦ Practical

# Client Considerations

## Insurable Title

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✦ Title policy

✦ Power of eminent domain remains

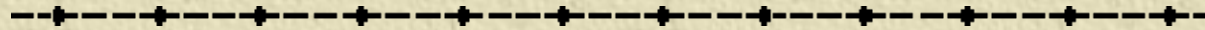
✦ Claims can be complicated

# Decisions, Decisions

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- ✦ Client must be involved
  - ✦ Get complete understanding of the outstanding issue
  - ✦ Limit risk as much as possible for each situation



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