ATTORNEYS' TITLE GUARANTY FUND, INC.

the ATG concept®

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NEWSMAKERS

ATG® FOUNDER VOTED A PILLAR OF THE BAR

Congratulations to **Stanley B. Balbach**, Urbana, Illinois, who has been named a Pillar of the Bar by the Illinois Bar Foundation (IBF). The award recognizes lawyers who have throughout their careers significantly distinguished themselves in the practice of law and in their professional and community activities and who have set an example to which others aspire. Recipients are nominated by their fellow attorneys.

ATG founder, Stanley Balbach (second from left) of Urbana, Illinois, was recently named a "Pillar of the Bar" by the Illinois Bar Foundation. His family joined him in celebrating the honor: (from left) son Bryon Balbach, wife Sarah Balbach, and Byron's wife, Jeanne.

As a member of the Young Lawyers Section of the American Bar Association (ABA) in the 1950s, Mr. Balbach began his campaign to establish a Bar-related® title company in Illinois to preserve the attorney's role in real estate transactions. His efforts led to the creation of ATG in 1964. His selfless dedication to the general practitioner, the real estate lawyer, and the public made ATG a primary force in the title industry. During his 1964-2004 tenure on its Board of Directors, ATG grew to become one of the major title insurers in the state with more than 3,800 attorney agents. Due in part to Mr. Balbach's efforts, Illinois did not become an "escrow state" where most consumers have no legal counsel in real estate matters, benefiting all Illinois attorneys, not just ATG members. His other accomplishments include ISBA Senior Counsellor (1992), ISBA Board of Governors Award (1994), the Arthur H. Larson Leadership Award of the East Central Illinois Area Agency on Aging (1999), ISBA Tradition of Excellence Award (2000), the Community Service Award of the Urbana Exchange Club (2000), and Academy of Illinois Lawyers - Laureates (2002).

The other attorneys elected 2006 Pillars of the Bar include ATG members Sam Erwin (deceased), Champaign; French Fraker (deceased), Champaign; Stuart Mamer, Champaign; Darius Phebus, Urbana; and Richard Thies, Urbana; along with local attorneys Frederick Green, Urbana; and Lawrence Hatch, Urbana. For more information, go to www.atgf.com, and click "ATG in the News" to read the June 19, 2006, *News-Gazette* article, "Group to Recognize Eight Lawyers in First 'Pillars of the Bar' Class."

The 2006 Pillars of the Bar, standing from left: Guy Fraker (representing his father, French); Stuart Mamer; Richard Thies; and Joe Phebus (representing his father, Darius). Seated Stanley Balbach; Lawrence Hatch; and Frederick Green.

The Illinois Bar Foundation, a not-for-profit organization, was founded in 1951. Originally established to provide aid to deserving Illinois Bar members who could no longer care for or support themselves, its mission now includes legal services for Illinois families and the development of the honor and integrity of the Illinois legal profession.

WEBSITE UPDATES

REsource® Users: ACCESS *PAPERLESS CLOSER* FROM OUR WEBSITE

REsource users can enter Paperless Closer from the member section of our website, www.atgf.com, by clicking "Paperless Closer" on the opening page or under the *Tools* menu. Contact Suzy Auteberry, 217.403.0130 or sauteber@atgf.com, for your password and ID access.

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PROVIDE TRUST SERVICES FOR YOUR CLIENTS

You may be an ATG member, but are you an ATG Trust member? Every residential real estate closing is an opportunity to do at least preliminary estate planning. How to take title, whether or not to use a land trust and what the current will says (assuming your client even has one) are all estate planning issues.

Trust members may participate in revenue from trust, estate, and investment management services, land trusts, 1031 "Starker" Exchanges, Structured Settlement and Structured Sale transactions, and more. Most importantly, trust members position themselves as their clients' trusted adviser, sometimes for generations.

Contact Denny Norden, 312. 312.752.1423, dnorden@atgtrust.com, to find out about how becoming a member of ATG Trust Company can benefit you and your clients, or visit the Attorney section of our website, www.atgtrust.com.

33 North Dearborn, Suite 1220
Chicago, IL 60602-3052
877.674.7878 or 312.338.7878
Fax: 312.338.1594 | E-mail: contact@atgtrust.com
www.atgtrust.com

ARTICLES

DISCLOSURE OF CONFLICTS OF INTEREST

ATG members and regional agents have a duty to disclose their relationship with ATG to the parties in real estate transactions. The Illinois Title Insurance Act requires attorneys, as producers of title insurance business, to disclose their financial interest in a title insurance company to both buyers and sellers. 215 ILCS 155/18(b). The Real Estate Settlement Procedures Act (RESPA) also requires disclosure of affiliated business arrangements to buyers and sellers. 12 USC § 2607. Finally, the Illinois Rules of Professional Conduct mandate disclosure to satisfy the attorney's duty to communicate and duty to disclose conflicts of interest to the attorney's clients.

Censure for Failure to Disclose

EDITOR'S NOTE: To properly disclose their financial interest in ATG, members and agents must complete and distribute Form 3017-A, Disclosure Statement (Controlled Business Arrangement), with each commitment they issue. To obtain a copy of this form, visit our website or call our Order Department, 800.252.0402, ext. 2114. Also, see our July 2006 *Underwriter's Bulletin* article on disclosure compliance for more information.

Recently, an attorney was disciplined for a failure to disclose her relationship with a title insurance company. The Attorney Registration and Disciplinary Commission (ARDC) filed a petition to censure an attorney for a failure to disclose the attorney's interest in a title insurance company. *In re Greenberg*, ARDC Comm. No. 05 CH 26 (2006) (Petition Allowed by the Illinois Supreme Court and Imposing Discipline on Consent). The ARDC filed the petition after the sellers, who the attorney represented in three real estate transactions, asked the ARDC to investigate the attorney's failure to disclose her relationship with the title insurer. In connection with the investigation, the attorney failed to respond to ARDC letters, failed to appear to give a sworn statement pursuant to a subpoena, and failed to produce documents.

The petition alleged that the attorney did not make the required disclosures under the Illinois Title Insurance Act, 215 ILCS 155/18(b). The attorney did not disclose to the sellers that she was an agent of the title insurer or that she received a financial benefit for issuing the policies. For each of the three closings, the attorney, as an approved attorney of the title insurer, acted as the title insurer's agent. The attorney ordered title reports and received payments from the title insurer. Specifically, the petition alleged violations of the following Illinois Rules of Professional Conduct: Rule 1.4(b) (duty to explain matters to clients so they can make informed decisions regarding the representation), Rule 1.8(a) (duty of disclosure before entering into business transactions with clients), Rule 8.1(a)(2) (duty to respond to lawful requests for information), Rule 8.4(a)(5) (duty to refrain from conduct that is prejudicial to the administration of justice). For these violations, the ARDC recommended censure.

The Hearing Board allowed the petition and censured the attorney. *In re Greenberg*, ARDC Comm. No. 05 CH 26 (2006) (Supreme Court order).

Disclosure Requirements

Illinois Title Insurance Act

Under state and federal laws, attorneys must disclose their relationships with title insurers. First, the Illinois Title Insurance Act requires disclosure of affiliated title insurance company arrangements when the producer of the title business—the ATG member—has a financial interest in the title insurance company. See 215 ILCS 155/18(b). ATG members must make these disclosures to any party paying for title insurance—buyers and sellers. Members must disclose the interest and disclose the amount of the charges in writing by using ATG Form 3017-A. The Illinois Title Insurance Act disclosure requirement applies only to residential properties of four or fewer units, one of which is owner-occupied. 215 ILCS 155/18(a).

Illinois Rules of Professional Conduct

The Illinois Rules of Professional Conduct also mandate disclosure of an ATG member's relationship with ATG to the member's client. First, Rule 1.4(b) requires an attorney to explain a matter to the client so that the client can make informed decisions about the representation. Ill Sup Ct R Prof'l Conduct, R 1.4(b). This rule mandates disclosure of the member's relationship to ATG so that the client may make an informed decision on the purchase of title insurance. Second, Rule 1.8(a) provides that an attorney may not enter into a business transaction with a client without disclosure of a conflict of interest. Ill Sup Ct R Prof'l Conduct, R 1.8(a). The rule requires disclosure when the attorney has actual or constructive knowledge of the attorney's and client's conflicting interests, or when the client expects that the attorney will use professional judgment to protect the client. *Id*. Without disclosure, the client may assume that the attorney is choosing the title insurer based solely on the client's interests.

RESPA

Second, the disclosure requirements of RESPA may also apply to ATG members. RESPA regulates affiliated business arrangements in residential real estate transactions with federally related mortgage loans. 12 USC § 2607. Under RESPA, an affiliated business arrangement is:

> ... an arrangement in which (A) a person who is in a position to refer business incident to or a part of a real estate settlement service involving a federally related mortgage loan, or an associate of such person, has either an affiliate relationship with or a direct or beneficial ownership interest of more than 1 percent in a provider of settlement services; and (B) either of such persons directly or indirectly refers such business to that provider or affirmatively influences the selection of that provider. *Id*. § 2602(7).

ATG members with more than one percent ownership interest in ATG are subject to the RESPA disclosure requirements. Members must make written disclosures of the existence of an affiliated business arrangement to any person to whom title insurance services are referred—buyers and sellers—and must provide written estimates of the usual title insurance charges. See *Id*. § 2607(c)(4)(A); 24 CFR § 3500.15(b)(1). The disclosures must be on a separate piece of paper and in the format of the Affiliated Business Arrangement Disclosure Statement:

> Notice To:____________________
>
> Property:____________________
>
> From:____________________
> (Entity Making Statement)
>
> Date:____________________
>
> This is to give you notice that (referring party) has a business relationship with [settlement services provider(s)]. [Describe the nature of the relationship between the referring party and the provider(s), including percentage of ownership interest, if applicable.] Because of this relationship, this referral may provide [referring party] a financial or other benefit.
>
> [A.] Set forth below is the estimated charge or range of charges for the settlement services listed. You are NOT required to use the listed provider(s) as a condition for [settlement of you loan on] [or] [purchase, sale, or refinance of] the subject property. THERE ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THES SERVICES.
>
> [provider and settlement service]
>
> ____________________
> ____________________
> ____________________
>
> [charge or range of charges]
>
> ____________________
> ____________________
> ____________________
>
> ACKNOWLEDGMENT
>
> I/we have read this disclosure form, and understand that [referring part] is referring me/us to purchase the above-described settlement service(s) and may receive a financial or other benefit as the result of this referral.
>
> ____________________
> Signature
>
> 24 CFR § 3500.15(b)(1).

RESPA also regulates the timing of the disclosure. "Whenever an attorney or law firm requires a client to use a particular title insurance agent, the attorney or law firm shall provide the disclosures no later than the time the attorney or law firm is engaged by the client." *Id*. § 3500.15(b)(1)(ii). For referrals to others, if a referral is made in person, by writing, or by electronic media, the disclosure must be made at or before the time of the referral. 12 U.S.C. § 2607(c)(4)(A)(i). If a referral is made by telephone, the written disclosure must be made within three business days of the telephone referral. *Id*. § 2607(c)(4)(A)(ii).

Conclusion

State and federal laws require ATG members to disclose their relationship with ATG to buyers and sellers in real estate transactions. Although the member represents only one of the parties, the member must make the disclosure to both parties because the member refers ATG to both parties and both parties pay for title insurance. The seller pays for the buyer's title insurance and the buyer pays for the lender's title insurance. Failure to make the disclosures could result in censure or other professional disciplinary action.

CASENOTES

Casenotes includes short case summaries broken down by state and topic. In this manner, we hope to report recent developments more fully and more promptly. A summary marked with ➲ designates a case of particular importance.

ILLINOIS:

Construction; Escrow Agreements

R & B Kapital Dev v North Shore Cmty Bank, 358 Ill App 3d 912, 832 NE2d 246, 295 Ill Dec 95 (1st D 2005).

Facts: North Shore Community Bank and Trust Company (North Shore) prepared a construction loan escrow and disbursement agreement for R & B Kapital Development, LLC (R & B). R & B authorized the initial disbursement to fund the escrow account. Accordingly, North Shore made payments to four subcontractors, after inspecting their lien waivers, and one payment to the general contractor. Subsequently, North Shore made two more payments to the general contractor.

R & B's agent authorized the two payments by signing the documents provided by North Shore. North Shore did not verify the subcontractors or inspect the lien waivers before making these disbursements. A few months later, the general contractor stopped work and liquidated its assets for its creditors. R & B received notices of liens by subcontractors who had not been paid.

R & B filed claims against North Shore for negligent misrepresentation and breach of fiduciary duty. North Shore argued that the Credit Agreement Act barred R & B's claims. R & B also filed a claim against Chicago Title and Trust Company (Chicago Title), as escrow agent, for its failure to review the documentation and pay the subcontractors in accordance with the escrow agreement.

Chicago Title argued that the breach of contract claim was barred because R & B waived Chicago Title's duty to pay the subcontractors when it authorized the payments to the general contractor. The circuit court granted both North Shore's and Chicago Title's motions to dismiss.

Holding: Affirmed in part and reversed in part. The court affirmed the dismissal of the negligent misrepresentation and breach of fiduciary duty claims. The Credit Agreement Act permits only claims related to written credit agreements. The court said that the escrow agreement was a credit agreement. Because the act has not limit credit agreements to one document, the court determined that the escrow agreement, along with the note and mortgage, was part of a multi-document credit agreement. The court denied R & B's claims against North Shore because the claims relied on oral statements, which are barred by the act, relating to the escrow agreement.

Second, the court reversed the order to dismiss the breach of contract claim against Chicago Title. The court said that the facts alleged in the complaint indicated that R & B did not intend to waive Chicago Title's duty to pay the subcontractors. Under the escrow agreement, disbursements required current dated Sworn Statements to Owner by General Contractor, listing the subcontractors and suppliers. R & B alleged that it never signed any Sworn Statements to Owner by General Contractor in connection with the final two disbursements to the general contractor.

Easements

Quinlan v Stouffe, 355 Ill App 3d 830; 823 NE2d 597; 291 Ill Dec 305 (4th D 2005).

Facts: Quinlan and the Stouffes owned adjoining tracts of land and shared an easement in the form of a common driveway. Due to normal wear and tear, the condition of the driveway deteriorated until it was impassable at which time Quinlan ordered repairs to the driveway. The repairs were made at a cost of $1,327.51. The day after the repairs were made, Quinlan sent a letter to the Stouffes requesting reimbursement for their share of the cost of repair. The Stouffes never paid Quinlan and he brought suit.

Quinlan and the Stouffes met prior to trial to discuss a settlement agreement. Quinlan claimed that an agreement was made whereby the Stouffes would pay $506. The Stouffes claimed that the settlement agreement that was sent to them after the meeting was not accurate and therefore they did not pay. As a result, a trial followed where the court found that there was no contract made at the settlement agreement but the Stouffes owed Quinlan $588. The Stouffes appealed the judgment.

Holding: Affirmed. First, the court addressed the issue of whether a contract was formed at the settlement meeting. The court found that after the settlement meeting, Quinlan sent a "settlement agreement" to the Stouffes. The Stouffes responded with a "counterproposal," which Quinlan rejected and responded with an offer to settle for $506. The Stouffes rejected this offer. The court held that even if an agreement was made at the settlement meeting, the counterproposals and offers were attempts to modify the agreement which indicated that the parties effectively withdrew from the agreement. Therefore, no contract was made.

Next, the court addressed whether the Stouffes were liable for reimbursement regardless if a contract was made. The court made the following statement:

> "when joint regular use of the easement is made by both the dominant and servient estates, both estates

> have the obligation to contribute jointly to the costs of reasonable repairs unless the easement itself indicates otherwise. In addition, both estates may repair the easement provided one does not unreasonably interfere with the right of the other to also repair, nor render the easement less convenient or useful. Such a duty to contribute, however, is dependent upon the reasonableness of the repair. Specifically, the repairing party must give the contributing parties adequate notification and a reasonable opportunity to participate in decisions regarding the repairs. Moreover, the repairs must be performed adequately, properly, and at a reasonable price."

The court found that since both parties own and use the easement, they both have right and the duty to maintain it. Quinlan exercised this right, and the Stouffes have the obligation to contribute jointly to the costs of reasonable repairs. Therefore, the court held that the $588 ordered by the trial court was the correct amount for reimbursement

INDIANA:

Contracts; Real Property

McLemore v McLemore, 827 NE2d 1135 (Ind Ct App 2005).

Facts: Morris and Janice McLemore (Morris) owned a property in Osceola, Indiana. On October 22, 1997, Morris entered into a purchase agreement with Brian and Laurie McLemore (Brian) that allowed Brian until May 1, 1998, to decide whether to purchase Morris' property. On May 21, 1998, Morris and Brian entered a conditional land sales contract. Brian's obligations in the contract included paying a principal sum of $185,000, a down payment of $25,000, a monthly payment of $1,545.21 with 10% annual interest, and all insurance and taxes on the property. The contract contained a forfeiture clause that terminated Brian's rights to and possession of the property in the event of default, unless Brian already paid a "substantial amount" of the principal purchase price.

According to the forfeiture clause, Brian would have paid a "substantial amount" when the fair market value of the property exceeded the sum of the unpaid balance with interest, the cost of reselling the property, the value of additional liens on the land, and reasonable attorneys' fees.

For three years, Brian paid taxes, rent, and insurance on the property in the sum of $96,363.48, $33,727.88 of which went toward the contract price of $185,000. When Brian defaulted on the 2001 taxes on the property, Morris paid the taxes and attempted to collect a late fee from Brian. Morris and Brian exchanged angry words, and on September 21, 2001, Morris changed the locks to the property. On October 2, 2001, Brian notified the tenants of the property that rent should be sent to Morris. On November 19, 2001, Brian filed suit against Morris for constructive fraud, wrongful forfeiture, breach of contract, and conversion, and made a motion for immediate possession of personal property. Morris counterclaimed for forfeiture or, on the alternative, for foreclosure.

The circuit court gave Brian 30 days to remove his belongings from the property and, on February 26, 2004, ordered forfeiture. Brian made a motion to correct error, and the motion was denied. Brian appealed concerning three issues: (1) the circuit court's order to forfeit rather than foreclose; (2) the decision to deny the breach of contract claim; and (3) the decision to deny Brian's civil conversion claim.

Holding: Reversed and remanded on the forfeiture issue, affirmed on the breach of contract issue, and affirmed on the conversion claim.

The court found the law disfavors forfeitures because of the injustice forfeitures can cause. Because a contract resembles a mortgage, the court found foreclosure to be a more just remedy. Forfeitures are only appropriate when the purchaser abandons the property or when the purchaser has paid only a minimal amount and the seller's security interest is put in jeopardy.

When determining whether Brian paid more than a minimal amount, the court considered the amount of the payments made toward the principal and interest, the length of time Brian made payments, and the regularity of the payments. The court found Brian paid more than a minimal amount because for three years, he regularly made payments totaling more than 18% of the principal price. Even if Brian had paid a minimal amount, forfeiture would not have been appropriate because Morris' security interests were not in jeopardy. Therefore, the court reversed and remanded the circuit court's order to forfeit rather than foreclose.

Next, the court affirmed the decision of the circuit court to deny Brian's breach of contract claim because although Morris pursued forfeiture after Brian paid a "substantial amount," Brian did not provide any evidence of the fair market value of the property, the cost of resale, or information on any liens on the real estate.

Finally, the court affirmed the circuit court's decision to deny Brian's conversion claim because although the court did not favor Morris' lockout, Brian provided no evidence of loss as a result of Morris' actions.

Restrictive Covenants

Tippecanoe Assocs II, LLC v Kimco Lafayette 671, Inc, 829 NE2d 512 (Ind 2005).

Facts: Kroger Company leased one of the stores in a shopping center belonging to SES Development Company (SES). The lease term was from 1974 to 1994 and

included four options to renew, each for five years. The lease also included a restrictive covenant prohibiting SES from leasing any spot in the shopping center to another grocery store. In 1983, Kroger Company closed and leased its spot to grocery store Pay Less Super Markets, Inc. (Pay Less), which, after never opening a grocery store in that location, subleased the store to H.H. Gregg, an appliance dealer. Pay Less conceded it only leased the property to exclude competitors from opening near its two Pay Less locations, each within two miles of SES's shopping center.

In 1997, Kimco Lafayette 671, Inc., purchased the shopping center from SES. In 2000, a large tenant left the shopping center, and Kimco contended the only prospective tenant to be Schnucks, a grocery store. Kimco filed a complaint to declare the restrictive covenant unenforceable. The trial court granted the request, and the Court of Appeals reversed. The Supreme Court of Indiana granted transfer.

Holding: Reversed. Indiana law allows for the creation and enforcement of restrictive covenants but disfavors their use. Restrictive covenants are unreasonable either when the restraint is greater than necessary for obtaining the intended purpose or when the lessee's need for protection is outweighed by the public interest or the burden on the lessor. Restrictive covenants in shopping center leases usually are enforceable because they provide an incentive for stores to invest large sums of money into new stores, they are good for the public interest, and they are not overly burdensome. However, when the one enforcing the restrictive covenant is not a tenant but a third party, the right to exclude provides minimal benefit to the third party at great expense to the public and the lessor.

In this case, Pay Less does not receive any direct benefit from the Kimco shopping center; the benefits are only to the other Pay Less locations. Kimco and the public receive no benefit because neither get a grocery store at the Kimco shopping center. Therefore, Pay Less' restrictive covenant is not enforceable because when they abandoned their spot at the Kimco shopping center, the restrictive covenant severed from the occupancy. There are not any federal or state antitrust law issues in this scenario because it is not the tenant seeking to enforce the restrictive covenant, but a foreign, third party.

The dissent argued the restrictive covenant should be enforced because it was a freely-bargained for contract provision, and no evidence was presented to the court concerning an adverse effect to citizens or concerning the level of competition among grocery stores in the area.

WISCONSIN:

Power of Attorney

Losee v Marine Bank, 286 Wis 2d 438; 703 NW2d 751 (Wis Ct App 2005).

Facts: Upon the sale of Losee's property, the sale proceeds were placed in a certificate of deposit. Losee's son, under power of attorney, used the certificate of deposit as security for a business loan from Marine Bank. When he defaulted on the loan, Marine Bank enforced its security interest. Losee sought recovery of the funds. She argued that her son's use of the certificate of deposit was invalid because it was used to secure a loan for the son's business and, thus, constituted self-dealing. The trial court found no self-dealing.

Holding: Reversed. The court held that the son's use of the certificate of deposit was invalid. Unauthorized self-dealing in a power of attorney situation rendered the assignment to the Marine Bank void. The son breached a fiduciary duty by acting in his own interest, not in Losee's interest.

Roads and Highways

Nettesheim v S.G. New Age Prods., 285 Wis 2d 663; 702 NW2d 449 (Wis Ct App 2005).

Facts: Rice Creek subdivision consisted of 14 lots, each with access to and a 1/14 undivided interest in a roughly T-shaped private road known as Outlot 1. S.G. New Age Products, Inc., (New Age) purchased land next to River Creek where it built a new subdivision, known as Balsam Rapids, consisting of nine lots. New Age connected the lots in Balsam Rapids to Outlot 1 by buying Lot 9 of River Creek and building a road across it that extended to Outlot 1 and Balsam Rapids. The owners of the lots in Balsam Rapids each received the following: (1) a 1/9 interest in the road built by New Age to connect Outlot 1 Balsam Rapids; and (2) 1/9 of Lot 9's 1/14 interest in Outlot 1.

Rice Creek subdivision landowners (collectively, Nettesheim) sued New Age for injunctive and declaratory relief. New Age moved for summary judgment, alleging its undivided fee interest in Lot 9 gave it the right to convey its interest in Outlot 1. Nettesheim then moved for summary judgment, alleging New Age's conveyance of Outlot 1 violated their rights as tenants in common and violated the subdivision's restrictive covenant. The circuit court decided New Age's use of the road overly burdened common property and violated the restrictive covenants of the subdivision. The circuit court permanently enjoined New Age from using Outlot 1 until it received permission from 2/3 of Rice Creek lot owners. New Age appealed to the Wisconsin Court of Appeals (the court).

Holding: Affirmed. All Rice Creek lot owners owned Outlot 1 as tenants in common, each possessing an

undivided 1/14 right to possess the entire road but with no right of survivorship. Tenancies in common imply "some commonality of interest," and each tenant in common has the right to convey all or part of their interest but is limited by an obligation not to interfere with the rights of the other tenants in common.

In this case, New Age purchased Lot 9 with the intention of building a road across the lot, not with the intention to reside on the plot and use Outlot 1 in the same manner as the other River Creek tenants. Conveying nine more shares to Outlot 1 heavily burdened Outlot 1 by increasing maintenance costs, decreasing privacy and diminishing property values so heavily that it prejudiced the rights of the other River Creek lot owners.

In addition, the restrictive covenants of River Creek barred anything "which may become an annoyance or nuisance to the neighborhood." The court found the increased use of the road caused by New Age's conveyance of its shares violated this provision because even though the language did not explicitly limit the use of Outlot 1 to Rice Creek lot owners, the intent to do so is clear.

The court found the decision of the circuit court to grant a permanent injunction to be proper because New Age's increased use of the road would cause irreparable injury to the River Creek lot owners.

NEWSMAKERS

ATG® HOSTS FIRST CALL-IN PROGRAM

In honor of National Homeowners Month (June), Attorneys' Title Guaranty Fund, Inc. (ATG), the Illinois Real Estate Lawyers Association (IRELA), and Capital Funding Corporation co-sponsored a "Real Estate Hotline," Saturday morning, June 10, 2006.

ATG® REAL ESTATE
HOTLINE
800.252.0402
Saturday, June 10, 2006
9:00 A.M. - NOON

Eight volunteer participated in the Hotline phone bank in all, six at ATG's office at 33 North Dearborn, Chicago, and two offsite. Shown here at ATG are (standing, from left): attorneys Ralph Schumann, Hank Shulruff (ATG Senior Vice President), Aurora Austriaco (ATG member and current IRELA president), and John O'Brien (ATG board member, IRELA chairman, and ISBA 3rd vice president); and (seated) realtor David Kaplan (Coldwell Banker) and attorney Naomi Schuster (ATG board member). The two professionals volunteering offsite were loan origination officer Madeline Fanelli, of Capital Funding Corporation in Lombard, and attorney Tania Stori, of Attorneys' Title Guaranty Fund, Inc. in Champaign.

ATG promoted the Hotline through a three-pronged publicity campaign: airing public service announcements on 200 Illinois radio stations; placing press releases in 200+ Illinois daily papers and other publications; and distributing 1,500 flyers in Chicago-area locations.

The event attracted callers from throughout Illinois who received answers to their questions about buying and selling a home. "We believe the event was a success. Helping homeowners and future homeowners with their preliminary questions and concerns-and then steering them toward additional advice from a qualified real estate professional in their locale-provides a valuable service to consumers and contributes to our ability to fulfill our mission," said Peter Birnbaum, ATG President.

ATG Real Estate Hotline volunteers Aurora Austriaco, David Kaplan, Naomi Schuster, and John O'Brien took calls from 9 a.m. – 12 noon, Saturday, June 10.

CALENDAR

Check www.atgf.com for event details.

JULY

4 Independence Day, *all ATG offices closed*

AUGUST

9 CFC Educational Program: Basic Loan Origination; CFC Office, Lombard, Ill.

SEPTEMBER

4 Labor Day, *all ATG offices closed*

7 ATG Trust Educational Program: Section 1031 "Starker" Tax-Deferred Exchanges; Holiday Inn, Rolling Meadows, Ill.

12 CFC Educational Program: Advanced Loan Origination; CFC Office, Lombard, Ill.

ATG Educational Program: Real Estate Fundamentals Session 2: Basic Underwriting; Hilton Lisle/Naperville, Lisle, Ill.

15 ATG Educational Program: Real Estate Fundamentals Session 1: Basic Title Insurance Forms and Title Examination Procedures; Hawthorn Suites, Champaign, Ill.

16 ATG Illini Tailgate; Memorial Stadium, Champaign, Ill.

OCTOBER

4 CFC Educational Program: Basic Loan Origination; CFC Office, Lombard, Ill.

ATG Educational Program: Real Estate Fundamentals Session 2: Basic Underwriting; Hilton, Oak Lawn, Ill.

NOVEMBER

8 CFC Educational Program: Advanced Loan Origination; CFC Office, Lombard, Ill.

9 ATG Educational Program: Real Estate Fundamentals Session 2: Basic Underwriting; Hamilton's 110 North East, Jacksonville, Ill.

23 Thanksgiving Day, *all ATG offices closed*

24 Friday after Thanksgiving Day, *all ATG offices closed*

We are in the process of scheduling the

ATG LEGAL EDUCATION
FALL 2006 PROGRAMS

Click "ATG Educational Programs" at www.atgf.com for the latest information.

THE ATG CONCEPT is published monthly by Attorneys' Title Guaranty Fund, Inc. ▪ P.O. Box 9136 ▪ Champaign, IL 61826-9136. ▪ Inquiries may be directed to Mary Beth McCarthy, Senior Manager, Corporate Communications, or Tania M.S. Stori, Senior Underwriting Attorney. ▪ Back issues may be obtained by calling the Order Department at 800.252.0402, or 217.359.2042, ext. 2114. © 2006 Attorneys' Title Guaranty Fund, Inc. ▪ "ATG," "ATG" plus logo, and "the ATG concept" are marks of Attorneys' Title Guaranty Fund, Inc. and are registered in the U.S. Patent and Trademark Office.

ATTORNEYS' TITLE GUARANTY FUND, INC.

P.O. Box 9136
Champaign, IL 61826-9136

RETURN SERVICE REQUESTED