

**Title Insurance:
Protecting Your Piece of the Planet**

November 13, 2006

**Mr. Charles Duhigg
The New York Times
229 West 43rd Street
New York, New York 10036**

**Re: New York State Insurance Department Hearings November 3,
2006**

Dear Mr. Duhigg,

I am writing on behalf of the New York State Land Title Association, Inc. and its 400 members of title insurers and their agents. We have read your article published November 4, 2006, entitled New York Urged to Tighten Regulations on Title Insurance. It appears that you or a representative were at the New York State Insurance Department's Public Hearings held on November 3, 2006, when Hannah K. Flamenbaum, Assistant New York Attorney General urged, regulation of the title insurance industry. I would hope that you or your representative were present for the testimony of the 16 other speakers that followed and rebutted Ms. Flamenbaum's allegations. I question why you failed to provide your readers a balanced report of the subsequent testimony. It appears, from the text of your article that you were not present for the balance of the testimony or you did not wish to report to your readers an unbiased, balanced summary of the hearing held on November 3, 2006.

Please allow us to address two points that you reported Ms. Flamenbaum asserted:

- (1) "3 cents of the average dollar paid for title insurance is ever returned to the policy holders in claims" and**
- (2) "Insurance agents are supposed to represent the home buyer's interest".**

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With regards to the claims aspect of title insurance – title insurance, is not like other types of insurance, e.g., life, health, fire, liability, casualty or automobile. It does not insure against future risks of loss based on actuarial calculation of the possibility of a future loss occurring. Rather, the distinguishing and very valuable component of title insurance is the risk elimination aspect of our product.

Title insurance is a contract of indemnity and that indemnifies its insured against loss. The title insurer protects its insured against loss from defects existing prior to the issuance of the policy. This requires that the title insurer or its agent perform painstaking research of many complicated legal documents in the public records then it must also make a “legal” analysis of that research on questions of ownership and the rights or claims the property may be subject to all before it can issue a policy. To do this insurers and agents employ lawyers and highly trained paralegal personnel.

If the ratio of claims to premiums is low, that’s exactly what the title industry strives for and what our customers (purchasers and lenders) expect. An insured may not know if they are going to suffer a property loss in the future but they certainly don’t want a title loss from the past. While our claims experience is low, the figure Ms. Flamenbaum states is not accurate. Claims losses are running well in excess of that number and are exceeding double that number. Why claims have increased is another topic, but one can just look at identity theft and fraud as a new and growing category of loss for title insurers on top of records errors. In addition, the insurer defends its insured in court if necessary against adverse claims. All this for the one time premium and for as long as the insured has an interest in the property.

With regards to the issue of who the title insurance agent should represent – the answer is simple, the title insurance agent just like all insurance agents represents the insurer whose policies it sells. This is the expectation of both the Company and the agent when they entered into their relationship. In New York, almost all home buyers are represented by attorneys and it is the attorney who most frequently orders the title insurance policy for the purchaser as part of the attorney’s representation of the client.

I hope your readers will be permitted to understand the nature of title insurance industry from hearing all sides the issues, not from a narrow/misinterpreted view.

Very truly yours,



**Thomas P. Tafuri
NYSLTA President**