The General Warranty Deed: The Rest of the Story
By Rick Norejko, CMS, TEAM Consulting, LLC

Thousands of General Warranty deeds are reviewed by assessment personnel each day in America. What do they mean? You get a warranty when you buy a toaster. What about a warranty for land? You can’t break land; it doesn’t malfunction; why does it come with a warranty? This article will explain exactly where this legal instrument came from and what it means to the grantor, the grantee, and most importantly, to the assessor’s assessment personnel.

American property law is based upon English land law. It dates back to when we were an English colony. Some English legal terms have roots in the French language since that was the language of the ruling class after England was conquered in 1066 by William of Normandy, a Frenchman of Viking descent. (The modern-day appraisal of land in America also has French origins. The history of property assessment is covered in the workshop “Real Property Law for Assessors, Appraisers, and Property Mappers.”)

**General Warranty Deed**

General is a French-derived word. In the context of real property law, it simply means: involving or applicable to a class; a concern with universal rather than any particular case or circumstances. In other words, a written instrument that should cover most transfers of property. Old English terms refer to the transfer of property as “alienation (the right to convey to another) by way of substitution” (grantee taking the place of the grantor).

**General Warranty Deed**

The word warranty, in its simplest form, means a binding covenant between the seller and the purchaser of an estate in land. The warranty of property has its origin in feudalism. Feudalism is the political organization that arose on the European continent with the collapse of both the Roman Empire and Roman law. This political organization was primarily a military alliance between neighboring chieftains culminating in the ruler of a country. Each petty leader organized his own domain in the same lines as the kingdom, so that each leader’s domain and the organization thereof, was a replica of the principal organization, the feudal state.

The neighborhood chieftain managed his region in such a manner as to protect the agricultural economy. The agrarian economy was vital to both him and his followers for survival. The ruler would then parcel out portions of land to his followers in return for their services. Land thus held was spoken has a “beneficium”—a Roman law term in which both the ruler and the fol-

lower, i.e. landowner, benefitted. The most important part of this relationship between the leader and his followers is not the relationship of the parties to the land, but the personal relationship of the lord and the man.

In addition, neighboring owners of small tracts of land who needed protection of a powerful lord surrendered their land to him and then received it back again from him. By the surrender and regrant of the land, which was called “commendation,” the personal relationship with the lord and the man was created, which entitles the landholder to the lord’s protection and entitled the lord to the landholders’ allegiance and services.

The man who possessed the land was said to be “seised in demesne”; and the lord was said to be “seised in service.” The “service” provided to the land possessor was the aforesaid protection. This protection is not just bodily protection from an invader but also the man’s demesne. The lord protected his vassal’s demesne by establishing a manorial court in which any wrongs, as between landowners, could be re-dressed, thus a guarantee or warranty for their estate. If a problem arose the court would provide a remedy or compensation for a wrong or loss of property.

Warranty, in the form of a deed,
also means a covenant. A covenant is a promise that the title is free of the warranted defects, regardless of whether the defect arose before or during the time the grantor had title. Deed warranties usually contain six covenants. The first three are known as “present” covenants and the latter three “future” covenants for the reasons that follow:

1. **Covenant of Seisin:** The medieval notion of livery seisin meant possession, therefore, this covenant is a promise that the grantor is in possession of the land. (We review livery of seisin in the deed section of this article.) Most states also view the covenant of seisin as a promise that the transferor owns the estate in the covenant of seisin as a promise that the transferor owns the estate in the

2. **Covenant of Right to Convey:** In most cases, the covenants of seisin and the right to convey are virtually synonymous, but there can be differences—at least theoretically. This covenant warrants that they have the power or authority to convey the property. For instance, it’s possible for one to have a right to convey but lack seisin, as in the case of the grantor acting under the power of appointment as administrator or a trustee.

3. **Covenant against Encumbrances:** An encumbrance is some outstanding right or interest in a third party that does not totally negate the title which the deed purports to convey. Therefore, this covenant means that the grantor warrants that there are no liens, mortgages, easements, covenants restricting use, or other encumbrances upon the title to the property other than those specifically mentioned in the deed.

4. **Covenants of General Warranty:** The grantor warrants that he will defend against any lawful claims, against a superior title, and will also compensate the grantee for any loss suffered by the successful assertion of superior title. It obligates the grantor to indemnify the grantee for any loss resulting from an absence of title to all, or even a portion, of the property.

5. **Covenant of Quiet Enjoyment:** The grantor warrants that the grantee will not be disturbed in his possession or his enjoyment of his property by someone’s successful assertion of a superior title to the property. (This covenant is functionally identical to the covenant of general warranty, and for that reason, is frequently omitted from general warranty deeds).

6. **Covenant of Further Assurance:** The grantor promises to do whatever else is reasonably necessary to perfect the conveyed title if it turns out to be imperfect.

As you can see, modern covenants find their genesis in feudal warranty. The basic difference is that today’s covenants are written contractual arrangements. In feudal times the grantor was typically a manor lord. He owed protection to the grantee, his vassal, in return for homage and other feudal services. If the vassal happened to be ousted from the possession of his copyhold, the lord simply furnished another fief of equal value. This feudal warranty arose out of the tenurial relationship between the lord and his vassal.

**General Warranty Deed**

In early English history conveyances of possessory freehold interest in land did not depend on written instruments. Instead a method known as “feoffment with livery of seisin” was employed. The parties met on, or in sight of, the land in the presence of witnesses. The purpose of the witnesses was to create a general public awareness of the transfer so that witnesses would remember it if it were later challenged. A public ceremony was required since the vast majority of the population could not read or write. During the ceremony the feoffor spoke appropriate words declaring the gift and then handed over a twig or clump of earth to symbolize the conveyance. Those appropriate words were usually “know ye that I have given.”

The United States adopted the English Statute of Frauds, passed in 1677, that made it mandatory that all deeds transferring real property must be in writing. Those same oral words of conveyance are now expressed in modern written language such as “hereby have given... conveyed...” found in the “premise” clause of general warranty deeds.

**General warranty deed:** Three simple words that impact most property owners in your county.

Now you know the rest of the story. ☀️

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**Rick Norejko, CMS**, has over 40 years of experience in all aspects of cadastral mapping. He is a nationally recognized keynote speaker, lecturer and teacher in the field of cadastral mapping. To set up classes, contact Rick at richardnorejko@bellsouth.net or Fred Chmura, AAS, at fchmura@teamconsulting.cc

Deeds and other legal instruments, as well as the history of property assessment, protocols for handling ambiguous instruments, and office workflow processes are covered in the workshop *Real Property Law for Assessors, Appraisers and Property Mappers*. Review this, and other educational offerings, by visiting www.Ricknorejko.com or www.teamconsulting.cc.
Public Relations Workshop Updated

The Public Relations/Customer Service workshop has been updated with a reduction in the amount of material and time on public relations and more emphasis on customer service. Over the last few years the public is becoming more difficult to deal with and satisfy.

Additional discussion points have been included on typical customer service encounters and tips and classroom participation on how to remain successful, or become more successful, with our customer service. This workshop can be any length of time, from 1.5 hours to all day.

Find a complete description of this newly updated program on the TEAM website. If you have questions or wish to book the workshop, contact Rick Stuart, CAE, CDEI, at rstuart17@cox.net or 785.259.1379. All the TEAM workshops can be found at http://www.teamconsulting.cc/workshops/workshopoverview.html.

AAS Workshop Review Class Anyone?

There has been some interest expressed for TEAM Consulting LLC to host another AAS Case Study Review Workshop. This 2½-day workshop provides a review of materials and an understanding of the composition of a case study to help prepare for the AAS Case Study Exam. Topics discussed are:

- USPAP
- Effective tax rates
- Property definitions
- 3 approaches to value
- Role of the assessor
- Tax policy
- Assessment administration
- Rates and levies
- Economic principles
- Engagements and rights
- Attributes in an effective tax system
- Ratio studies
- Reassessment planning

Included are multiple problems associated with the assessment and valuation processes, and the workshop will conclude with a practice four-hour case study exam. This is not an IAAO workshop but one developed by TEAM Consulting LLC.

Over 60 students have used the workshop to successfully pass the IAAO AAS Case Study Exam. The most recent workshop was priced at $275 and included the workshop material. If you have an interest or questions, please contact Rick Stuart, CAE, CDEI at rstuart17@cox.net or 785.259.1379.

Does this look familiar?

Self-storage (also called mini-warehouses) may be the most predominant new commercial construction over the last several years. Most jurisdictions have them, but not everyone realizes their attractiveness as a commercial investment. One owner of multiple units called them his “little gold mines.”

TEAM Consulting LLC has compiled considerable market data related to expenses and trends on self-storage. We have developed an Excel valuation template that allows for the recognition of the various sizes and their corresponding rent that most Computer Assisted Mass Appraiser software will not. Talk with us about how we can assist your jurisdiction with self-storage or other property types.

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TEAM Consulting LLC
Leaders in property assessment & valuation
www.teamconsulting.cc
Class Coordinator Information

TEAM Consulting, LLC often has requests for classes and the dates are not available for TEAM members to instruct. Outlined below are the general concepts for instructors that will instruct TEAM materials and for the workshop sponsor. The instructor may also promote and set-up classes in which TEAM material will be used.

1. When a class date is finalized, the sponsor should contact Fred Chmura, AAS, and TEAM will develop an agreement with the class sponsor, if an agreement is required by the sponsor. Fred can be reached at fchmura@teamconsulting.cc or 860.974.1354.

2. The instructor will negotiate their own fee(s) and/or expense reimbursements. The instructor will be responsible for reporting the number of students in each class to TEAM and TEAM will then invoice the class sponsor for the material. Instructor payment will be the responsibility of the instructor.

3. TEAM will provide, when requested, the material and PowerPoint presentation to the instructor.

General Workshop Sponsor Information

1. Responsibilities of the class sponsor:
   a. The sponsor will select the instructor and establish the fees and/or expense reimbursements.
   b. When a class date is finalized, the sponsor should contact Fred Chmura, AAS, and TEAM will develop an agreement with the class sponsor, if an agreement is required by the sponsor. Fred can be reached at fchmura@teamconsulting.cc or 860.974.1354.
   c. TEAM will be reimbursed at the rate of $25 per student per day.
   d. The class sponsor will be responsible for any applications and fees for continuing education credits. TEAM will provide to the class sponsor all necessary data for the applications.
   e. The class sponsor will be responsible for printing and binding all materials as they desire.
   f. If an evaluation of the material and instructor is performed, TEAM requests a recap of the questions and ratings plus any written comments. TEAM does have an evaluation form if requested.

The challenges of valuing hotels and motels

TEAM Consulting LLC has developed a valuation process for small- and medium-sized jurisdictions that is well documented and market supported. TEAM provides each jurisdiction with:

- Development of complete valuation models from Average Daily Rate (ADR) through capitalization rates
- Instructions on the use and maintenance of the valuation template
- Analysis of available sales similar to the jurisdiction
- Development of a protest template for consistency during protests
- Final report outlining the process that can be used for the defense of values

Let TEAM help with your hotel/motel valuation. Contact Fred Chmura, AAS, at fchmura@teamconsulting.cc or call 860-974-1354.
HEARYE! HEARYE!

Don’t miss the opportunity to see TEAM member Rick Norejko, CMS, in his “previous life.”

Rick will be giving an enlightening and humorous presentation at this year’s IAAO conference in Minneapolis. Join us at **9:30 AM Tuesday, September 25th**, as we turn back the hands of time and experience the social, cultural and political aspects surrounding the creation of the Public Land Survey System in America.

*Also for your listening pleasure and to increase the gray matter:* Ken Voss, MAI, AI-GRS, SRA, CAE, will participate in two sessions on big box valuation. Fred Chmura, AAS will be part of the Panel for the Governance Committee.

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**Interesting Buildings**  
*By Rick Stuart, CAE, CDEI*

Over the years, I have collected a large number of “interesting building” photos. If you have picture(s) of building that have piqued your interest, email them to me and I will add to the file and the newsletter. Send to Rstuart17@cox.net

- Kansas City, Mo., Central Library parking garage
- Bridge over the River Liffey that flows through Dublin, Ireland.

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**Travel Squad**

TEAM associates continue to serve in teaching, consulting and speaking capacities. In the first quarter of 2018, we have been in Colorado, Idaho, Indiana, Kansas, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Texas and Washington.

Looking for a workshop, series of workshops or professional assistance for your location? Visit our website at http://www.teamconsulting.cc/.
Real Estate Notes of Interest  By Rick Stuart, CAE

Craig Webb, www.remodeling.hw.net, Nov. 15, 2017. “Here’s an advance look at some of the results of the 2018 Cost vs. Value report that we’ll publish in January. (See chart.) The chart above shows how the average national costs have changed for 20 common remodeling projects done by pros. The numbers come from RemodelMAX, a research firm that keeps track of labor and product costs in markets nationwide. Note that these numbers reflect costs and changes from mid-year 2016 to mid-year 2017. They don’t encompass the run-up in lumber and other product prices that have occurred this fall and that already have led RemodelMAX to urge remodelers to adjust their cost estimates once again.” http://bit.ly/2lV3MMj

Tom Jackman, True Crime, www.washingtonpost.com, Dec. 21, 2017. I guess you need to know your remodeler well. “Many people have an exasperating tale about a construction contractor who didn’t get the job done. Shoddy work. Stopped showing up. Took the money and ran. But those don’t compare to the tale of Daniel W. Jamison, a contractor who had a string of fraud-related convictions when he was hired and paid by a Fairfax County, Va., man to do a $41,000 home remodeling job. Jamison did some work on the home, then vanished. The homeowner had him charged with construction fraud. So Jamison took his own action: He hired a hit man to kill the homeowner.” http://wapo.st/2G0wK5U

CoreLogic, Jan. 4, 2018. “National home prices increased 7% year over year in November 2017, according to the latest CoreLogic Home Price Index (HPI) report. All four price tiers that CoreLogic analyzes now exceed their pre-housing-crisis peaks.” http://bit.ly/2ESfwHU

www.builderonline.com, Jan. 5, 2018. “The pace of sales for U.S. luxury homes weakened slightly in 2017, with the overall housing market outperforming the still-strong upper tier—according to new data from realtor.com®. Despite these signs of a national slowdown, the luxury market remained red-hot in states like Hawaii, Colorado and California, which saw double-digit price gains in several local markets. The entry-level luxury price—defined as the top 5% of transactions based on sales price—rose by 5.1% in 2017, compared to a 6.9% overall housing market price gain. Luxury properties also took 5.4% longer to sell in 2017 than they did in 2016, spending 116 days on market on average.” http://bit.ly/2EfSf1E


www.aia.org, Jan. 7, 2018. “Though billings at U.S. architecture firms have seen healthy gains throughout 2017, AIA’s Architecture Billings Index (ABI) for November indicated that the pace of growth accelerated the score jumped to 55.0 for the month, its strongest reading for the year. New project inquiries, as well as new design contracts coming into architecture firms, also signified healthy growth. As such, indicators broadly point to very solid business conditions at architecture firms as 2017 winds down. AIA’s monthly Architecture Billings Index (ABI) is a leading economic indicator for nonresidential construction activity, with a lead time of approximately


■ www.htrends.com, Jan. 12, 2018. “According to pipeline data from STR, the number of hotel rooms under construction in the U.S. has declined or remained flat year over year for three consecutive months. Overall, there were 179,979 rooms in construction across 1,400 hotels for the month of December.” http://bit.ly/2raY6DL

■ Karen Roach, CNBC, Jan. 16, 2018. “Homeowners are experiencing record amounts of home equity, and are using that money to renovate their homes. According to a survey released by TD Bank in December, 80% of borrowers taking out home equity lines of credit say they would consider using that money to renovate.” http://bit.ly/2DihLXQ

■ www.hotelbusiness.com, Jan. 18, 2018. “Wyndham Worldwide Corporation and La Quinta Holdings Inc. have entered into a definitive agreement under which Wyndham Worldwide will acquire La Quinta’s hotel franchise and hotel management businesses for $1.95 billion in cash. The acquisition is expected to close in the second quarter of 2018.” http://bit.ly/2mluF6m

■ Scott Culvert and Jon Kamp, The Wall Street Journal, Jan. 20, 2018. “The new U.S. tax law has eroded the value of an incentive that developers have long used to help finance renovations of historic buildings around the country, raising worries about the prospects for future projects. The law, signed by President Donald Trump last month, changed the federal historic tax credit, which provides reimbursement for 20% of certain costs on such rehabilitations. That payback is now spread over five years instead of one, which developers, preservationists and banks say reduces its value.”

■ Ryan Dezember and Peter Rudegair, The Wall Street Journal, Jan. 22, 2018. “When Blackstone Group LP wanted to borrow hundreds of millions of dollars to buy foreclosed homes after the housing crash, it needed a quick, inexpensive way to value thousands of homes the investment firm already owned and was offering as collateral. Blackstone and its lender, Deutsche Bank AG, settled on a sort of drive-by valuation done by real-estate agents that are more cursory and cost far less than traditional appraisals.

Congress outlawed the use of such assessments, called broker price opinions, to value properties for traditional mortgages. But that did not apply to investors buying tens of thousands of properties. Fannie Mae guaranteed about $1 billion last year of this practice. Their proliferation has drawn the attention of the Securities Exchange Commission.”


Stack, 66, who manages $1.3 billion for people with a high net worth, predicted the housing crash in 2005, just before prices reached their peak. Now, from his perch in Whitefish, Montana, he says his “Housing Bubble Bellwether Barometer” of homebuilder and mortgage company stocks, which jumped 80 percent in the past year, once again is flashing red.

“It is 2005 all over again in terms of the valuation extreme, the psychological excess and the denial,” said Stack, whose fireproof files of newspaper articles on bear markets date back to 1929. “People don’t believe housing is in a bubble and don’t want to hear talk about prices being a little bit bubblish.” http://bit.ly/2ru7zGp

■ David Erickson, www.missoulian.com, Jan. 22, 2018. The tariffs on Canadian lumber coupled with old-fashioned supply and demand have boosted the fortunes of Montana lumber mills but are giving home builders a good dose of neuralgia. “Pricing fluctuates, but essentially the prices for materials are 25 percent more than a year ago,” said Wade Hoyt of Hoyt Homes in Missoula. “Materials are one item in a list of 60 we price in to the list price of a house. But due to price increases the cost of a home right now is 17-18 percent higher than it was a year ago.” http://bit.ly/2F99uSx

■ Commercial Real Estate Direct Staff Report, www.crenews.com, Jan. 24, 2018. “The volume of commercial properties that changed hands last year declined by 7 percent to $463.9 billion, according to Real Capital Analytics. That marks the second year in a row in which sales volumes have declined. In 2016, they were down 11 percent from the previous year.” http://bit.ly/2FeWLxz

■ Zillow Research, Jan. 30, 2018. “The U.S. home ownership rate (non-seasonally adjusted) rose to 64.2%in the fourth quarter of 2017, the highest level since Q3 2014, accord-
Real Estate Notes, continued

ing to the U.S. Census Bureau. The seasonally adjusted rate was 64%, compared to 63.9% in Q3 and 63.5% a year ago." http://bit.ly/2BEcrg


**NAHB Now**, Jan. 30, 2018, www.builderonline.com. Prices for softwood lumber imports have skyrocketed 30% since Hurricane Harvey hit last summer, largely as a result of the tariffs imposed by the U.S. Commerce Department, says the NAHB blog. “This was the highest week-end futures price we have on record, dating back to January 1995,” said David Logan, director of NAHB’s tax and trade policy analysis. “There was a short reprieve for price increases following the hurricane, but prices have risen sharply this month.” http://bit.ly/2DQJFKQ

**Trulia Blog**, Jan. 31, 2018, www.builderonline.com. “Trulia found that the national median rent rose 3.1% between 2016 and 2017, although some markets nearly tripled that growth. The analysis also found that rent increased 19.6% nationally since the end of 2012 when housing prices bottomed. For the most part, rents have trailed housing price increases, according to Trulia.” http://bit.ly/2GxlsXD

**CoreLogic, Jan. 31, 2018, www.builderonline.com.** “Low-end single family rents increased 4.2% in October from a year ago compared to a high-end rent increase of 2%, according to the CoreLogic Single Family Rental Index. CoreLogic defines the high end as rents that are 25% or more than the median rent in their respective market while the low end is 75% or below that median.” http://bit.ly/2Fwvff9

**ABC13Houston, Feb. 7, 2018, www.remodeling.hw.net.** “House Stolen! Now you don’t see this every day. A house was literally stolen in Texas. ABC13 Houston reports: A Houston couple wants their vacation house returned to them. Jo and Lonnie Harrison told Eyewitness News someone stole their entire home off their property in Madisonville, Texas. They bought the 10-acre property with a prefab home on site last year. It’s a one-bedroom, one-bathroom home with a green roof and wood siding. They visit the area to escape from the busy city. They last drove up to the property in early November.” http://bit.ly/2EdTuJ

**Editor’s Note:** I first saw this type of event about three years ago in the state of Washington. This is something that was not thought of with the advent of the tiny home.

**Robin Ruyan, www.detroit.curbed.com, Feb. 9, 2018.** “Detroit just banned Airbnb without anyone knowing it. This week, a new zoning ordinance went into effect that would ban certain Airbnb units in R1 and R2 zones—single-family and duplexes (more on that below). Property owners have received cease and desist letters saying they need to discontinue their homes as Airbnb units. Update: The city has issued a statement saying that the new ordinance is under legal review and they won’t be enforcing it at this time.” http://bit.ly/2BOCTDS

**Editor’s Note:** This might be of interest and I recommend you read it. One major problem during the residential market collapse several years ago was the lack of properly recording deed transactions. I can see this as a method of screwing up more transactions faster.

**www.marketwired.com, Feb. 18, 2018.** “Freddie Mac (OTCQB: FMCC) today released the results of its Primary Mortgage Market Survey® (PMMS®), showing the 30-year fixed mortgage rate (average of 4.38) reaching its highest level since April 2014.”

**Mike Sorohan, www.mba.org, Feb. 15, 2018.** “Foreign investment into the U.S. luxury residential real estate market jumped to a new
high in 2017, $7.48 billion, with Miami, Manhattan and Los Angeles the key beneficiaries. A report from Beauchamp Associates and Leslie J. Garfield & Co., U.S. Ultra Prime Real Estate, said in the past 12 months, foreign investment in U.S. properties jumped by 72 percent. Of these transactions, 44 percent were all-cash purchases, with nearly 40 percent of these transactions in Miami, New York and Los Angeles. “http://bit.ly/2omOOj3


Craig Webb, www.remodeling.hw.net, Jan. 11, 2018. “This year’s version finds a slight decline, to 56.8% in 2017 from 57.9% in 2016, in the average payback for 20 common professional remodeling projects in 100 major markets. That’s mainly because the cost of doing those projects went up for all 20, while values rose for only about two-thirds of them.” http://bit.ly/2GbV4mB

Kate Wagner, Curbed, March 9, 2018. Think you need to remodel, then you might want to read this. “Previousluy contained to affluent households and the glossy pages of architecture magazines, remodeling has been transformed by 24/7 media like HGTV and websites like Houzz, Pinterest, and Dezeen. While older media, like early issues of House Beautiful, discusses the process as mastering the careful art of interior design, newer media is more neurotic and self-loathing, describing houses in need of renovation with words like “dated,” “immature,” or “wrong.”

Whether presented as a self-improvement project (update your house lest you be judged for owning a dated one) or a form of self-care (renovate because it will make you feel better), the home remodel is presented as both remedy and requirement. Take a moment to consider this simple idea: There is nothing wrong with your house. Instead of falling prey to this thinking, take a moment to consider this simple idea: There is nothing wrong with your house.” http://bit.ly/2Gbbfk2

Craig Webb, www.prosales-magazine.com, March 14, 2018. “The Bureau of Labor Statistics’ (BLS) monthly report found softwood plywood prices were 26.9% higher in February than in the same month in 2017 and had risen 5.3% just since January. Meanwhile, wholesale prices for wood trusses rose 17.3% and 4.6%, respectively, while laminated veneer lumber prices rose 4.8% for the year and 0.1% over the month. Millwork products rose 4.4% for the year and 1.2% for the month.” http://bit.ly/2phiRu7

Meet Our TEAM

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