



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 of as 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 redressed, 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,

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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 land that the deed is conveying.

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. ❖



Rick Norejko

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.



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
- Ownerships 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. ❖

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/workshopsoverview.html>. ❖

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 Appraisal software will not. Talk with us about how we can assist your jurisdiction with self-storage or other property types.

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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.



HEAR YE! HEAR YE!

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.

For more about the IAAO conference, see the "Events" tab at www.iaao.org

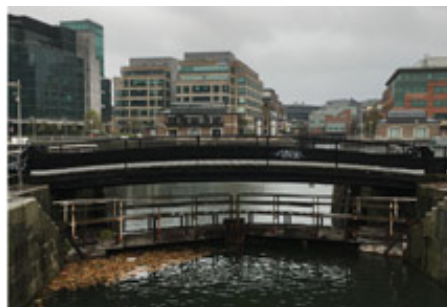
Interesting Buildings

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.

Travel Squad



TEAM associates continue to serve in teaching, consulting and speaking capacities. In the first quarter of 2018, we have been in Colo-

rado, 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/>. ❖