



New England Regional Midweek Update  
10/18/2023

Dear Stewart Partners,

We hope all of you are enjoying the fall weather and beauty as most areas are in some stage of leaf-peeping season.

In this week's update we are providing information on what's happening with MV Realty with reference to an updated national bulletin, a fond farewell from the retiring Chris Provost, a summary of an unusual real estate tax court decision issued by Maine's Supreme Judicial Court, and, for those who practice in Massachusetts or Rhode Island, or otherwise plan to attend the MA REBA fall conference, some details on an upcoming presentation to be given by Attorney Jutta Deeney, Stewart's New England Underwriting Counsel.



**MV Realty PBC, LLC – Updated Stewart Bulletin – SLS2023012**

Many if not all of you have seen prior articles and Stewart bulletins on MV Realty PBC, LLC ("MV Realty") and its "Homeowner Benefit Program" in which MV Realty provides an up-front cash payment to a homeowner in return for a future exclusive right to act as the listing agent when the owner sells their home. The performance under these agreements is often secured with agreements which may be entitled Memorandum of Agreement, Notice of Agreement, Deed of Trust, or something similar.

The latest information is that MV Realty Holdings, LLC filed Chapter 11 Bankruptcy on 9/22/23 in the Southern District of Florida, Case Number 23-17591-EPK. The court ordered the joint administration with other MV subsidiary entity cases into MV Realty PBC, LLC, Case Number 23-17590-EPK, also in the Southern District of Florida. MV Realty Holdings, LLC is the sole owner of MV Realty PBC, LLC. MV Realty PBC, LLC has not filed a Reorganization plan as of today's date.

Stewart has issued a new Bulletin SLS2023012 ([SLS2023012 \(virtualunderwriter.com\)](#)) summarized here. The recent bulletin includes a new requirement in addition to the prior Stewart Bulletin SLS2022007 ([SLS2022007 \(virtualunderwriter.com\)](#)) that an order from the bankruptcy court be obtained that indicates the terms, if any, required for a valid release. The new Bulletin SLS2023012 includes contact information for the Bankruptcy Trustee. As noted in the 2023 bulletin, refer to the 2022 bulletin for other requirements in the event your title search discloses the recording of a Memorandum of Agreement, Notice of Agreement,

or a Deed of Trust securing performance of a Homeowner Benefit Agreement relating to the “Homeowner Benefit Program.”

If you have any questions relating to this bulletin, please contact a Stewart Title Guaranty Company underwriter.



### **Heartfelt Gratitude and Fond Farewell – A Message from Chris Provost**

As many of you know, I will be retiring on the 1st of November. As I prepare to embark on the next chapter of my journey, I am filled with a mix of emotions, primarily gratitude. The time has come for me to bid farewell to this extraordinary community of professionals and friends, and I wanted to take a moment to express my heartfelt appreciation for the incredible journey we have shared.

Over the years, I have had the privilege of working alongside some of the finest individuals in the title insurance and conveyancing industry. Your unwavering professionalism, dedication, and collaborative spirit have not only enriched my professional life but have also made our collective efforts a true force in our field. The countless shared experiences and collaborative endeavors have shaped and enriched my career. Together, we have tackled complex challenges, navigated intricate title issues, and celebrated numerous triumphs.

I want to express my deepest gratitude to each of you for the support, camaraderie, and knowledge you have shared with me throughout my tenure. Most recently, it has been an honor and a privilege to be part of the incredible team here at Stewart Title Guaranty Company. As I step into retirement, I leave with a heart full of cherished memories and friendships. I am confident that the remarkable team here at Stewart will continue to achieve great heights and make a lasting impact in our industry.

Thank you for being an essential part of my journey. I will carry your kindness, professionalism, and friendship with me as I embark on this new adventure.

Wishing you all continued success, happiness, and fulfillment in both your professional and personal endeavors.

With warm regards and heartfelt thanks, Chris Provost



### **Maine Supreme Court Decision on Avoiding Real Estate Taxes by Denying Ownership**

On October 3, 2023, Maine’s Supreme Judicial Court, sitting as The Law Court, issued an unusual and belabored decision in the case of *Oakes v. Town of Richmond*. At issue were two parcels of abutting land in Richmond, Maine, and an individual’s challenge to paying taxes on one parcel on the basis that her title was defective.

Jakov Komisnij purchased Parcel A in 1952. Komisnij died a few years later without heirs or a will. As a result, Parcel A eventually escheated to the State of Maine. The Town of Richmond acquired title to abutting Parcel B by automatic tax lien foreclosure in 1960. The Town deeded Parcel B to Elesowet and Rosalie Slostowsky in 1965. Inexplicably, the deed included Parcel A even though the State owned it. For nearly three decades, attorneys, the State, and the Town exchanged letters regarding the Parcel A title defect. In 1996, to resolve the problem, the State agreed to sell its interest in Parcel A to the Slostowskies. However, the Slostowskies neither paid the purchase price nor received a deed from the State. In 1999, the Slostowskies purported to deed both parcels to the Town in lieu of foreclosure of a real estate tax lien. The Town then purported to convey Parcel A to an individual who eventually purported to convey it to Wilhelmine' Oakes.

In 2019, Oakes discovered the title problem and sued the Town seeking (1) a declaratory judgment that she did not own Parcel A and (2) damages in the form of the return of the real estate taxes she had paid the Town for property she never actually owned (or occupied). The trial court dismissed the case, reasoning that Oakes's correct recourse was to file a tax abatement application. Oakes then appealed to the Law Court, which vacated the dismissal. In so doing, the Law Court held that "someone who has been taxed on property that the person claims is not taxable because the person does not own that property within the meaning of a municipality's statutory authority to tax may challenge the tax on that property either through the abatement process under 36 M.R.S. § 841 or a declaratory judgment action." In other words, a taxpayer who disputes owing real estate taxes because they do not own the assessed property, may seek to resolve that dispute either by way of abatement proceedings or a lawsuit for declaratory judgment. To read the full decision, follow this link: [2023 ME 65 Oakes \(maine.gov\)](https://www.maine.gov/cjs/courts-law/decisions/2023/06/2023-me-065-oakes/)

This case, while factually bizarre, highlights the fact that heightened scrutiny and underwriting assistance is called for whenever dealing with property that is or was town owned.



**Jutta Deeney, Stewart's New England Underwriting Counsel,**  
**Presenting at REBA**

Attorney Jutta Deeney, Stewart's New England Underwriting Counsel, will be presenting at the REBA Annual Meeting & Conference on November 6, 2023. The panelists at this Practical Skills Session will discuss divorces, guardianships, and conservatorships and their impact on real estate conveyancing. There are several other educational offerings at the Conference, including a session on the updated ALTA Best Practices. For Rhode Island attorneys, the conference has been approved for 240 minutes of general credits, or 60 minutes of ethics credits and 180 minutes of general credits. To learn more about the Conference or to register, you can visit the Conference webpage here: <https://reba.net/about-us/2023-reba-annual-meeting-and-conference/>

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