



TITLE TIP

From the Central Alabama Title Center, LLC

March 3, 2014

Abandoned Railroads, Could they cause a Title problem?

Did you know that the U.S. Supreme Court is set to decide a case that will have a significant ramifications on the titles to possibly hundreds of thousands of acres of lands across the nation. The case *United States v. Brandt* involves the title ownership to abandoned railroad right of ways that were initially conveyed to railroad companies pursuant to the General Right-Of-Way Act of March 3, 1875. The Supreme Court will determine whether:

- The interests transferred by the 1875 Act were mere easements that could be extinguished upon abandonment of the line, which would mean the ownership of the land would remain with whoever holds title according to documents in the registers office,
- The United States owns the lands pursuant to unrecorded, implied rights created purely by judicial interpretation of federal statutes.

If the interests passed by the 1875 Act are not deemed to be actual easements then private landowners and their title insurers who for decades have believed that they owned property pursuant to recorded deeds will be met with the sudden realization that their property is in fact owned by the federal government without notice or compensation. Should it be determined that the federal government does own this property at that point they could begin to use the property for whatever purpose they see fit, such as bike trails, or any recreational activities, even though the landowner may have made improvements to the property. Supreme Court Justice Stephen Breyer was recently quoted as saying, "a person could be living in their home and suddenly a bicycle could run right through it."

Oral arguments for this case occurred on Jan. 14, 2014 and a decision will be handed down later this year. However, the potential impact of this decision could be significant. Owners of land subject to 1875 Act are not likely to be aware of the fact, or that their property rights may be unsettled by a lurking undisclosed ownership interest of the United States. If the Supreme Court determines the 1875 Act was subject to an implied reversionary interest, those owners will be at risk of a complete failure of title, without notice or compensation. "We should all hope this does not happen", says William T. Stuart, attorney at law.

CATC will keep you updated when the decision is handed down and what implications if any it could have, in the meantime, should you come across a property with an abandoned railroad on it we would encourage you to talk with your title company prior to closing to ensure this will not cause a problem on the title policy.

As always, should you have questions, please feel free to give CATC at call at 888-207-6200 or check out our web site at www.titlecenter.com

*The General
Right-of-Way
Act of March 3,
1875 could
leave
landowners with
no land and no
compensation
due to
unrecorded
reversionary
interest in
property across
the Nation. For
more information
check out United
States v. Brandt .*

Information compliments of Feb. 2014 edition of TitleNews.

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