

***TROUBLESOME TITLE ISSUES***

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***DEALING WITH TROUBLESOME  
TITLE ISSUES***

- I. Dormant Oil & Gas Act
- II. Actions to Quiet Title
  - In General
  - Real Estate Tax Sales
  - Adverse Possession
  - Termination of Lease in Fact
- III. Affidavits of Title

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***Dormant Oil & Gas Act of 2006***  
***58 P.S. §§ 701.1 to 701.7***

**§ 701.2 Purpose**

The purpose of this act is to facilitate the development of subsurface properties by reducing the problems caused by fragmented and unknown or unlocatable ownership of oil and gas interests and to protect the interests of unknown or unlocatable owners of oil and gas.

It is **not** the purpose of this act to vest the surface owner with title to oil and gas interests that have been severed from the surface estate.

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***Dormant Oil & Gas Act of 2006***  
***58 P.S. §§ 701.1 to 701.7***

Authorizes owner of an interest in oil or gas or both, other than coalbed gas, to request the common pleas court to create a trust for unknown owners or owners who can not be found after reasonable despite reasonable efforts to locate them.

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***Actions to Quiet Title***

- 1061(b)(1) To Compel Action in Ejectment – Who is in possession?
- 1061(b)(2) To Quiet Title where Ejectment Will Not Lie – Who is in possession?
  - Adverse Possession
  - Effect of Existing Lease or
  - Termination in Fact of Lease
- 1061(b)(3) To Compel Cancellation, etc. of Documents Affecting Title to Land
- 1061(b)(4) To obtain Possession Following Judicial or Real Estate Tax Sales

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***Actions to Quiet Title***

Key to any successful Action to Quiet Title is obtaining jurisdiction over absent claimant or claimant whose residence (and, perhaps, even existence) is unknown.

***Deer Park Lumber, Inc. v. Major***, 384 Pa. Super. 625, 559 A.2d 941 (1989)

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***Actions to Quiet Title***

Applicable Rules of Civil Procedure for Service:

1. Rule 410, Real Property Actions
2. Rule 439, Service Pursuant to Special Order of Court. Publication

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***Title Affidavits 21P.S. §§451- 453***

**21 P.S. § 451 Recording of affidavits; admissibility into evidence**

1. An affidavit, stating facts relating to the matters hereinafter named, which may affect the title to real estate in this Commonwealth,
2. made by any person having personal knowledge of the facts and competent to testify concerning them in open court,
3. may be recorded (even though not acknowledged) in the Office of the Recorder of Deeds or Commissioner of Records in the county in which such real estate is situated;

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***Title Affidavits 21P.S. §§451- 453***

4. when recorded, the affidavit, or a certified copy thereof, shall be admissible evidence of the facts therein stated, insofar as such facts affect title to real estate,
5. provided a member of the bar of the highest court of this Commonwealth shall have signed a certification, appended thereto, that he or she relied upon such affidavit in passing on the title to such real estate.

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***Title Affidavits Statute – 21 P.S. §452  
Matters That Can Be Covered***

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|-----------------|--|
| 1. Age          | 9. Identity of Parties   |
| 2. Sex          | 10. Marital Status   |
| 3. Birth        | 11. Residence  |
| 4. Death        | 12. Service in Armed Forces  |
| 5. Capacity     | 13. Conflicts or Discrepancies<br>in Descriptions                    |
| 6. Relationship | 14. Happening of Event or<br>Condition which May<br>Terminate Estate |
| 7. Heirship     |  |
| 8. Names        |  |

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***Title Affidavits Statute – 21 P.S. §452  
Matters That Can Be Covered***

"The legislative history of this statutory provision makes it apparent that the purpose of the legislation was to provide a convenient means of clearing up minor defects in the title to real estate. It is not uncommon that a title report prepared for the purpose of the conveyance of real estate raises questions concerning marital status of a party in the chain of title or other issues .... It is for this reason that the statutory provision requires the certification by a member of the bar that the affidavit was relied upon in "passing on the title to such real estate."

*Merwine v. Wyland*, 14 Pa. D. & C.4th 221 (CCP Monroe 1992)

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***Title Affidavits Statute – 21 P.S. §453  
Requirements***

1. Name, age and residence of the affiant
2. Description of such real estate whose title may be affected by the affidavit
3. Facts showing that the affiant has personal knowledge of the facts stated,
4. Name of the person appearing by the record to be the owner of the real estate **at the time of the recording** of the affidavit.

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***Title Affidavits Statute – 21 P.S. §453***  
***Indexing***

Recorder must

1. Index the Affidavit under the name of the record owner named in the Affidavit in both
  - The Grantor Index and
  - The Grantee Index.
2. Note the Affidavit in the margin of the record of any instrument identified in the Affidavit “if possible.”

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***Title Affidavits Statute – 21 P.S. §453***  
***Effect of Recording***

- When recorded, the affidavit shall be admissible evidence of the facts therein stated, insofar as such facts affect title to real estate,
- **provided** a member of the bar of the highest court of this Commonwealth shall have signed a certification, appended thereto, that he or she relied upon such affidavit in passing on the title to such real estate.

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