

## **STANDARD NO. 201**

### **PROBLEM:**

What constitute an adequate period of search and starting point for a title opinion or abstract of title?

### **RECOMMENDATION:**

A record title covering the periods indicated is sufficient, provided that the period actually searched does not refer to, or put the examiner or abstractor on notice of, any prior defects in title, provided that the basis thereof is:

- A. A period of forty years or more based upon a warranty deed; or
- B. If, in the judgment of the title examiner some other basis may reasonably be used and provided that the examiner makes the judgment that full title passed by virtue thereof:
  - 1. A period of forty years or more, based upon:
    - a. One or more quitclaim deeds with covenant;
    - b. A mortgage with warranty covenants if subsequently properly foreclosed;
    - c. A probate proceeding in which the property is reasonably identifiable;
    - d. A partition or quiet-title proceeding;
    - e. A deed under some governmental authority, other than a tax deed, a deed based upon a tax title, or a sheriffs deed;
    - f. A fiduciary's deed given under proper authority (i.e., license of Court, power granted in the instrument creating the fiduciary capacity), or by a personal representative, conservator, or trustee acting pursuant to Title 18-C M.R.S. (formerly, 18-A M.R.S., repealed September 1, 2019) or 18-B M.R.S.; or
  - 2. A period of sixty years or more based upon any instrument or proceeding which shows of record reasonable probability of full title; provided that the record shows, or the examiner obtains, supportive evidence of the exercise of incidents of ownership by any of the grantees in the chain of title. The supportive evidence should be recorded whenever possible.

### **DISCUSSION:**

If a starting point, otherwise satisfactory, incorporates the description by reference, it may be used, augmented by the prior description.

It is intended by paragraph B, *supra*, to make absolutely clear that the lack of a warranty deed starting point increases the examiner's burden, since there is no presumption of seisin, and the examiner should proceed with caution.

## **STANDARD NO. 201 (continued)**

### **CITED IN:**

*Wallace v. Norton*, YOR CV-01-310 (Me. Super. Ct., Yor. Cty., Nov. 5, 2002)(Brennan, J.).

"Moreover, a title search in 1992 conducted in accordance with the Maine Title Standards issued by the Maine State Bar Association would have revealed the above mentioned restrictive covenant. MAINE TITLE STANDARD NO. 201 (1983) (recommending that examiners/abstractors who lack notice of prior defects in the title of a warranty deed should search a period going back 40 years or more)."

*First Adopted August 25, 1960; amended June 19, 1975, December 7, 1983, February 14, 2006, September 20, 2006, and January 27, 2022. Formerly Title Standard No. 2.*