

# THE GULF STORMS

## What Happened in Title, and What's Next

Hurricanes Katrina, Rita and Wilma were the terrible trio at the heart of the worst Atlantic hurricane season ever. Our colleagues in real estate and land title insurance have been among those most affected by the widespread devastation near the Gulf of Mexico. The volume of business is way down in many areas, and a number of the professionals in our industry were themselves displaced. Fortunately, there have been several creative and effective responses:

- Members of the southern title industry have reached out to their peers in need. The 250-member Dixie Land Title Association recently donated \$10,000 to a fund established by underwriters to aid title insurance agents and employees affected by the flooding.
- ALTA has set up a clearinghouse of information at <http://www.alta.org/industry/HurricaneKatrinaIndex.cfm> about and for title insurance companies and agencies in the Gulf, and containing news from the Gulf, job postings for displaced professionals, services and offers of assistance for companies continuing to do business in the region.
- A number of Application Service Provider (ASP) vendors have offered their title industry customers free access to programs and services that can enable them to continue preparing documents and holding closings at locations other than their usual business offices.

We called Ken Wright, Chief Operating Officer and Chairman of United Title of Louisiana, a large agency with ten offices statewide. Ken says that his agency has weathered the storms with some damage, both to capital and to employees.

“Our New Orleans office closed when Katrina was on the way, and hasn’t reopened yet,” Wright said. “In fact, our manager there lost his home and has relocated to Baton Rouge.”

Wright confirms that New Orleans and adjacent St. Bernard parish were hardest hit by Katrina. “In Orleans parish (the city of New Orleans), some of the paper records were flooded, but not lost. I hear that they have frozen a lot of the books and have a process to remove the

moisture and mildew without damaging the paper.”

Wright said Orleans parish is working from 1987 forward while the back documents are freeze-dried. “Underwriters are working on a case by case basis if we have good documents, but they have to accept a shortened certification period.” Other parishes like St. Bernard were out of commission entirely for months.

Melvin Maxwell, attorney/agent with Insured Title Co. Limited in Lafayette, is president of the Louisiana Land Title Association. Maxwell said: “There isn’t much computerization in the parishes. Most property records haven’t been destroyed, but must be restored because of water or mildew damage. A bigger problem is that the municipal employees aren’t around because their homes are gone.”

The Dixie Land Title Association represents title agents (mostly attorneys) in Mississippi, Alabama and Georgia. DLTA President Bill Kahalley, who is president of Surety Land Title, Inc. in Mobile said: “Because there are no real title plants in Mississippi, we are fortunate that the property records are intact.” In both Mississippi and Alabama counties, the index and records are mostly online, so all the parishes are up and running in some fashion, although some offices had to set up shop elsewhere.

Title agencies share the same manpower problem due to evacuations, Melvin Maxwell said. “Most of our LLTA members are one or two-person operations, so many of them had to shut down. Everyone is trying to get back to normal, but it’s a frustrating environment.”

Adding to the frustration is uncertainty about the shape of the market – indeed, the shape of Louisiana. The secondary mortgage markets require that properties in areas affected by the flooding must be dry, fully repaired and fully covered by flood insurance if they are in a flood hazard area. “FEMA has the right to limit areas where flood insurance can be written, and we expect that those areas will be different after Katrina and Rita than before.”

## Getting People Back Home...

The federal government and private industry have developed means to help displaced and rebuilding homeowners. In October, the US Department of Housing and Urban Development (HUD) introduced a **mortgage financing program** that requires no down payment for people whose homes have been destroyed or damaged due to Hurricanes Katrina or Rita. Those who qualify can choose to buy anywhere in the United States. Under the special mortgage program, called Section 203(h), HUD, through the Federal Housing Administration (FHA), will insure mortgages for individuals or families in a Presidentially-declared disaster area whose residences were destroyed or damaged to such an extent that reconstruction or replacement is necessary.

HUD also called for all FHA-approved mortgage lenders to offer a **90-day moratorium** on principal and interest payments for property owners in the flood-damaged areas, and a postponement of all foreclosure proceedings during the period, which ran from September through November and was recently extended through February, 2006. The Mortgage Bankers Association reiterated the moratorium request to its members, and Freddie Mac and Ginnie Mae played along, even in some cases authorizing the return of mortgage payments to homeowners, providing assistance to lenders with large exposure in the affected regions, and discounting fees for new loans in these areas.

Under the **FHA Mortgage Assistance Initiative**, announced December 1, homeowners who plan to rehabilitate properties damaged by Hurricane Katrina, Rita and Wilma will be entitled to an advance payment equal to 12 months of principal, interest, taxes and insurance. The insured advance from lenders need not be repaid until the home is sold, but borrowers commit to return to the property and resume making mortgage payments by September 2006. Tens of thousands of mortgagees with FHA-insured loans will find it more attractive to repair their homes in the Gulf disaster areas, potentially jump-starting the rebuilding of established residential neighborhoods.

The program addresses part of the very complex issue of who will pay for the massive rebuilding required in the impacted states. If homes are not rebuilt, the FHA could face huge claims from lenders who foreclose on properties damaged by the hurricanes. In the foreclosure process it’s likely that the lenders would bear enormous losses while owners would lose homes and many would face bankruptcy. In addition, the FHA program offers hope to displaced residents of devastated communities that their communities will come back, and that when they return they will be among familiar faces.

So will there be a glut of distressed property on the market in Louisiana and Mississippi? Probably not. The feeling is that banks are in no rush to foreclose on displaced homeowners, many of whom have not even

seen their homes for months and have no income to fund mortgage payments.

Michael Halpern, special projects manager at Safeguard Properties, Inc., which provides inspections and preservation services to the mortgage servicing industry, points out that foreclosure is an especially unattractive option to lenders, who would likely find the foreclosed property, uninhabitable, unsalable and worth much less than their loan value. "Lenders never want to foreclose on their loans, as this is just plain bad business". In the disaster area, the lenders are desperately trying to make contact with the borrowers in order to evaluate each case to see how they can work something out with the owner in order to keep them in their homes."

## ...Wherever Home Is

Many properties have already been sold by residents who have received insurance settlements and decided to move elsewhere. Most of the speculators buying these properties will hold them until flood control projects are well underway and property/casualty and flood insurance can be issued. A large volume of litigation looms, as insurers battle to determine whether damage was caused by flooding (not usually covered by homeowners policies) or wind.

The evidence indicates that many of those displaced by the storm will not be coming back, at least not anytime soon. Cities like Baton Rouge, Memphis, Atlanta and Houston have offered emigrants a chance to get back to work and on their feet, and Federal grant and loan programs have encouraged them to buy homes in their new towns.

There has already been a massive population shift – Metropolitan New Orleans, once home to more than 600,000 residents, was down to about 25,000 in the fall. People needed to move quickly to places where there were jobs, schools and social services. Baton Rouge doubled in population almost overnight, while Lafayette grew by 40%. How many of those transplants will put down roots, and how many people will be ready to resettle New Orleans when New Orleans is ready for them?

As an Association, LLTA has pressed on despite obstacles, says Maxwell, who agreed to serve a second year as president. "Our annual December conference in New Orleans was canceled. It's meant for people to get together socially and do some Christmas shopping, but who wants to go to New Orleans now? Besides, Association activities have not been a priority for most of our members."

Nonetheless, the LLTA managed to get a good turnout of more than 80 members at its annual meeting in Baton Rouge in early December. And the association is already planning to celebrate its 50th anniversary next year with a gala event at its conference...in New Orleans.

Bill Kahalley of Dixie Land Title Association says "Many of our historic coastal towns are literally gone

*continued on page 8*

## **The Gulf Storms** *continued from page 3*

and no one knows when or where the towns will be rebuilt. Some people are trying to sell out, and because speculators are coming in to pick up those properties for tourism development. We're actually ahead of last year's numbers." Kahalley expects to see a 'hurricane hangover' of a few months in the residential market, but for those Mississippians and Alabamans on the coast who can hang on through the lull, the rush will come. "It's just human nature, I guess, that as long as a property's near the water, people are going to want to live there."

There's already brisk activity in areas where damage was slight. Ken Wright says the month of November was the busiest ever for the United Title office in Slidell, just west of New Orleans, as New Orleanians have

literally and permanently moved to higher ground. Former residents are trickling back into New Orleans, Mobile, AL and Gulfport, MS to reclaim and repair their homes. The long-term problem, Ken Wright says, is that along the Gulf, "So much is still up in the air. Buyers really can't move in until they know they will be able to get homeowners and flood insurance on the property."

As the old saying has it, Kahalley says crisis equals opportunity. "We are starting with a blank canvas, with an opportunity to come back. We need to create a dramatic, consistent plan for the redevelopment and the future of our coastline." ■