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Description



You are underwriting counsel for a title insurance company and are asked if you will insure access to a piece of property that your prospective insured purchased at a tax sale. There is no deeded easement but you are advised that you will be furnished with enough information to insure by prescription. You believe that a â??field tripâ?• is in order, and meet the proposed insured and his counsel in front of a dirt road, which is the purported access. You ask him if it is ok to drive down the road to visit the property which is located 200 yards from the public highway and he says, â??Oh no, I think it would be better if we went in the back way where we wonâ??t be seen.â?• How do you feel about the case at this point?

VLTA Examiner

â??How do you spell COURT ORDER?â?• In order to maintain a prescriptive right, the owner must show open, exclusive, notorious and hostile use for 20 years. The fact that the proposed insured does not want to travel down the road is some evidence that the elements of prescription do not apply.

Category

1. Columns

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vltaexaminer