The Minnesota State Bar Association (MSBA) Real Property Section Legislative Committee formed a subcommittee to gather information about changes in technology, the practice of law, surveying, title examination, title industry business practices and the effects on ownership and marketability of real property in Minnesota. The Subcommittee is guided by an interest in having a land records system that is timely, reliable and accurate, affordable to maintain and to access, and responsive to rapidly changing technology and business practices. To launch this effort, subcommittee members held eight "Listening Sessions" and invited participation through professional association channels, and other outreach. The Sessions were held in October 2017 at the following communities: Winona, Redwood Falls, St. Cloud, Bemidji, Duluth, Minneapolis; and in St. Paul in November 2017 at the Real Estate Institute.

Sessions lasted two hours, with the exception of the St. Paul session of 1 hour. The facilitators posed topics for discussion, and recorded participant comments. To preserve any regional differences, Session notes were not consolidated.

Reimagine Land Records Listening Session, Bemidji October 11, 2017

Attendees 15 people including: county recorders, county GIS personnel, attorney from legal aid, private surveyor, title company, abstractor Comments: no attorneys in private practice. County Recorders represented: Hubbard, Beltrami, Kittson, Clearwater, Mahnomen

Subcommittee members: Bob Beutel and Susan Ledray

Current successes

- See GIS as the central point to the land records (Hubbard.) Can link everything to it.
- GIS currently open and free
- Plats: Chapter 505 was amended to make platting easier, but not much platting occurring
- E-recording is a big time saver for counties
- Vendor (Simplifile) has been very helpful in trying to keep integrity in the land records system

Problems/Issues/Concerns re. general public

- People no longer rely on professionals. They do on-line research and have some knowledge and information, but incomplete and misuse it or ask a lot of questions.
- Title company: I spend all day answering questions for DIYers and can't charge for that
- People get mad if told they need a lawyer or surveyor – "I pay taxes, you should help me."
- People go on the internet to save money, but a gatekeeper is needed. The recording requirements are lenient, and junk gets recorded. Should the recorder be able to reject an abstract document for more reasons?
- If deeds etc are linked to GIS, a stray deed may be linked and the public may think that is a valid last deed.

- If deeds etc are linked to GIS, the public will grab those when looking for a last deed and miss out on help the recorder would provide if they came to the county office; county staff analyze and look at the recent chain.
- Technology is great but the human touch is still very much needed.
- It was common in this area to have handshake deals for easements, and for much of the land to transfer to the children for successive generations; this has changed and new buyers have different standards and requirements

Problems/Issues/Concerns re. real estate attorneys

- No real estate attorneys were in attendance
- County personnel reported that people get mad when advised to talk to an attorney
- In a perfect world, all documents would be drafted by a professional and have a survey
- Worked better in some ways when people had no way to get information and used professionals
- Facilitator observation: Population is disbursed and it could be a long drive to the county courthouse or to an attorney

Problems/Issues/Concerns re. counties/county records

- A lot of land is not taxable and that affects revenue
- In Beltrami only 25% of land is taxable
- Have extensive state and tribal owned lands. Are three different tribes and they all have a unique history and legal system of land ownership; Mahnomen County has now cleared up Tribal land problems and settled with the tribe; In Beltrami tribal land mortgages are recorded with the county and put in the grantor/grantee index; no MRT; Some deeds too.
- Commissioners are the decision makers; whether to provide information for free or to charge
- Commissioners are responsive to constituent concerns; if someone has a problem with a land purchase, the commissioners add another requirement for the county to police e.g. septic system documents
- The importance of land records and the office of the county recorder is not always appreciated or understood and that affects funding.
- Technology fee has been used for GIS recently
- Comments about charging for public data; Public data is an asset of the county and the public, and it should be used to generate revenue to be used for public purposes and not simply given away.
- We all want to make things easy for the customer, but some players do not have the customer's best interests in mind and the systems are built for that reality
- Comment that Becker and Wadena counties were hit with ransomeware or some other attack and were down for "weeks".

Problems/Issues/Concerns re. abstracting/searches/title examination

- Again, with linking recent deeds to GIS maps, people jump to conclusions about the deeds they find and miss a lot.
- Area has a lot of lakes; a lot of access issues, unplatted property with questionable descriptions e.g. starting at the thread of the river…..
- Minerals are increasing in value (or people think so) and there are questions about what is a mineral, can I mine gravel on my land, can I sell the minerals or lease them;
- There were a lot of tax forfeitures in the 1970s and minerals were or should have been reserved to the State of Minnesota; these are not mentioned in subsequent conveyances necessarily; it is difficult and time consuming to figure out if mineral rights were reserved or severed and it often happened well before a 40 year source of title;
- Abandoned railroads are an issue; can they be abandoned and what is the status of ownership?

Problems/Issues/Concerns re: technology/software systems

- Generally, GIS and e recording are great
- Some concern about e recording making fraud and alteration of documents easier, although this is also possible with a typewritten or hand-written document
- Cost and how to fund
- Worried about electronic closings and electronic notary or remote notary. In rural MN, land is most of the wealth and steps to insure validity of closings should be taken
- There was interest in looking at other states and finding out more about their experiences with tech; specifically, Maricopa AZ with kiosks to scan in documents and record them, North Dakota with NDRIN, and Iowa. But there was also opinion that MN is typically ahead of other states.
- Privacy is an issue with putting data on the internet; people call to complain about their tax information or other information being available on the county website to the public;
- SAFE at Home and stalking and abuse and how to protect people
- One person wondered if we should be restricting access to land records information instead of opening and expanding access; Germany permits access only to a legitimate buyer.
- Tech changes quickly; how do we keep on top of it and keep control?

Problems/Issues/Concerns re: legal descriptions/surveying

- GIS works with parcel numbers. One challenge is PIDs change with land divisions or combos.
- Plats are helpful to clean up bad legal descriptions and to simplify complicated descriptions, but the process to plat land takes months and is expensive and burdensome. Owners don't see enough benefit.
- A lot of description problems related to lakes, rivers, and large unplatted tracts.
- A lot of old plats are "off"
- Surveys are typically done with a major commercial transaction or if the county requires a survey (typically if near a lakeshore for a land division.)

- Many corners have not been remonumented. Can cost $20-40,000 for a survey due to the research involved if remonumentation has not been done compared to $2-3,000 if corner remonumentation is done. This shifts the costs from the county to the one landowner, and if one landowner pays for a survey, if lowers costs for nearby landowners.

Ideas, Suggestions for Change

- Uniformity; but challenges include having elected and appointed recorders, determining common policies when there are so many variables and details in carrying out the business; what would be the process for creating uniform policies; the state is trying to get consistency in parcel numbers but within the same tax system, counties use different fields to hold information. Do you try to reconcile these things going backwards or only on a day forward basis? Recorders have archived, current, and future records.
- Idea of going all torrens is not new; one recorder was told 20 years ago that "everything will be torrens by 2025
- Some torrens property certificates have not been maintained properly; e.g. when the land was divided, easements that only affected one of the new certificates were carried forward to both.
- Counties that have a lot of torrens tend to like it; those that have little or none tend to view it negatively
- Torrens is good because it gives people what they expect – a title
- Converting to torrens has challenges; every county would need an examiner; we don't have the money or manpower now; the court process is expensive, there are 30,000 parcels of land in Beltrami alone; legal description issues would complicate the conversion
- Co. Recorder does not want to convert to Torrens: Counties would need more surveyors, and "good" real estate attorneys to look at legal descriptions; counties would need examiner of titles on staff full time; costs would be too much for the rural counties; costs of converting would be increased due to vague easements over abstract property which would cost a lot to fix;
- Block chain may hold the answer; it has greater security and an immutable record.
- Important for people to be able to come to their local courthouse and research real estate records; they shouldn't be limited to on-line access.