

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, St. Paul, November 2, 2017 at
the Real Estate Institute**

Attendees: 60 People Attorneys, Title Cos., County Recorders, other

Subcommittee members: Stacy Woods, Bob Beutel, Susan Ledray, Mike Melchert, Greta Bjerkness

Title Standards

- Title examiners are ignoring or disregarding title standards. They tend to be more conservative and their own internal standards vary from the title standards.
- White pages are very important in terms of educating the title companies.
- Title standards should be more readily available – make it a best practices kind of standard – it promotes consistency.
- Varying viewpoint on the way green pages should be used.
- We are dealing with a lot of outside forces such as national agencies.
- On a national level, reliance on title standards is non-existent.
- Educational component for government offices.
 - Local prep meetings – with County Recorders – Property Records education is needed.
- This has been discussed for over a decade at annual meeting of County Recorders.

- Appeal to underwriter of title company if the agent is refusing to follow the title standards.
- Title standards are not binding on the Courts.
- Would there be a place for rules or regulations that could be adopted and enforceable?

E-Recording

- With e-recording, the document must be rejected if it doesn't strictly comply with the requirements.
- This ability to reject e-recorded documents promotes a more rapid response and is actually a benefit.
- If an e-recording is rejected, it is very helpful to have a rejection memo and to be able to contact the person at the County who rejected the documents. Sometimes discussing the issue can make a difference and clear up confusion.

Survey/G.I.S. Issues

- In farm country, property lines are all off. This is generating a lot of work for surveyors.
- G.I.S. practices vary from county to county. – There are common mistakes with G.I.S.
- Number of acres can be off.
- Have the Assessor's information available as an under-layer on the interactive map. Issue with G.I.S. and Assessor information when they don't match.
- G.I.S. is a god-send – put G.I.S. on virtually all of the commitments.
- The future is data and spreading it.
- Risk is that non-real estate people think if it's on-line it's true – unduly rely on what is on-line.
- Public land survey is reliant on accurate corners being monumented – 10's of 1,000's are missing.
- There is a great need for re-monumenting the corners.

Fees/Accessibility of Records

\$10 for technology

\$11 for compliance

- Keep the fees uniform – we are on the forefront of the national scene.
- Whose data is it?
- Who should see it and who should pay for it?
- In some counties, a 1 day pass is available to access the property records.
- The level of accessibility to public property records varies widely.
- The goal with online records is to have more certainty in property records.

- Every county starts at a different date.
- Courts have created a central system – MNCIS – so it is possible.
- Bankruptcy electronic system (PACER) has been very successful.

Title Searches

- Recent practice is that title searches only go back 2 searches.
- 40 year searches – can miss Railroad and Utility rights which pre-date a 40 year search
- How do we preserve these rights without a full search back?
- Requiring full abstracts for purpose of registration of title is troublesome.
- The shorter title searches are a response to market demand. Customers are willing to accept a certain amount or risk.
- People hang their hat on a prior owner's policy as if it's a Torrens certificate.
- Ex. where there is a gap, but the title insurer is willing to insure over it.
- Amazed at the audacity of the title companies in not correcting a problem or a gap.

Possibility of a Single Torrens System

- Someone mentioned the possibility of a statewide torrens system with a less cumbersome registration process.
- Paying for the process – who is going to pay for it?
- Issues with Dual Abstract/Torrens system - People recording something in abstract when it should have been recorded in torrens.
- Tom Neville (senator)– he previously proposed converting all property in MN to torrens and it went nowhere.