

**MINUTES**  
**Legal Subcommittee of the ERE Task Force**  
**February 5, 2002, Meeting**

**Persons in attendance:** Luci Botzek, Bert Black, Mike Cunniff, Marty Henschel, Chuck Hoyum, John Jones (by telephone), Rick Little, Beth McInerney, Mark Monacelli (by telephone), Chuck Parsons, and Eileen Roberts.

Chuck Parsons called the meeting to order at 9:10 a.m. On motion by Marty Henschel, second by Eileen Roberts, the subcommittee voted unanimously to approve the minutes of the January 22, 2002, meeting.

In reference to the subcommittee's comprehensive review of Minnesota Statutes, Rick Little agreed to circulate his comments on his assigned statutes (Minn. Stat. §§ 502.65–515B.2-109) during the week of February 11.

Also in reference to its comprehensive review of Minnesota Statutes, the subcommittee reviewed the list of statutes that it had previously determined required amendment to eliminate references to an exclusively paper-based recording system. At the outset, Chuck Parsons noted that if the Task Force pilots are to include deeds, mortgages, and mortgage satisfactions, then Minn. Stat. § 272.115, which provides for certificates of real estate value, must be amended to accommodate electronic as well as paper-based recording. In response, Mike Cunniff said that his recent conversations with recording-software vendors indicate that the only documents for which electronic recording capability currently exists are mortgage satisfactions, mortgage assignments, and certificates of release.

Mike suggested that in light of that, the Task Force should structure its pilots to provide for electronic recording of documents of increasing complexity over a series of years. For example, electronic recording of mortgage satisfactions in the first year could be expanded to mortgage assignments in the second year, deeds in the third, mortgages in the fourth, and so on.

The subcommittee discussed Mike's suggestion, and then resumed its statutory review. The subcommittee agreed with Chuck Parsons' suggestion that it develop a short list of statutes whose amendment is a top priority. The subcommittee agreed that those statutes are Minn. Stat. §§ 325L.03 (part of the Uniform Electronic Transactions Act (UETA)); 358.41, 358.42, 358.47, 359.03, 359.05 (relating to notaries public and acknowledgment of documents); and 507.24 (requiring original signatures on recordable instruments). The subcommittee identified just two statutes—Minn.Stat. §§ 83A.04 (relating to the naming of geographic features) and 256.263 (referring to land that the state acquires under old-age-assistance liens)—to be considered in the so-called "overlay" amendment to Minn. Stat. § 507.24.

Chuck Parsons and Luci Botzek reported on Luci's meeting with a member of the Minnesota Attorney General's office regarding the Task Force's proposed request for a legal opinion about issues relating to E-Sign and UETA. Under its policy not to interpret or render opinions regarding federal law, the Attorney General's office declined to issue such an opinion. Mark Monacelli suggested that the Task Force might wish to obtain a legal opinion from a private law firm regarding those issues. The subcommittee discussed that and other options, and ultimately decided to consult with subcommittee member John Richards about whether such an opinion is necessary or desirable.

In reference to the subcommittee's previous discussions about the desirability of making the tract index, rather than the grantor-grantee index, Minnesota's official index for recording act purposes, Luci Botzek reported that some county recorders are resistant to the idea. After discussing possible reasons for that resistance, the subcommittee decided to raise the issue with the Minnesota Land Title Association (MTLA), the Real Property Law Section of the Minnesota State Bar Association (MSBA), and other groups to gain additional reactions.

The subcommittee also discussed the desirability of extending the sunset date for the Task Force from 2003 to 2004. That would allow for further evolution of recording software to accommodate more complex documents, increase the likelihood that national organizations that are preparing e-document standards will have completed their work, and afford the Task Force the benefit of additional funds from the soon-to-be increased surcharge fee for Torrens documents. On motion by Rick Little, second by Chuck Hoyum, the subcommittee voted unanimously to recommend to the Task Force that it seek an extension of the Task Force sunset date from the Legislature.

The subcommittee decided to defer scheduling its March meeting until a later date, and in the meantime to stay in touch by e-mail. On motion by Chuck Hoyum, second by Marty Henschel, the subcommittee voted unanimously to adjourn. The meeting ended at 11:15 a.m.

Respectfully submitted,  
Eileen Roberts