

Legal Subcommittee of the ERER Task Force
November 4, 2003

Attendees: Luci Botzek, Mike Cunniff, Marty Henschel, Chuck Hoyum, Rick Little, Beth McInerny, Chuck Parsons, Eileen Roberts, Greg Hubinger, Julie Bergh.

Legislation for the next legislative session, beginning the first week of February 2004, will be necessary to allow pilot activity to continue. The following considerations were originally documented in the to-do list for the Legal Subcommittee.

1. Non-Applicability of Non-Standard Document Surcharge

New legislation will eliminate the word “pilot” and open up e-recording for all counties.

Per the ERERTF standards a body will be in place to manage the standards in an on-going capacity.

Recommendation to task force: New legislation will eliminate “pilot” definition and open e-recording to all counties.

Discussion regarding an on-going body to maintain standards should be discussed by the task force.

2. Overlay Legislation to Eliminate Historic “Paper” Oriented Requirements.

Recommendation to task force: New legislation should contain overlay language that eliminates paper oriented terms.

3. Recording Priority vis-à-vis Delivery Method

Each county is different but generally numbering is managed in the following priority:

1. On-site customers
2. Bulk drop-offs
3. Mail

Consecutive numbering should be used to the extent possible at a county. Luci Botzek will be meeting with county Recorders in the next weeks and has volunteered to take the following question to them and report back to the Legal Subcommittee.

What issues or concerns do county Recorders have regarding priority management when e-recording is introduced to a county?

4. Elimination of Paper CRV Form (Remove)

The Department of Revenue at the last Phase II Planning Meeting has taken on the task of developing an electronic CRV and developing a methodology for filing this document.

This item will be removed from the Legal Subcommittee's list.

5. Well Disclosure Certificate Drawing (Remove)

The Department of Health originally worked with BenNevis to outline the process for filing this document. There is a schema for this document where a scanned image of the certificate will be imbedded. The schema will then be printed and a hard copy will continue to be sent to Department of Health. When they become ready to work with this document electronically Health can use the current schema as their starting point.

This item will be removed from the Legal Subcommittee's list.

6. Electronic Return of e-Recorded Documents

Discussion revolved around added security issues around returning xml data rather than a recorded image to the Trusted Submitter. It was agreed that returning xml data does not open up a greater level of risk than returning an image. Advanced technology today could manipulate data on an image just as well as with pure xml data itself. Having Trusted Submitters adds a layer of security to this transmission.

Recommendation to task force: New legislation will include overlay language that will include return by electronic means.

7. Tract Index

Recommendation to task force: On a go-forward basis the Tract Index and Grantor / Grantee Index will be joint official indexes.

8. Consistent Standards - Interoperability

Recommendation to task force: New legislation will authorize the tested ERERTF standards as the Minnesota standards for electronic recording of real estate documents. A standards maintenance group will also be authorized by the task force to maintain the standards in the future.

9. Notary Seals

Recommendation to task force: New legislation will permanently change the notary requirement to allow for notary with an e-signature.

10. Definition of the Official Record (Access and Reproduction)

Currently the official record in e-recording is the image. Luci Botzek will be meeting with county Recorders in the next weeks and has

volunteered to take the following question to them and report back to the Legal Subcommittee.

What do County Recorders need to work with the requirement that the official record is the imaged document?

11. Social Security Number – Privacy Concerns (Remove)

The social security number appears on the CRV and this element is encrypted. The Department of Revenue worked with BenNevis to ensure this.

This item will be removed from the Legal Subcommittee's list.

12. Evidence

The Trusted Submitter definition outlined in the standards will be sent to Chuck Parsons for additional review.

13. Issues Concerning Minn. Stat. Chapter 325K

Recommendation to task force: Along with new legislation 325K should also be reviewed in its acknowledgement section in order to keep notaries in the electronic process.

14. Arcanvs Patents (Remove)

An RFP has been let to retain services to investigate this patent issue.

This item will be removed from the Legal Subcommittee's list.

A summary of meeting activity and recommendations will be made to the task force at the November 14th meeting.

Greg Hubinger will see if the task force can use Tom Pender to draft new legislation.