

STATE OF CONNECTICUT
Real Property Electronic Recording Committee
Van Block Facility, Connecticut State Library
November 8, 2010

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Members Present: Kendall Wiggin, Chairperson, Connecticut State Library; LeAnn Power, Public Records Administrator, Connecticut State Library; Timothy O'Neil, Attorney; Norman Roos, Mortgage Banker; Colleen Capossela, Title Insurance Representative; Susan Cyr, Town Clerk Coventry; Bobbi Shorthouse, Notary Public Joyce Mascena, Glastonbury Town Clerk, ,

Members absent: Edward Hill, Attorney; Therese Pac, Bristol Town Clerk; Stuart Clark, Title Searcher; Michael Rosten, Realtor; Bernard Liu, Secretary of the State's Office, Tony Gioia, Realtor

Others present: Ursula Hunt, Recorder, Connecticut State Library; Kathy Makover, Connecticut State Library; Lizette Pelletier, Connecticut State Library; Joanne Scanlon, ISGN.

Welcome

The meeting was called to order at 9:11 a.m. by State Librarian Kendall Wiggin. Ken welcomed the group.

WELCOME AND INTRODUCTIONS

Introductions

The Committee members and guests introduced themselves.

INTRODUCTIONS

MINUTES

The Committee reviewed the minutes from September 13th for possible corrections. Norman Roos made a motion to accept the minutes. Colleen Capossela seconded. The motion was approved.

MINUTES

Guest Speaker,

LeAnn introduced Joanne Scanlon, Senior Vice President, Data and Vendor Management, ISGN, from Rocky Hill. Joanne spoke to the Committee about the benefits of eRecording from the submitter's standpoint and about her experiences with the program.

GUEST SPEAKER, Joanne Scanlon

- ISGN, a national company that supports lenders, began eRecording in New Jersey. ISGN uses ACS, which is a portal similar to Simplifile. ISGN scans the documents and submits digitized uploads. Transfer of titles is more than half of ISGN's business.
- ISGN provides all support services for lenders. They have been in business over ten years. Only a small percentage of their work is electronic. Joanne was unsure of the cost difference between submitting paper and electronic documentation. ISGN does not do purchases; mostly refinances and home equity.
- The biggest benefit of eRecording is the cost and time savings.

Submitters receive same-day confirmations or rejections. Recorders use data already provided in some fields which results in fewer errors from rekeying.

- Some vendors cost more than others so submitters must negotiate for the best fees. Some counties pay a vendor fee so submission fees are not as high for those submitters. Some counties have only one vendor; some have multiple vendors. The average submission fee for a document is usually between \$5 and \$8. ACS bills submitters monthly for recording fees.
- Joann was unsure if ISGN signed an MOU in New Jersey. ISGN uses ACS and the New Jersey portal because it is free. In most cases, individuals cannot be their own submitter. Some law offices submit their own documents. Not every portal goes to every county, so a town may need to contract with more than one vendor. Massachusetts uses more than one vendor.
- Joanne recommended that the committee visit an office that accepts eRecording.
- Title companies offer gap insurance depending on the type of document. ISGN usually has people walk those documents into the recording office as they have a national network of searchers.
- There is not much difference between recording an original mortgage and recording a refinance or equity mortgage beyond the conveyance tax.
- Joyce Mascena did an analysis of over the counter transactions vs. mailed documents in her office and found the ratio was 47% vs 53%, respectively. She believed that most transactions would be eligible for eRecording.
- Susan Cyr reported that twice in the past 2 years the town of Coventry has lost computer access for 2 consecutive weeks. During that period, they could not receive any type of electronic transactions. Joanne said that in such situations, the vendors notify submitters that the system was down. The submitter could then make a business decision to walk in the material.

Ken thanked Joanne. She is active with PRIA and is forming a Connecticut PRIA chapter and invited committee members to be part of this. Joyce and Joe Camposeo, Manchester Town Clerk are already involved.

Memorandum of Understanding – Proposed draft

The Committee reviewed the draft Memorandum of Understanding and Colleen Capossela's comments. Ken suggested implementing a uniform document for towns to work with submitters.

- Colleen's comments about the proposed MOU document:
 - Items mentioned in the regulations as being part of the MOU were not actually listed in the MOU.
 - The MOU is unclear regarding who is able to record electronically: the vendor or any submitter? Lizette said that the proposed draft

**MEMORANDUM OF
UNDERSTANDING –
PROPOSED DRAFT**

- defines the authorized submitter as the party entering into an agreement with the town clerk. Colleen wants to make sure that the MOU states who is signing on with the vendor. If a law firm wants to submit documents for recording, the vendor has to make sure that law firm is authorized to do so. We need to ensure that the vendor has established qualifications for accepting submitters.
- Timothy said that the regulations define an authorized submitter and the purpose of the MOU should be to provide a comfort level that all submissions met the requirements. Town clerks can choose who they want to accept as authorized submitters. Bobbi Shorthouse and Joyce would feel more comfortable with having a statewide minimum criteria on which to base their decisions.
 - Does the vendor have any responsibility for reviewing documents prior to submission? Town clerks would like to have the authorized submitter be responsible for any problems. Norm asked if the MOU should include criteria for authorized submitters' agreements with third parties. Colleen said that third parties use the vendor's system to pay and submit. She does not believe that a vendor would take legal responsibility for a third party. Norman asked what the difference is in defining a trusted submitter with paper or with electronic? Are there procedures for handling recordings available for viewing and copying?

Colleen will contact Ingeo and Simplifile to discuss the committee members' concerns concerning how they vet their clients. She will give them a copy of our MOU and get their feedback.

The alternative to a MOU would be business rules which define standards and are not signed by the municipality. MOUs list rules for the vendor and it will be the towns responsibility to make sure that the system is secure. Joyce expressed concern about signing a contract and the potential liability. She asked what would happen if a vendor made a mistake. The committee agreed that the town's agreement with the vendor is simply to use the system and that the vendor should promise security.

Currently, there are only four national companies and one title insurance company that do eRecording. However, regulations should not exclude third parties. Bobbi Shorthouse wants to make sure eRecording is viable for small towns as well as large towns.

The committee discussed the necessary signatures for the MOU. Bobbi mentioned that town clerks may change every few years. If towns are paying a set up fee, they may be required to sign a document.

The committee agreed that it is an excellent idea to run these questions by the vendors. The committee confirmed that it preferred that a digital signature include a face to face certification procedure. Also, the State should be allowed to establish its own portal.

Comments from State Library staff: Kathy Makover said that authorized submitter qualifications are listed and she asked what else the Committee would like listed. Leann asked about existing local laws that were questioned in the regulations. Leann noted that PRIA mentions having both business rules and

MOUs.

Ken said that the goal is to finalize the regulations soon. The staff will electronically send a revised version of the MOU to the committee. In section 11-8-31 of the regulations there is a list of what is required in the MOU.

Connecticut eRecording regulations - Proposed draft

Lizette Pelletier said she will go back and look at the authorizing statutes as pertaining to the definitions.

Ken thinks the regulations are fairly thorough. The MOU will be a more detailed document that carries out the regulations; the regulation should be general and the MOU can be modified when necessary. MOUs are changeable but not the regulations.

Colleen will also find out how Massachusetts handles eRecording.

**CT ERECORDING
REGULATIONS-
PROPOSED DRAFT-
Lizette Pelletier**

Old Business

None

OLD BUSINESS

New Business

There may be an information session about eRecording on April 14th or 15th at the Town Clerks Conference.

Ken asked about a public hearing or getting written comments to the law journal. It would be cheaper to publish public comments and not have a public hearing.

NEW BUSINESS

Meeting Schedule

The next meeting will be held in the Spring.

MEETING SCHEDULE

ADJOURNMENT

Ken asked for a motion to adjourn. A motion was made to adjourn and Michael Rosten seconded it.

The meeting adjourned at 10:52 a.m.

Respectfully submitted,

Kendall F. Wiggin, Chair

Ursula Hunt, Recorder