

STATE OF CONNECTICUT
Real Property Electronic Recording Committee
Van Block Facility, Connecticut State Library
May 18, 2011

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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; Edward Hill, Attorney; Bernard Liu, Secretary of the State's Office; Tony Gioia, Realtor; Therese Pac, Bristol Town Clerk

Members absent: Stuart Clark, Title Searcher; Michael Rosten, Realtor

Others present: Ursula Hunt, Recorder, Connecticut State Library; Kathy Makover, Connecticut State Library; Lizette Pelletier, Connecticut State Library; Brian Kilfoyle, Simplifile, Inc.; John W. Dresch, IMAS, LLC

Welcome

The meeting was called to order at 10:03 A.M. by State Librarian Kendall Wiggin. The State Librarian welcomed the group. He said that all potential vendors had been invited to attend the meeting.

WELCOME AND INTRODUCTIONS

MINUTES

The committee reviewed the minutes from November 8, 2010, for possible corrections. Attorney Bernard Liu motioned to accept the minutes and Susan Cyr seconded the motion. The motion was passed.

MINUTES

Connecticut eRecording regulations-Proposed draft

The State Librarian asked the Public Records Staff to explain the changes to the proposed draft. Lizette Pelletier explained that in the course of making the revisions to the draft MOU as requested at the last meeting, more questions arose concerning how well the draft incorporated current eRecording standards as well as how will it reflected Connecticut's statutory requirements and current recording practices. In addition, a number of previous speakers had recommended adopting standards by reference rather than writing specific requirements into the regulations that, if changed, would require the regulations to go through the whole approval process again in order to be revised. The staff reviewed how other states handled the standards within their regulations or standards. The meeting handouts include copies of the current Wisconsin and Illinois regulations to illustrate possible methods of incorporation by reference. Staff also stated that the regulations should be finalized before developing an MOU or agreement, as the document must be based on the adopted regulations.

CONNECTICUT ERECORDING REGULATIONS-PROPOSED DRAFT

The State Librarian opened the discussion by asking the committee to review the first section of the regulations, which contains the definitions. There was confusion over the term "authorized submitter," which refers to the eRecording vendor, but which the committee members interpreted as the person requesting

recording of a document. Brian Kilfoyle suggested that an eRecording company like Simplifile be called the vendor, rather than the “authorized submitter.” He delivers material to the town from the “submitter.” The town records the document and sends it back to the vendor who returns it to the “submitter.” An individual submitter could serve as their own vendor if they meet the qualifications. Members expressed concern that setting qualifications could eliminate legitimate submitters from acting as their own vendor. Ken Wiggin said that legislation may not allow us to qualify who can be an “authorized submitter”; it can only list the standards for compliance. Ken suggested asking the Attorney General’s Office for more specifics on the requirements.

A suggestion was made to change the statement of purpose. This will be changed when the final wording of the regulation is in place.

The committee moved on to discuss the agreement between the town and the authorized submitter. Some members opposed the concept of adopting the PRIA standards by reference because they felt that changes made by outside groups are difficult to track. However, other members stated that incorporating all the requirements in the regulations would mean that the regulation would have to be amended through the same lengthy procedures as the adoption process for any change to the standards. There seemed to be a consensus that reference to some of the PRIA standards was a viable option.

Ken suggested that the vendor will need to keep up with changing standards, which will mostly involve the transmission process. Lizette said that the standards will need to include electronic submission capability, security standards, system requirements, payment functions, and technical expertise. Kathy Makover asked that the committee review Chapter 6 of the URPERA Implementation Guide, which covers these topics. The staff will do more research into this area. Simplifile uses HTTPS to transmit documents in its system.

Changes recommended by the committee:

- In section 11-8-31, the submitting vendor should ensure that its clients only submit original documents. CUETA has authorized the use of an electronic document in place of a paper one. The committee decided to remove paragraphs (b) and (d) as these would be part of the vendor/client relationship and not within the purview of the regulations. The staff can provide a copy of the Simplifile client agreement to the committee members for their reference.
- In section 11-8-31, combine everything applying to the agreement in one section. Everything applying to the Town Clerk’s recording will be in another section-11-8-34.
- In section 11-8-31(7), take off the statement which suggests that a unilateral change could be made without adequate notice.
- In section 11-8-34 (c), clarify the town clerk ‘rejection’ statement. Bobbi Shorthouse suggested listing the statute or the technical problem that would cause a document to be rejected. Edward Hill suggested that the reason for rejection would not be a technical error, but failure to comply with the agreement.
- In section 11-8-34 (b) – remove the wording regarding acknowledgment of receipt of an electronically filed document. A document has a received status before it is recorded.

- In section 11-8-37, the committee was concerned that the wording would not cover collection of the conveyance tax in the future when the reporting process is updated. The wording in the Wisconsin regulations is more flexible as it is more generic saying that the tax can be collected electronically. The staff may add that wording to the document.
- In section 11-8-35, document formats should be worded as broadly as possible to allow flexibility but the committee may also want to limit it to a select number to set a minimum statewide standard. This will include performance levels. The staff will look at ANSI/ISO for guidance on establishing minimum standards. It may be possible to incorporate language that the Public Records Administrator will set the standard for the state. Simplifile receives most documents in PDF which it converts to TIFF for submission to the recording office. Ken said that all technical specifications will be defined better and be put in one place within the regulations.

There was a brief discussion on filing maps electronically. Based on the current regulations and standards, they cannot be filed electronically.

Memorandum of Understanding – Proposed draft

The discussion returned to having a model of a formal MOU for the towns or just setting minimum standards to be included in an agreement between the town and vendor. The State Librarian must find out if the agency has the authority to provide a model MOU for the towns, as the state is not a party to the agreement. He also mentioned that he is thinking of requiring the towns to file with the Public Records Office copies of any agreements they enter into with submitters. At a minimum, the Library would be a central repository.

Lizette reported the model Memorandum of Understanding (MOU) provided to the committee is based on drafts from other states. In Massachusetts, there are three possible agreements between the town and the vendors and the town and document submitter. Some counties require individuals and law firms submitting documents for recording through a vendor to sign a separate agreement. Brian Kilfoyle said that Simplifile provides its own document that is signed between the town and Simplifile. Law firms may not currently have technology to act as a vendor but they may in the future. If so, this would require an agreement with the town clerk.

The committee agreed than an “Agreement” between the town and its vendors would suffice instead of a Memorandum of Understanding.

Old Business

None

New Business

Ken and the Library staff will try to update the Draft Regulations document as soon as possible and get it to the committee for their review.

Meeting Schedule

Next meeting to finalize the regulations will be held on Tuesday, July 12, 2011 at 10:00 A.M.

MEMORANDUM OF UNDERSTANDING – PROPOSED DRAFT

OLD BUSINESS

NEW BUSINESS

MEETING SCHEDULE

ADJOURNMENT

Ken asked for a motion to adjourn. Attorney Bernie Liu motioned to adjourn, Therese Pac seconded the motion. The motion was passed.

The meeting adjourned at 12:11p.m.

Respectfully submitted,

Kendall F. Wiggin, Chair

Ursula Hunt, Recorder