



DISTRICT OF COLUMBIA LAND TITLE ASSOCIATION
c/o Roy L. Kaufmann, Esquire
Jackson & Campbell, P.C.
1120 20th Street, N.W.
Washington, D.C. 20036
Tel: 202-457-6710

September 23, 2005

Mr. Larry Todd
Recorder of Deeds
515 D Street NW
Washington, DC 20002

Re: **Making Electronically Recorded Documents Viewable Instantly on Web**

Dear Larry:

First of all, thank you to you and to Keith for joining us last Tuesday for lunch. The round-table discussion was a welcome opportunity to review the great progress made by the Recorder's office as well as to review other concerns of the title industry.

At that meeting, you expressed hesitancy to allow electronically recorded documents and their indices to be viewable as soon as recorded¹. Your thought was to hold off on such publication until the indexing of the paper documents for the same day "caught up". We urge you allow the public to view those documents at the earliest possible opportunity.

One of your rationales was that the public might be misled as to what actually might be the status of title on property if the public were not aware of paper documents not yet viewable on the web. Your example was an electronic deed appearing on the Web, but a paper deed filed a day earlier not yet indexed.

Section 1201 of Title 42 of the D.C. Code (copy enclosed for your easy reference) sets forth the duties of the Recorder. We respectfully submit to you that the function of the Recorder of Deeds is to accept documents for filing and make the public aware of recorded documents at the earliest practical opportunity. The Recorder does not opine as to what title is vested; it only reports what documents are of record.

¹ Or, at least, viewable when the Web is updated.

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The title industry certainly recognizes this distinction. After examination of all records, we would insure as of the “through date” of the paper documents (i.e., the effective date on the Web), but we would also report the electronic transactions subsequent to that date. Mindful of your worry, we would not guaranty title beyond the “through date” because we, like you, understand that paper transactions not yet viewable may have an impact on title.

The operative criterion is the time a document is *filed*, as opposed to the time when it is reviewed and accepted for recording or the time it is viewable in any index. For example, 42 D.C. Code §1201(c) instructs us that notices of Lis Pendens “shall have effect from the time of the filing for recordation” [emphasis added]. Since the notice is effective, why not let the electronic indexing take its course, show it on the Web, and let the world know immediately? It would certainly achieve its objective in the event a title company searched the Web before recording a deed. If the title company does not see the electronically recorded Lis Pendens, the transaction goes forward and the plaintiff’s rights are compromised. If you withhold the public’s ability to view the electronic notice until the paper documents have “caught up”, I suggest that a disservice is being done to the public.

Section 4(h) of the new Uniform Real Property Electronic Recording Act of 2005 underscores that, not only should the Recorder be tracking the time of delivery of documents (as opposed to the time that the examiner reviews and “approves” the document), but that the Recorder maintain a single, unified index (i.e., not two “separate, but equal indices with one for paper and one for electronic recordings).

(h) Any electronic document or digitized image recorded at the Recorder of Deeds shall be deemed recorded as of the date and time of its delivery to the Recorder of Deeds; provided that the document or digitized image is accepted by the Recorder of Deeds for recordation. The Recorder of Deeds shall maintain a record of time and date of delivery in its index.

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To implement this duty, I have had discussions with Keith and Softpro about logging the date/time of transmission of documents to ROD and making *that* the “effective” date/time of the recording upon approval by the examiner.²

Sincerely,

D.C. Land Title Association

By: _____
Roy L. Kaufmann, Lobbyist

Enclosures

cc: Keith Jones, Deputy Recorder of Deeds
David H. Cox, Esquire

² If the examiner rejects a document, the effective date/time of recording would be the date/time of submission of the re-recording.

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cc: Mayor Anthony Williams (via e-mail)
Chairman Linda W. Cropp (via e-mail)
Councilmember Phil Mendelson (via e-mail)
Councilmember Sharon Ambrose (via e-mail)
Councilmember Marion Barry (via e-mail)
Councilmember Kwame R. Brown (via e-mail)
Councilmember David Catania (via e-mail)
Councilmember Jack Evans (via e-mail)
Councilmember Adrian Fenty (via e-mail)
Councilmember Vincent Gray (via e-mail)
Councilmember Vincent Orange (via e-mail)
Councilmember Kathleen Patterson (via e-mail)
Councilmember Carol Schwartz (via e-mail)
Board of Directors of the District
of Columbia Land Title Association (via e-mail)
DCLTA TOPA Task Force Members (via e-mail)