

News From the ROD

Chippewa County Register of Deeds

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Message from the ROD

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Look for our Newsletter online:

<http://www.co.chippewa.wi.us/departments/registerdeeds>

<http://landshark.co.chippewa.wi>

Inside this issue:

Fraudulent Satisfactions	2
Identity Theft	3
Transfer on Death Deeds	3



Wisconsin Register of Deeds are involved in a variety of projects to further automate the way we do business and to improve access to our records by exploring technology that will allow us to serve our constituents electronically.

One of the projects is the electronic filing of the Wisconsin Real Estate Transfer return form (RETR). Brown County has been selected by the Department of Revenue to be the pilot county for this automation project. Customers will be able to log onto the DOR's web site and complete the RETR online in a very customer friendly manner (similar to Free File). With the assistance of a document management software, customers will have the ability to transmit a deed along with the RETR to the Register of Deeds Office over the internet for recording. Filing electronically is easier and less error prone than using the paper scanned—form and as soon as the electronically filed RETR is recorded by the county Register of Deeds, the data is immediately available to county officials, assessors, and the DOR.

Another project is regarding a partnership with MyLocalGov and the Wisconsin Register of Deeds Association which will allow Wisconsin Register of Deeds to receive requests and payments for copies of records (birth, death, marriage and real estate) over the Internet. Currently all such requests must be made, and paid for in person or by mail. Allowing our customers to place an order and pay over the Internet will greatly increase turn around time.

The purpose of the Chippewa County Register of Deeds Office (ROD) is to provide official record keeping for all real estate, personal property, and vital statistics and to provide a convenient and public place where valuable documents can be filed and/or recorded. A cooperative working relationship with the various professional and general public is viewed as an integral aspect of its mission as is the continued awareness of statutory changes, automation, evaluation, and staff development to assure the quality and timeliness of its functions.

Alert

Fraudulent Satisfactions

There have been fraudulent Satisfaction of Mortgage documents filed in Dane and Milwaukee Counties recently. Since the documents are presented in a “recordable” format the register of deeds can not refuse to record them.

The way this allegedly works is that the Dorean Group, a California based company, uses independent brokers to find homeowners who want to ‘eliminate’ the mortgage on their home for a \$3,000 fee.

The homeowner establishes a trust naming D. Scott Heineman and Kurt F. Johnson of the Dorean Group as trustees. The trustees then bombard the lender with paperwork challenging the validity of the loan. This paperwork contains language that gives the trustees the ability to act as the attorney-in-fact for the lender if the challenges are not answered.

Assuming no answer is obtained from the lender, a power of attorney is filed and then followed by a satisfaction of the mortgage. Once this is done, the homeowner then executes a quit claim deed giving ownership of the property to the trust. The property is then refinanced. The Dorean Group keeps 50% of the loaned funds; the homeowner and broker each take 25% of the remaining funds. This new loan is then “eliminated” using the same methodology as was used to “eliminate” the first loan.

The first loan is still “valid” and the homeowners will be in default for not making payments and may face foreclosure. Also, the homeowner may face liability for the loan that the trust takes out.

FTC Having Issues Over Customer Privacy

The Federal Trade Commission last week announced an administrative complaint against one major mortgage company and a settlement with another, both for alleged failures to protect customers' privacy.

The agency accused Nationwide Mortgage group Inc. of Fairfax, Va., of failure to protect customers names, Social Security numbers, credit histories, bank account numbers, income tax returns and other sensitive data. Such protections are required under the federal Gramm-Leach-Bliley Act.

Regulators also reported reaching an agreement with Sunbelt Lending Services Inc., a Clearwater, Fla., subsidiary of Cendant Mortgage Corp., over customer privacy issues. The company agreed to outside audits twice a year for the next 10 years. Details are available online at www.ftc.gov.

Longer article on the web site of the Federal Trade Commission:

<http://www.ftc.gov/opa/2004/11/ns.html>

(Short news item that appeared in the business section of the Milwaukee Journal Sentinel)

Keeping Your Customers Safe From Identity Theft

By Mark Ladd (former Racine County ROD). Mark co-chairs the Property Record Association's (PRIA) Privacy/Access Workgroup.

Privacy is an incredible hot-button topic these days. Therefore, public records custodians, especially those who are elected to their posts, are very sensitive to the public's expectation that government will protect their personal data.

On the other hand, open records are considered a foundational element in government accountability. Many county offices are attempting to fill the demand for easy access to public records by posting their information on the Internet.

In a nutshell, this is the dilemma for records custodians. Privacy interests and the interest for disclosure often compete against each other!

For decades the prevailing philosophy within the United States has been that the public has the "right to know" about information collected by the government. So why wasn't this records problem an issue ten years ago? The digital age we live in has changed our relationship with these records.

Not that many years ago public records existed in what has been called "practical obscurity". In other words, even though records were open to the public, you had to physically go to the courthouse, and you had to understand how they were indexed in order to find them.

This is no longer the case, more and more counties are developing what is being called a "virtual courthouse". These Internet-based sites are designed so that citizens can conduct business with the government when it is convenient for the citizen.

Identity theft is the fastest growing crime in the United States. In 2002 the Federal Trade Commission reported 161,189 identity theft complaints, nearly double from the previous year. And the reality of the situation is probably worse, as studies show that most identity theft victims do not learn they were victimized for up to 14 months later!

Now add the pressure of competing and/or conflicting state and local statutes and directives. One state passed a law requiring land records to be published on the Web (over the objections of that state's association of county recorders). When the public began to complain about the availability of personally identifiable information (one of the issues the state recorder's association warned about), the legislature rushed to adopt legislation requiring the redaction of information from public documents, again, over the objection of county recorders.

What Can You Do?

- First, be proactive about protecting your customer's privacy. You can help your county recorder and your customers by reducing and eliminating the inclusion of Social Security numbers from documents destined for the public record. SSN's are rarely necessary on public documents.
- What about background checks for your employees? If you're like most of us, you've never given this too much thought, but your employees have access to some incredibly sensitive information that could easily be misused.
- Limit the information you post on your Internet site. Just because information is available in the public record doesn't mean it's a good practice to make personally identifiable information readily available to individuals who might misuse it.

Transfer on Death Deeds

A Transfer on Death conveyance is one by which the grantor transfers whatever interest he or she has in real property, if any, without warranties or obligations. In the case of a Transfer on Death (TOD) type of Quit Claim Deed, the actual conveyance occurs at the time of death of the grantor as per S. 705.20.

A TOD is usually from parent to child but the transfer does not occur until later in history. The grantor may reserve all rights, including the right to sell and convey, thus defeating any interest that would otherwise pass upon the death of the grantor. The deed is exempt from fee and form because it is not defined as a conveyance by sec. 77.21(1), which must be so stated on the document. At the time of the grantor's death, this document is exempt under 77.25(11). A Termination of Decedent's Interest may be used at the time of the grantor's death to give notice of the termination of property interest and also indicate the transfer of interest to the grantees. The document drafter of the HT-110 would write a reference to s. 705.20.

The following wording on the TOD Quit Claim Deed is preferred: "THIS DOCUMENT IS EXEMPT FROM FEE AND RETURN BECAUSE IT IS NOT DEFINED AS A CONVEYANCE BY SEC. 77.21(1), STATS., FOR PURPOSES OF REAL ESTATE TRANSFER TAXES BECAUSE IT IS A TRANSFER ON DEATH DEED UNDER SEC. 705.20 AND AT THE DEATH OF THE GRANTOR WILL BE EXEMPT UNDER SEC. 77.25(11), STATS."