



Electronic Real Estate Recording Task Force

Memorandum

**To: Members of the Drafting Committee of the NCCUSL –
Uniform Real Property Electronic Recording Act**

**From: The State of Minnesota Electronic Real Estate
Recording Task Force (ERERTF)**

Date: July 22, 2003

**Re: Information and Status of the Progress of the
Minnesota ERERTF**

Copies: Commissioners of the NCCUSL



Electronic Real Estate Recording Task Force

Electronic Real Estate Recording Task Force (ERERTF) Defining e-Recording Standards for Minnesota

The Minnesota Electronic Real Estate Recording Task Force (ERERTF) is very interested in the work of the NCCUSL and the drafting of a uniform law on electronic real estate recording.

Because we are all interested in the same general goal, i.e., creation and implementation of state-by-state cost effective and workable electronic real estate recording systems, the Minnesota task force would like to take this opportunity to provide the following information to your Drafting Committee, regarding the progress that our State has made (and continues to make) with regard to the development of standards for, and the effective implementation of electronic recording in Minnesota.

Inception of Task Force

In recent years, major changes in land development practices, mortgage financing, and conveyancing have increased the volume as well as the complexity of the documents that are presented for recording at recorder's offices throughout Minnesota. In addition, rejection rates have increased and so has frustration with some aspects of land records system.

In April 1999, Senator Steve Kelley asked Secretary of State Mary Kiffmeyer to convene a group of persons interested in Minnesota's land record system, to study the feasibility of electronically recording real estate documents. A number of Minnesota county recorders had shown an interest in this subject, and these efforts were combined and launched in the fall of 1999. After this group of public and private members determined sufficient interest and common agreement they decided to ask the Minnesota Legislature to make them an official Task Force. The Minnesota Legislature, in Laws 2000, Chapter 391, authored by Senator Steve Kelley and then-Representative Tim Pawlenty (now Governor), directed Secretary of State Mary Kiffmeyer to establish a task force to prepare a budget and work plan to present to the legislature for approval. Approved legislation directed the task force to implement the work plan which would study and make recommendations on electronic filing of real estate documents for the State of Minnesota.



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Process for Defining Standards

Evaluation of Current systems in Minnesota and Other States: The ERER Task Force defined its mission as the need to study the current paper based system and the feasibility of an electronic mode of real estate recording. In 2002 the task force conducted a survey and assessment of all 87 Minnesota county recording offices and Minnesota private sector stakeholders to gather information on processes, requirements, concerns and considerations. Automated systems currently utilized in other states were also assessed and compared to national recording standards.

Standards and architecture: Rather than mandate the adoption of a single application and system in order to automate transactions between different entities, the ERER Task Force determined that the use of Extensible Markup Language (XML) would allow for the infrastructure-independent exchange of standardized information. This approach takes the direction offered in the Federal government's E-Sign Act (Electronic Signatures in Global and National Commerce Act), which says:

(A) ACCURACY, RECORD INTEGRITY, ACCESSIBILITY- Notwithstanding paragraph (2)(C)(iii), a Federal regulatory agency or State regulatory agency may interpret section 101(d) to specify performance standards to assure accuracy, record integrity, and accessibility of records that are required to be retained. Such performance standards may be specified in a manner that imposes a requirement in violation of paragraph (2) (C) (iii) if the requirement (i) serves an important governmental objective; and (ii) is substantially related to the achievement of that objective. Nothing in this paragraph shall be construed to grant any Federal regulatory agency or State regulatory agency authority to require use of a particular type of software or hardware in order to comply with section 101(d).

Minnesota studied closely and emulated as much as possible other efforts to establish standards in this area. The Property Records Industry Association (PRIA) standards were a starting point for e-recording. PRIA is a national association representing the interests of county recorders, auditors and treasurers. In order to accommodate the requirements and fields needed by the preparers of mortgage documents, Minnesota used also the Mortgage Industry Standards Maintenance Organization (MISMO) standards. In addition, Minnesota studied Uniform Conveyancing Blanks in the initial building of standard requirements. Finally, Minnesota standards include legislated information that is mandated specifically for filings in the State of Minnesota.



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The Minnesota Approach to Standards Development: A significant difference in Minnesota's approach to the development of standards, as compared to PRIA and MISMO, is in its paramount goal to meet the needs of not just one particular stakeholder (e.g. recorders or the mortgage industry) but to address the needs of all stakeholders. This is best reflected in the statutorily required membership roster of the Minnesota task force. As stated above, membership is comprised of all stakeholders in electronic recording from both the private and public sector.

In contrast to PRIA and MISMO, Minnesota decided to document its standards using XML schemas rather than DTDs (Document Type Definition). Both define the elements or record structure of an XML document, but schemas offer many more advantages. Schemas are expressed in well-formed XML, while DTDs are not. As a result, schemas allow all the functionality of XML for sharing, re-using and customizing data and its accompanying business rules.

For example, through the use of schemas, Minnesota can enforce data formats such as data types (dates), data patterns (phone numbers as (999) 999-9999) and default values, none of which can be done simply with DTDs. This ensures that standards will more effectively format and validate data, and that transactions will be more accurately and successfully automated. As well, this will alleviate the need for burdensome documentation, programming and development for anyone implementing standards. Developing schema-based standards better positions Minnesota for future needs and changes.

Minnesota Task Force Subcommittees and Organization: The Minnesota ERER Task Force is broken down into several subcommittees. It is through subcommittees that much strategic, technical and analytical work is completed. Recommendations are then made by these subcommittees to the full Task Force for consideration and authorization. The following lists the subcommittees involved in task force work:

- Pilot Framework and Scope
- Legal Subject and Fee
- Pilot Proposal Review
- Recording Content and Workflow
- Technology
- Geographic Information Systems (GIS)
- Private Sector



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Adoption of the Minnesota Electronic Real Estate Recording Standards v. 1.0

The efforts of the Minnesota ERERTF produced the Minnesota Electronic Real Estate Recording Standards v.1.0, which were unanimously adopted by the task force in June of 2002. These standards include the business rules for e-recording and a definition of the legal, technological, operational, and functional context for making such an e-government system work. The development of the Minnesota's ERER Standards is an on-going and evolving process that is designed to keep pace with the changing needs of the public and private sector stakeholders.

Pilot Testing Minnesota ERERTF Standards

The Minnesota ERERTF Standards are currently being tested in pilot counties that represent a diverse subset of Minnesota Counties. Pilot counties are Dakota, Roseau, Renville, Lyon and Hennepin County. Pilot testing has been broken into two phases. Phase I will include the electronic recording of Satisfactions and Certificates of Release, Phase II will include Deeds, Assignments of Mortgage and Certificates of Real Estate Value. Phase I testing began in June of 2003.

Dakota County is the first of the pilot counties to complete its installation of enabling technology and as of July 2003 has recorded 584 Satisfaction documents in a fully electronic fashion. See Appendix A: for a sample filing from this group at Dakota. The other pilot counties are in line to begin testing soon for this phase of work.

Task Force Funding

In Laws 2001, First Special Session, Chapter 10, Article 2, Sections 98-99, a .50 cent per transaction user fee charged to the filing of real estate documents at county offices was dedicated to a separate fund. This amount was appropriated and is available to the ERERTF until June 30, 2004.



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Task Force Membership

The ERER Task Force membership is a joint public / private stakeholder initiative. This is a voluntary group that has dedicated time and resources for the past three years to the development and testing of electronic real estate recording standards. Although task force members are entitled to reimbursement for mileage expenses, very few seek reimbursement and less than 2% of the task force budget goes to such reimbursements. 98% of Task Force expenditures have been for work on project coordination, standards development and pilot testing.

The 46 member task force includes County Recorders, Auditors and Treasurers, members of the Senate and House, the State Planning Office, City Assessors, Fannie Mae, Builders Association of Minnesota, title companies, law firms, County Surveyors, the Realtors Association, the Land Management Information Center, the Department of Transportation, the Minnesota Historical Society, the American Society of Auditors, technology vendors, the Bankers Association, Department of Revenue, and faculty from Minnesota Law Schools. This diversity is mandated by the law establishing the task force.

National standards groups are also included in this process, including the Mortgage Industry Standards Maintenance Organization (MISMO) and the Property Records Industry Association (PRIA). Compatibility with the standards developed by these groups is a key element to the Minnesota initiative.

Adoption of Finalized Standards

From the results of pilot testing the Minnesota ERERTF can best learn how to develop a practical and cost-effective alternative to the current paper-based filing process. The effectiveness of the standards will be evaluated and standards will be redrafted to reflect findings from these pilots. Upon the adoption of final filing standards and a final report, a recommendation will be made to the Minnesota legislature to adopt a final version of the standards as Minnesota's statewide methodology for electronic real estate recording.



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Conclusion

Please note that the Minnesota EREER Task Force currently is reviewing the most recent draft (which will receive its first reading at the annual meeting in August) of the Uniform Real Property Electronic Recording Act and intends to forward comments to the Drafting Committee for information and consideration prior to its meeting in the fall. For further information regarding the Minnesota EREER Task Force please see the task force web site at www.commissions.leg.state.mn.us/lcc/erertf.htm. Should you have any questions or comments please do not hesitate to contact the task force Project Coordinator, Beth McInerney at 612-860-4563 by phone or email at Beth.McInerney@comcast.net.

Thank you for your time and consideration of the matters set out in this memorandum.



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Appendix A: Electronically Recorded Satisfaction at Dakota County

DOC NO 2038470.0
OFFICE OF COUNTY RECORDER
DAKOTA COUNTY, MINNESOTA
CERTIFIED THAT THE WITHIN INSTRUMENT
WAS RECORDED IN THIS OFFICE ON AND AT
06/10/2003 02:20PM
JOEL T. BECKMAN, COUNTY RECORDER
REC FEE: \$20.00
PAGES: 1

Satisfaction of Mortgage
(Abstract)

Date: June 10, 2003

Loan#: 49901781998
Invoice#: E0000262
BarCode#: E0000262-01FB01

THAT CERTAIN MORTGAGE owned by the undersigned, a **National Banking Association** under the laws of **The United States of America**, DATED, **April 25, 2002** executed by **STEPHEN D FOSE and LINDA A FOSE, as husband and wife to U.S. Bank National Association ND**, and filed for record **July 18, 2002**, as Document Number **1917267** in the Office of the **County Recorder of Dakota County, Minnesota**, is, with the indebtedness thereby secured, fully paid, satisfied, released and discharged.

STATE OF **Minnesota**
COUNTY OF **Ramsey**

} ss

U.S. Bank National Association ND

By **Peggy Jordan**
Peggy Jordan, Mortgage Officer

The foregoing instrument was acknowledged before me this **10th** day of **June, 2003**, by **Peggy Jordan**, the **Mortgage Officer** of **U.S. Bank National Association ND**, a **National Banking Association** under the laws of **The United States of America** on behalf of the **National Banking Association**.

THIS INSTRUMENT WAS DRAFTED BY:
US Recordings
Chris Frank
2925 Country Drive
St. Paul, Minnesota 55117
USA

RETURN TO:
US Recordings
2925 Country Drive
St. Paul, Minnesota 55117
USA

Mary C Parnell

(SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT)
NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK):

Mary C Parnell
Notary Public
State of Minnesota

My Commission(Expires)(Is) **January 31, 2005**