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US land records: Losing common sense in the digital age - by Denald Ellen Doonan

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If the recent COVID-19-19 pandemic has proven one thing to the Property Records Industry Association (PRIA), a non profit trade association for those responsible for managing and preserving land records, it should be, that the use of advanced technology, in a way that delivers reliable information, is vital to maintaining economic growth, particularly in the Real Estate industry.

Since the 1980's the management and preservation of land records in Massachusetts has been viewed by many as being in a frenzied state of semi-organized chaos. Within that time users have witnessed the disappearance of printed record books and a conversion to computerized imaging of original documents, displayed on a variety of Registry of Deed computer platforms that disclaim accuracy and shown itself vulnerable to security issues that go undetected for days if not weeks.

Today, the land record system throughout the United States, and particularly in Massachusetts, is faced with the challenges cause by relying heavily on computerization in areas of authenticity of recorded documents, security and reliability. These challenges were not caused by the COVID-19 pandemic, but like a virus, have been brewing for over 40 years.

The closure of nearly all the Massachusetts Registry of Deeds in March of 2020 forced everyone to rely solely upon the fragile online data base systems of each individual Registry of Deeds in order to conduct sensitive real estate business. However, cracks with the online record keeping systems and the consequence of using out dated technology have become apparent to all, not just the regular users.

For example:

First: Not all registry online data base systems contain the required information necessary to complete a basic, statutory, residential title search covering 50 years.

Second: Not all documents are imaged, even if the site states that they are, it's just not true.

Third: In certain Registry of Deed's not all Land Court documents can be found, especially Certificates of Title and related encumbrance sheets.

Fourth: In some registries, plans are not indexed according to the Plan Book and Plan number/page number that is referenced on an accompanying deed or other document. The user is forced to

spend an extraordinary amount of time trying to locate the proper documents.

Older plans, atlas's, etc... are often overlooked by the record custodian as obsolete and unnecessary in present day research and therefore those instruments do not appear on the online data base.

So even today, a physical trip to the Registry of Deeds is necessary for an inspection of books and plans in order to uncover valuable title information.

Fifth, and arguably most important of all: Massachusetts lacks state wide uniformity in the delivery and dispensing of land record information, despite the attempts made by the Massachusetts Deed Indexing Standards and other state run Technology study groups.

Now is the time for elected and designated state officials, starting with the chief information officer for the Commonwealth, secretary of state, William Galvin; public record custodian's (Register's of Deed); the supervisor of public records, Rebecca Murray; designated secretary of technical services and security, Luke Ferreira and all county commissioners who oversee the functioning of Registry of Deeds, to exercise their fiduciary duties to uphold the standards of care set forth in "The Guide to Massachusetts Public Records Law."

It is the responsibility of those government officials, in their elected or designated capacities to ensure the safekeeping, access to and security of, public records, in other words, to sincerely care about all of it. To be part of the solution, not the problem.

We are in a time when Norfolk County Register of Deeds, William O'Donnell pleas with county commissioners not to eliminate the Registry chief information officer (CIO) and the on-site registry IT technology department; the only position at the Norfolk County Registry of Deeds able to detect and respond to cyber security issues immediately.

We are in a time when the Southern Essex County Registry of Deeds is offering a service to the public to e-record various documents from the convenience of their home, which includes discharges and liens against their property, with little thought as to the consequence of fraud or perhaps adding an extra layer of security to the authenticity of the discharge being recorded. This seems ironic given how much time and energy was spent investigating purported ROBO signer signatures by the same register.

While prudent safety measures like wearing masks, social distancing, and not accepting cash, are among changes at some Registry of Deeds, all made in the name of public safety, shouldn't we be as concerned about the need to tighten requirements instead of loosening them in order to actually lower security risk and ransom ware threats? In the words of register O'Donnell, "It just makes no sense."

The Massachusetts Independent Title Examiners Association, Inc., (MITEA) has assisted various Registers of Deeds over the past 16 years helping to identify issues within the public record and

online database information.

Part of the MITEA mission statement is “ To Promote the Understanding, Awareness and Importance of producing the PROPER examination, abstracting and reporting of the Registry of Deeds Land records, thereby ensuring the Integrity and Quality of the title product.”

The mission statement is more important than ever. MITEA stands ready to be a part of the solution because WE CARE.

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