

# The World of ERecording A Title Company Perspective

Margaret Sklenar

Metropolitan Title of Indiana, LLC

Old vs New



## Race System

Indiana is a race-to-record state. E-recording makes all the difference in ensuring time-sensitive documents are recorded quickly and efficiently.

Gap period between the time of closing and recording reduces the risk for property buyers as well as reduces the risk for the title insurers.

# Commercial and Residential Transactions



Risk of the title insurer for large commercial transactions. In the past, the title insurer/agent had a title searcher examine the records for an up to the minute snapshot of title. We would have a team member sitting at the court house to hurry and place the documents of record as soon as the search was complete.



On the residential side, if we had a seller who had a multitude of judgments that we obtained payoffs to clear title, we would also perform an up to the minute search and then race to place the documents of record and keep our fingers crossed that nothing had fallen onto title before the date of recording.

## Residential Transactions

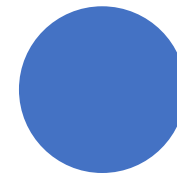
The Homestead and Mortgage Exemptions and their dependence on recordings.

Another race to the court house to record at year end. Very stressful for title as well as the Auditor and Recorders.

- As a title insurer and agent, we are ALWAYS suspicious of fraud.
  - Identification
  - In person vetting
  - Listening to what is asked of the closer/title insurer
  - Mail away closings
  - MOST IMPORTANT-THE DOCUMENTS TO RECORD AND INSURE

---

## Risk of Fraud



# Recording Fraud



Fraudulent recording schemes take many different forms, but all tend to begin in the same manner. Generally, the perpetrator will look for vacant properties and then file a forged or fraudulent deed. The deed will purport to transfer title into the name of a stolen identity, a fictitious person, or an entity controlled by the perpetrator. The deed then serves as the basis for further fraudulent activity.



A common practice is for the perpetrator to obtain a mortgage on the real estate based on the fraudulent deed. If the county recording office has a large processing backlog, the perpetrator may be able to repeat the process several times before the recorded mortgages appear of record.



## Recording Fraud

- Recording fraud only works if the perpetrator thinks he or she can get away with it. That is inherently difficult with eRecording. The use of eRecording normally requires the submitter to enter into agreements with private companies and set up an electronic payment system. This arrangement leaves a set of electronic footprints traceable back to the submitter. Moreover, the persons and entities that would go through the set-up process for eRecording are nearly always legitimate enterprises that have a very low risk of potential fraud.



# Increased Security

E-Recording follows the same process of submitting documents for recording that is done every day by title companies across the nation – with one change. Instead of sending the original signed paper documents to the county or recording jurisdiction, they are scanned, sent, received, returned, and tracked via the Internet. This change not only simplifies and accelerates all aspects of the recording process, but it's also more secure.

How? Well, for starters, you retain control of the original documents throughout the entire recording process. With traditional, paper document recording, you release the paper originals to a mail or courier service to be delivered to the county. These paper documents along with your check are much more vulnerable to being altered or stolen en route to the county, and check theft can compromise the safety of your entire escrow account. Thankfully, when you submit your documents electronically through an e-recording platform, the electronic original cannot be changed or altered after you've submitted it to the recorder's office, and you don't have to worry about check fraud with payments processed securely through ACH, or Automated Clearing House.

## Increased Security

- Myth: An electronic document is less secure than a paper document.
- Reality: Electronic documents are equally secure as paper documents, if not more secure. Secure Internet protocols and mathematical encryption algorithms ensure a higher degree of security for the electronic submission of a document than the security provided by in person submission or mailing a paper document to the recorder's office. At the very least, an electronic document is no less secure than a paper document

# Increased Security

- Myth: eRecording is more susceptible to fraud or robo-signing.
- Reality: eRecording is less susceptible to fraud than paper documents. Recording a document, whether in paper or electronic format does not make it legal; the act of recording it makes it a public record. A Recorder's job is not to determine the legal validity or sufficiency of documents. The confidence we have in real estate transactions is based largely on what has been called "a web of trust." There are a number of parties who are required to complete a transaction, several of whom would have to be duped to commit fraud. eRecording adds additional strands to that web of trust. The fact that a document sender must be authorized as a trusted Submitter and that documents can be traced back to that document's Submitter creates a more secure environment than an unknown customer walking up to the Recorder's counter and then disappearing. The electronic audit trail of eRecording provides a stronger deterrent to fraudulent behavior. eRecording is effective in lowering the cases of fraud, not increasing them. The responsibility for identifying and stopping issues of fraud lies with the entities executing (signing, overseeing the signing of) the document and not with the Recorder.

# Fact

There is less paper-handling. There is less room for manual, human error such as packages getting lost in the mail or the failure of submission.

Staff is able to submit documents minutes or hours after closing which increases confidence on insurability.

The recording process has become a part of the closing process and not a post closing function.

No longer have issues with lost recording checks/checks not clearing account. ACH payments eliminated need for a check for each recording package and Sales Disclosure.

## Accurate Fee Submission

---

Because the eRecording platforms correctly bills the submitter for the recordings sent, it saves the county from having to handle incorrect recording payments.

---

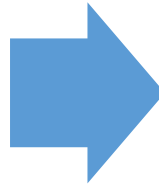
For the settlement agent, it lessens the need to call the Recorder to verify fees and send smaller, additional checks in case the amount differs.

---

It also allows settlement agents to more accurately track recording accounts and costs.

## Comments from Recorders

Faster Turnaround: Hours vs. days to get your document back. The Race to the Courthouse Becomes Instantaneous: Your e-document beats one submitted via the mail Large potential cost savings in postage, overnight shipping and delayed proceedings Fewer Rejections and Faster Corrections: E-Recording eliminates rejections for incorrect fees. Rejected documents can be resubmitted in hours vs. days.



eRecording is an efficient, cost effective and secure way to record documents. It allows you to record documents same or next day without ever leaving your office. Your document is received electronically through our Public Access System. eProcessing is done at the County in the same manner as all other documents received for recording, but the documents are returned to you electronically the same or the next day and are available immediately through out Public Access System.

# Additional Comments



SENDING YOUR DOCUMENTS ELECTRONICALLY FOR RECORDING HELPS YOU SAVE TIME AND MONEY.



DOCUMENTS RECORDED IN MINUTES



AVOID MAILING COSTS, TRAFFIC, AND WASTED TIME



ELIMINATE CHECK WRITING EXPENSES



INCREASE EFFECTIVENESS AND EFFICIENCY



SHORTEN THE RECORDING GAP



## Reduced Paper and Environmental Costs

- Because there is no need to scan the documents, there is typically no need to print them in the first place.
- Through the reduction of printing, a large title agent can save approximately 4000 pages of paper in a month. It is possible to save over 25,000 pages in printing in a month. Imagine the savings that could be recognized by eRecording for all transactions in a county.



# Staffing Opportunities

There is always a fear of job elimination when technology is offered. As an industry that has embraced E-Recordings, we have found that it has allowed our staff an opportunity to advance in different meaningful roles within our company. This process has not eliminated any jobs in our company. It has actually enhanced our level of service to our customers and consumers.

We are able to spend less time in a paperless environment that increases accuracy and insurability.

## Conclusion

Adoption of eRecording has a profound impact on settlement agents, lenders and consumers as well as the county Recorders and Auditors.

eRecording has lowered the cost and increases the efficiency of the county officials as well as the title and settlement agents that submit recordings.

eRecordings provide a better way to ensure that the public record is updated quickly and accurately and give better controls to ensure against fraud.

Thank you!

- **Questions and Answers**