

ND County Recorder's Association Quad Meetings
April 13, 2009 – Grand Forks
April 14, 2009 – Jamestown
April 15, 2009 – Bismarck
April 17, 2009 - Minot

MINUTES

1. **AG Opinion regarding recording Receipt from Clerk of Court and Highway Plats when taxes are due.**

Executive Board asked Aaron Birst to review this

Is the "Receipt from Clerk of Court" the document that transfers title?

Is the "Plat" the document that transfers title?

Can these documents be recorded without regard to taxes?

*SE Quad: Letter of Condemnation (Receipt) from Clerk of Court
State's Attorney prepares deed.*

Plat is also recorded.

SW Quad: Aaron Birst will have an answer at convention.

NW Quad: Aaron Birst is looking in to this.

NE Quad: Aaron Birst is working on this.

2. **Death Certificate AG Opinion 2005-L-03**

Only a certified copy of a death certificate may be used to transfer real property.

Recorder cannot refuse to record a document that meets recording requirements. If you receive a document, such as an Affidavit Terminating Life Estate or Joint Tenancy, that meets our requirements for recording, record it. It doesn't need to have the Auditor's Transfer because it isn't a document that transfers title.

*SE Quad: Must be a certified copy to transfer real property.
An affidavit terminating life estate or joint tenancy, which meets our requirements for recording, should be recorded, but doesn't need the Auditor's transfer.*

*SW Quad: Must be certified copy of death certificate
Recorder cannot refuse to record a document that meets recording requirements.*

Recorder cannot reject a document because it does not have a legal description – it can be indexed in Miscellaneous index. Recorder should let the person know that it will not be indexed against any

real estate without a legal description.

An Affidavit Terminating Life Estate or Joint Tenancy that meets recording requirements doesn't need to have an Auditor's Transfer because it isn't a document that transfers title.

When recording a photocopy of a certified copy of death certificate attached to an Affidavit, it should be noted that it is a photocopy because when scanned, it will look a certified copy.

NW Quad: Need to have a certified copy to transfer; annotate photocopies as such.

NE Quad: Only a certified copy of a death certificate may be used to transfer real property. Wells County SA asked Carrie to put "copy" on a photocopy when recording one so people searching on NDRIN will know it was a photocopy of a certified document.

3. Corner Monument project

Ann is working with Surveyor's association – they have to figure out how they want to access information on-line. NDRIN may not be the best solution because of all the documents.

SE Quad: Several counties have scanned their corner monuments, and others are in the process.

SW Quad: Should be scanning in Corner Monuments and Surveyors prefer 1 main index book.

NW Quad: Have one index rather than 1 index in each book; may be going on Water Commission website within the next 2 years; should be indexed in all descriptions that it touches; Should be scanned in the near future.

NE Quad: We will have class at our Association convention. We should start scanning old ones into the system as we can. Surveyors want this information on the net.

Recorder's Duties:

1. Receive & preserve in hardbound books. Books shall be numbered in numerical order as filled.
2. Number forms in numerical order as they are filed.
3. Book & page number in which said corner record is filed shall be placed near that same corner on a cross-index plat.
4. Make records available for public inspection during usual office hours

Sample of Nelson County monument records indexing report

4. Recording Duties

NDCC 11-18

Keep a full and true record of patents, deeds, mortgages, etc

Endorse upon each instrument the date, hour & minute of filing or recording

Endorse upon each instrument the book and page or document number
Is it necessary to include the Return to: information on each document?

Reception record must include:

- Document Number
- Date of Recording
- Name of Grantor
- Name of Grantee
- Character of Instrument
- Book & Page or Document Number
- Name of person to whom instrument is returned
- Brief description of the property

When any document is filed (11-18-09 NDCC) in the recorder's office, IMMEDIATELY write or stamp thereon a document number. Priority of the document number on an instrument shall be prima facie evidence of the priority of the filing thereof.

SE Quad: Documents need to be recorded in a timely manner.

SW Quad: Those in attendance determined it is necessary to include the "return to" information on each document

NW Quad: Discussed having the "return to" information on the document; documents need to be filed (recorded) in order they are received; document number is what puts the document in order and not the time. Recording documents without legals was discussed (ex. POAs)

Digitizing of records was spoke of and the different companies for book repairs.

NE Quad: We are not to "HOLD" documents and do them whenever we wish... we are to time and date them in a timely manner. Not sure if placing the "return to" information on documents Is required.

5. Documents entitled to record w/out acknowledgment (47-19-02)

- Judgments certified by the clerk of court
- Letters patent from the US
- Duplicate final receiver's receipt
- Certificate from US Land Office
- Contract between state and purchaser of school lands
- Affidavit made as provided in 47-19-12
- Certified Copy of an order of a district court relating to estate tax determinations
- State of Tax Commissioner relating to estate tax determinations
- Certified Copy of discharge of bankrupt
- A Financing Statement per 41-09-02
- All instruments issued by United States, or any agency, bureau, or department thereof, and the state of ND and all political subdivision thereof which affect the title to real property

SE Quad: 47-19-02 brought to attention of Recordors

SW Quad: Briefly discussed
NW Quad: Briefly discussed
NE Quad: Discussed – a city plat doesn't need a notary on.

6. Notice of Contract for Deed

AG 2000-L-39: Must have auditor's transfer

Taxes would be sent to Grantee

Since AG considers it a 'transfer', should we require one of the consideration statements be included?

SE Quad: Thinks a statement of full consideration sh/be required

SW Quad: Doesn't think full consideration statement is necessary

NW Quad: Topic not covered in minutes!

NE Quad: Some counties are requiring the consideration statement on Notices, and some are not. The Contract for Deed needs the statement on it to be recorded.

From Pam Kuk: E-Mail from Barry Hasti dated 4/7/98 states: A Notice of Contract for Deed does not transfer any property rights so it does not need a certification on the face of the deed regarding the full consideration.

Pam Kuk also sent the following information (I'm not sure where it was published): The Property Tax Division was asked whether a referee deed needed one of the statements required by NDCC 11-18-02.2 in order to record. It is the administrative position of the Tax Commissioner's Office that a referee deed is exempt from the requirement.

7. Conformed Copies

Customer provides the copy, but wants recording information entered.....

Fee for service?

Consider it a Certificate of Recording? Charge \$10 fee?

Charge copy fees?

SE Quad: Consensus was to charge copy fees

SW Quad: Should at least charge copy fees

NW Quad: Discussed confusion between Recorders and customers wanting conformed copies

NE Quad: Some Counties do these and some do not. We should charge copy fees if we are doing them.

8. Mineral Deed searches?

Anyone doing them?

Refer people to Abstractor?

SE Quad: Refer people to the abstractor

SW Quad: Donna Adams has a letter from State's Attorney that explains why Recorder can't do mineral searches – she will send it to everyone.

NW Quad: Refer to independent abstractors. We can provide

specific deeds or documents when requested.

NE Quad: We should not do this search. Some years the government retained an interest, so we can't be sure we are giving out correct information. Send these searches to the Abstractor. Encourage the parties to look at their abstracts – or come in and search themselves.

9. Liens

ASL-1 – Ag Processor's Lien (35-30 NDCC)

ASL-2 – Ag Supplier's Lien (35-31 NDCC)

ASL-3 – Agister's Lien (35-17 NDCC)

ASL-4 – Lien/Notice Amendment/Assignment/Termination

ASL-5 – Agricultural Landlord's Lien (47-16 NDCC)

MSL-1 – Miscellaneous Statutory Lien (35-20 NDCC)

MSL-2 – Miscellaneous Lien Amendment/Termination

SE Quad: No questions or comments

SW Quad: We can furnish forms to parties

NW Quad: No questions or discussion

NE Quad: Anyone have a cheat sheet? Expired ones are to be shred. Federal Tax Liens are to be kept forever – write expired on them. Some Counties are keeping up their Federal Tax Lien book – others are not.

Subordination on IRS form – will discuss this more at Convention. (President's note: who is going to discuss?)

Some are still getting bogus filings.

Ginger sent her "cheat sheets" on liens – and I will send them in an e-mail to all.

10. Apostille

Issued by the Secretary of State's Office, and is not the same as a certification.

Overseas transactions may need a government apostille affixed to certified documents.

SE Quad: When needed, (to prove marital status, etc), refer people to Sec of State office

SW Quad: Refer to Sec of State office

NW Quad: Discussed in regards to people going to foreign Countries needing proof of marital status, etc.

NE Quad: Issued by the SOS office and is not the same as certification.

11. Marriage License Application

Death certificate of deceased spouse required when applying? No....

SE Quad: Recorders do have the right to refuse to marry someone

SW Quad: No further discussion

NW Quad: No further discussion

NE Quad: No further discussion.

12. E-Recording

Committee has been in contact with Dallen Miner from Simplifile – he will be

giving a presentation at convention which goes through all the steps and procedures.

Aaron Birst is looking in to legislative issues dealing with e-recording and will have more information for us at convention.

SE Quad: Al Jaeger is working on national level with Simplifile. E-recording would be available to counties, but not Mandated.

Waiting to hear from Aaron Birst as to how we sit with NDCC

*Need Auditors involved because of transfer
Cost-effectiveness to counties was questioned.
CSA is already set up for this.*

SW Quad: SOS office checking about notarization, so will not happen until next legislative session.

*Only mortgages and satisfactions will be e-filed
(President's note: It was stated that some states are only recording mortgages and satisfactions by e-recording)*

*NW Quad: Make sure vendors are compatible with e-filing.
Most E-Filing in other states is done on mortgages and Satisfactions*

Legislation has to be addressed

NE Quad: more to come in June at convention.

13. NACRC Convention

The National Conference is in Nashville Tennessee in July

Ann cannot go this year – anyone interested?

Sheila will be attending as President (traveling with family)

SE Quad: No interest expressed

SW Quad: No interest expressed

NW Quad: No interest expressed; Ann discussed previous national conventions she had attended.

NE Quad: No interested expressed – association will pay half.

14. ND Recorder Association Officers

Diane Link, current Treasurer, does not feel she has the time to commit to moving “up the ladder” on the Executive Board. Our bylaws state the “term of office shall be for 2 years and until their successor has been duly elected and qualified”. She is willing to stay on as Treasurer for another term.

Any thoughts, ideas??

SE Quad: Suggested leaving Treasurer & Secretary positions open and not moving to Vice-President or President.

Some thought 8-year commitment was too many years.

SW Quad: Many thought 8 year commitment is too long – felt it should be discussed at convention.

NW Quad: Asked if anyone is interested in being an officer; Diane is not moving up due to lack of time to commit; election is every 2 years.

NE Quad: Thought it was fine if Diane wants to stay on as

Treasurer.

15. 2009 Convention

June 16, 17 & 18th at Ramada Inn in Grand Forks

ILG Classes – Tuesday morning – Kristi Fagerlund with “Fun is Good”

Tuesday afternoon – Aaron Birst

Other topics discussed:

Oath of office: Oath is filed in the auditor’s office – we can keep a copy in our office.

SW Quad: 1953 Session Law states that the NDDOT is only exempt from certain things as far as having to pay a fee. It is not exempt from having to pay for copies and some other things. Ginger will provide copies of information she has.

Question was asked if we could record a document without the expiration date of a Notary. All felt that it should be on there because it is a part of the notary seal.

Question was asked if we could record a Satisfaction without a legal description. Some counties are doing it with just the book and page of the Mortgage and some are not. It was decided that it should have a legal, so we know what is being satisfied.

NW Quad: Perpetual Care Cemetery – century code covers this; a renewal has to be filed every year. (President’s note: we will learn more on this at our ILG class with Aaron Birst)

A Records Packet will be put together for all Recordors and distributed at convention.

BE AWARE OF PEOPLE USING JUMP DRIVES ON PUBLIC TERMINALS AND GETTING INFORMATION FROM YOUR PROGRAMS.

NW Quad will host the Recorder’s convention in 2010 in Watford City. (President’s note: since the quad meeting, Ann has come up with the dates of June 29, 30 and July 1.)

Marriage License Program: I contacted the NDACo Service Desk as to who we should contact if we have a problem working with the marriage license program – I received information back after our quad meetings:

Most issues are handled by ITD – although NDACo Service Desk handles some maintenance like adding and removing users from the system. The best bet is to contact the ITD Service Desk at (877) 328-4470. They will assign the ticket to the proper department depending on the issue.

Deputies Performing Marriages: *The Ward County State's Attorney suggested to Sheila that she not have her deputies perform marriage ceremonies. There does not appear to be a statute that addresses this. The statute regarding State's Attorney's offices lists straight out what a deputies duties are, where the Recorder's code does not. Ward County State's Attorney felt that with all a marriage could lead to (divorce, custody battles, property settlements, etc), it is better not to put themselves in a position where someone may argue the validity of the marriage!*