



## ***Electronic Real Estate Recording Task Force***

# **Report to the Legislature – 2002**

## **Table of Contents**

Executive Summary.....	2
Recommended Project Plan.....	4
Funding Restrictions and Work To-Date: .....	5
The Assessment Phase:.....	6
Solidifying Project Scope:.....	6
Creation of Project Subcommittees .....	6
Pilot Framework and Scope Subcommittee .....	7
Legal Subject and Fee Subcommittee .....	8
Recording Content and Workflow Subcommittee .....	9
Communication Subcommittee .....	9
Technology Subcommittee.....	9
GIS Subcommittee.....	10
Private Sector Subcommittee .....	10
Task Force Project Funding Subcommittee .....	10
Select Consulting Team.....	10
Prepare Interview Template .....	11
Conduct Interviews.....	11
Tasks Outstanding - Select E-Recording Vendors and Prepare / Present Standards .....	11
The Design Phase: .....	11
The Development Phase: .....	12
The Implementation Phase: .....	12
Pilot Testing Phase: .....	12
Expected Deliverables:.....	13



## **Electronic Real Estate Recording Task Force**

### **Executive Summary**

**Background of the Electronic Real Estate Recording Initiative:** The Electronic Real Estate Recording Task Force (ERERTF) is currently involved in an initiative to study, develop and pilot test standards for the electronic recording of real estate documents in Minnesota.

County Recorders and Registrars of Title throughout Minnesota work very hard to operate their offices efficiently and cost-effectively, and to date they have succeeded. However, as presently equipped, Minnesota recording offices can accept only paper documents for recording. Increasingly, the real estate, lending, title insurance, and consumer communities as well as the secondary mortgage market are urging Minnesota Recorders and Registrars to accept and record documents electronically.

A recent example of this push for acceptance is a letter sent by the Bank of America to Minnesota Recorder's offices. This letter dated October 31, 2001 asked Recorders' offices to begin receiving the release of mortgages electronically with digital signatures. Responses were sent to the Bank of America highlighting Minnesota Uniform Electronic Transactions Act (UETA) which was amended in section 325L.03(b)(2) to provide that UETA does not apply to "section 507.24, relating to requirements for recording any conveyance, power of attorney or other instrument affecting real estate." Currently Minnesota does not have to accept these electronic submissions but the pressure is on for counties to meet this demand. See Bank of America Letter in Appendix A.

**Brief Summary of Initiative and Time Frame:** Since 1998, the Minnesota County Recorders' Association (MCRA) has focused on the effect that recent trends in land development, mortgage financing, conveyancing, and other areas are having on Minnesota's land record system, and on the opportunities that electronic real estate recording presents to address many of the challenges. At its winter 1999 conference, the MCRA passed a resolution that called for creation of a broad-based group to study and suggest means to address the increasingly complex relationship that exists among modern land transfer practices, county recording office procedures, and state real estate and recording laws. In June 1999, the MCRA forwarded its resolution to the Ventura Administration and urged it to take action.

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. The Legislature enacted Minnesota Law 2000, Chapter 391 (effective August 1, 2000) which established the Electronic Real Estate Task Force. On January 15, 2001 the Task Force completed a WorkPlan which details the high-level tasks and timelines associated with this study. See Workplan in Appendix B.

The Workplan's timeline for the ERER Task Force defines the critical path that the project must follow to be successful. This includes four primary phases.

**1. Analysis of the current environment:** The Task Force will survey current practices and technologies in Minnesota County Recorders' offices; evaluate electronic real estate recording systems in other jurisdictions; and develop a high-level model of public and private real estate recording processes in Minnesota. This phase is currently targeted for completion by June of 2002.

**2. Determination of appropriate features and standards:** The Task Force will establish the business rules for an electronic real estate recording system, with a definition of the legal, technological, operational, and functional context for making a system work. This phase is currently targeted for completion in August of 2002.



## ***Electronic Real Estate Recording Task Force***

**3. Testing the system:** The Task Force will translate the business rules into a working pilot project. This phase is currently targeted for completion in January 2003.

**4. Final evaluation:** The Task Force will review the pilot project and finalize its definition of the necessary features and standards for electronic real estate recording systems in Minnesota. At the end of phases 2 and 4, the Task Force will produce and submit a progress report to the Legislature. Those reports will describe the work done on the project and recommend whatever further actions the Task Force considers necessary.

The Task Force's initiative is currently proceeding according to plan and is on schedule.



## **Electronic Real Estate Recording Task Force**

### **Recommended Project Plan**

**ERERTF Workplan:** A Project Coordinator position was identified to manage this initiative and McInerny Consulting, LLC was hired in October, 2001. See the Project Coordinator RFP in Appendix C and McInerny Consulting, LLC's response in Appendix D.

A review of the ERERTF Workplan resulted in the following project breakdown and timeline. These milestones were based on the needs and requirements articulated in the Workplan. The Task Force's Workplan outlines a very aggressive schedule for its scope of activity. The aggressive nature of this initiative is due to the availability of more complete information in the electronic recording industry than was available to the Task Force at its initiation. This information indicates that more work will need to be done in order to accomplish its goal. In light of that, every effort will be made to manage this project tightly and efficiently. See full project plan in Appendix E.

<b>Milestone</b>	<b>Start Date</b>	<b>End Date</b>
Assessment Phase	10/22/2001	5/21/2002
Design Phase	1/7/2002	7/8/2002
Development Phase	7/8/2002	8/12/2002
Implementation Phase	7/1/2002	8/23/2002
Pilot Testing Program	8/12/2002	1/13/2003

**The Assessment Phase:** The Task Force initiative is currently involved in the Assessment Phase. This phase asks the Task Force to retain the consulting services of a team to provide business assessment and document recommended standards for e-recording of real estate documents.



## Electronic Real Estate Recording Task Force

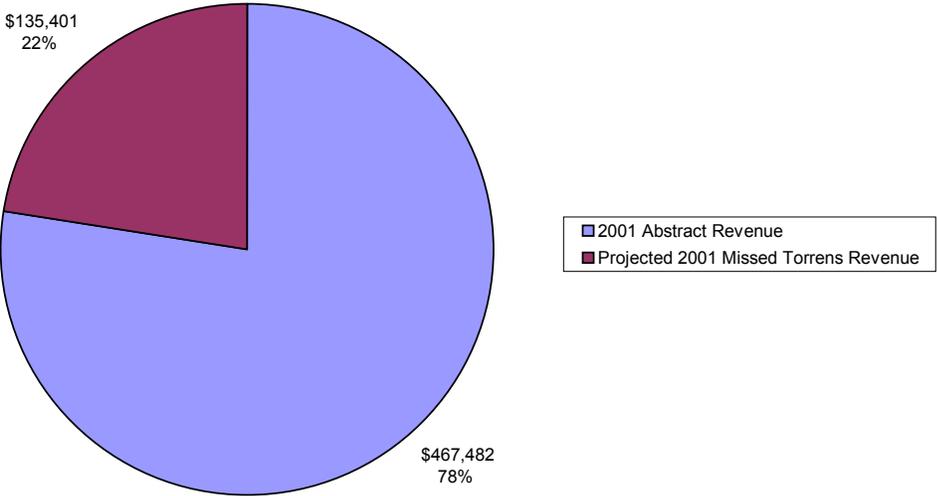
### Funding Restrictions and Work To-Date:

**Funding for this initiative:** The Legislature amended Minnesota Statutes Section 357.18, Subd.3 to allow a surcharge to be added to real estate recordings. This surcharge is targeted to fund the Task Force's initiative.

This language was passed during the 2001 special session. (Laws 2001, First Special Session, Chapter 10, Article 2, Section 77). Inadvertently, the approved language affected only abstract filings and was not applied to Torrens document filings.

Two new bills, House File 2573 and Senate File 2707 have been introduced to correct this omission by properly adding the surcharge to Torrens filings, which make up about 22% of all filings. See Appendix F for Report from the Department of Finance – Merrill King.

2001 January - June Revenue Totals



The cost of eliminating Torrens from this surcharge results in a significant loss to the ERERTF fund. Abstract filings carry the entire burden of this initiative and without the additional funds that Torrens will bring, this initiative's ability to successfully fulfill its mission is negatively affected.



## Electronic Real Estate Recording Task Force

### The Assessment Phase:

**Work Breakdown of Assessment:** The Assessment Phase breaks down into the following milestones with timelines associated.

Assessment Phase	Start Date	End Date
▪ Solidify Project Scope	11-9-01	2-26-02
▪ Create Project Subcommittees	10-22-01	12-10-01
▪ Select Consulting Team	11-8-01	1-14-02
▪ Prepare Interview Template	1-14-02	1-18-02
▪ Conduct Interviews	1-21-02	2-22-02
▪ Select E-Recording Vendors	2-4-02	4-1-02
▪ Prepare and Present Standards	1-28-02	5-17-02

- **Solidify Project Scope:** solidifying scope is the first milestone and is an ongoing task throughout the assessment phase.
- **Create Project Subcommittees:** subcommittees have been created, chairs have been appointed and subcommittees are currently meeting and working on deliverables.
- **Select Consulting Team:** an RFP was posted and the consulting team BenNevis, Inc. was hired in the usual manner to conduct needs assessment and create e-recording standards.
- **Prepare Interview Template:** BenNevis, Inc. has developed an interview template that was submitted for review and authorized by the Task Force's Executive Committee.
- **Conduct Interviews:** public and private sector interviews are currently taking place.
- **Select E-Recording Vendors:** this milestone is scheduled to begin in early February.
- **Prepare and Presentation Standards:** this milestone is targeted for completion by June of 2002.

**Solidifying Project Scope:** Considerations regarding project scope center around budget, timeframe and specifications. It was agreed that, taking into consideration the project's aggressive timeframe and fixed budget, specifications would be divided and addressed by subcommittees. Project scope will be discussed and refined throughout the Assessment Phase from within the subcommittee.

**Creation of Project Subcommittees:** In order to facilitate the investigation of issues and to provide subject experts in different areas of the project scope, subcommittees were formed, as identified in consideration 9 of the WorkPlan. Full detail regarding subcommittees can be found in the ERER Subcommittees document Appendix G. The following are the subcommittees identified, issues researched and work completed.



## Electronic Real Estate Recording Task Force

### Pilot Framework and Scope Subcommittee

- This subcommittee is chaired by Bob Horton of the Minnesota Historical Society, State Archivist. The initial task for this subcommittee was to identifying the 21 counties and 7 private sector members to participate in on-site surveys with BenNevis, Inc.
- **Overview of Process:** In determining features necessary for and standards to support electronic real estate recording a sample of counties that truly represent the diversity of characteristics of Minnesota was necessary. Because of cost and time restrictions it was necessary to narrow the survey study from 87 counties to a more manageable sample size of 21 counties, without risking the quality of those standards. Purposeful samples of counties based on member characteristics relevant to assessing real estate processes in Minnesota were established. Analysis using multiple characteristics provided the Task Force with the confidence that the sample was a true representation of the population
- **Public sector / county office characteristics included:**  
These parameters were included in discussions of counties to be included in the on-site survey sample.

Major Characteristics
Volume of filings (see Surcharge sheets) Appendix H.
Geographic location (see Minnesota Population Map) Appendix I.
Population size (see MN Population Map) Appendix I
Back office procedures (e.g., use of paper, imaging and/or microfilm; off-site or out-of-state storage ...)
Back office technology (e.g., Trimin system, customized system ...)
County budget
IT infrastructure
Logistics and locations of county officers and offices
Percentage of Torrens filings, use of off-site legal assistance for Torrens
Additional Characteristics
Commitment to participating in the survey
Commitment of other county officers to the survey
Authorization of county commissioners (if necessary)
Availability of local partners in the private sector
Determination of document types to include in the pilots
Some analysis of state agency workflow
Interest in being one of the pilots
Prior experience with workflow and business analysis (already existing documentation and models would be very helpful)



## Electronic Real Estate Recording Task Force

- **Private sector / real estate stakeholder considerations included:** The selection here includes representatives of the stakeholders in the industry and of the task force’s constituencies: title companies, law firms, realtors and banks. Industry specific variety is more important than a variety in location, size, budget etc. Prior experience with workflow and business analysis, with already existing documentation and models, is most helpful. As well, a commitment to the survey and an interest in participating in the pilots is ideal.
- **Selected Sites:** Using these parameters the Pilot Framework and Scope Subcommittee selected the following members to be involved in in-depth interviews conducted on-site:

Counties	Private Sector Members	State Offices
1. Anoka	1. CI Title	1. Department of Revenue
2. Big Stone	2. Beacon Bank	2. Department of Health
3. Carver	3. Coldwell Banker	
4. Clay	4. Faegre & Benson	
5. Clearwater	5. Edina Realty Title	
6. Crow Wing		
7. Fillmore		
8. Hennepin		
9. Kittson		
10. Lincoln		
11. Lyon		
12. Olmsted		
13. Pennington		
14. Renville		
15. Scott		
16. St. Louis		
17. Stearns		
18. Steele		
19. Traverse		
20. Washington		
21. Wright		

- **Additional Pilot Framework and Scope Tasks:** Other scope tasks are to identify documents that will be included in pilot testing and selecting the counties who will actively participate in pilot testing.
- Meeting minutes for the Pilot Framework and Scope Subcommittee are included in Appendix J.

<b>Legal Subject and Fee Subcommittee</b>
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- This subcommittee is chaired by Chuck Parsons of the law firm Moss and Barnett. This subcommittee will serve to investigate the legislation needs and issues regarding electronic real estate recording and pilot testing in Minnesota.
- This subcommittee has regular meetings to discuss and detail next steps for the following areas:
  - Overlay language in statutes to allow for e-recording in Minnesota’s pilots,
  - Discussion of pilot process model– parallel vs. single filing,



## ***Electronic Real Estate Recording Task Force***

- Discussion of potential documents to be used for pilot testing,
  - Statute updates to allow for e-recording where overlay language does not seem sufficient,
  - Addressing concerns raised by other subcommittees as they identify issues that may arise during the pilot.
- 
- It was anticipated that the Attorney General would need to be asked for an opinion regarding whether Minnesota's exclusion of real estate filings in MN-UETA is inconsistent with E-sign such that it would be preempted by the federal law and whether counties will be able to opt out of accepting electronic filings if they so choose after Minnesota standards are legislated. The Attorney General responded to this request for opinion saying that they were not able to give an opinion on this issue. Their policy states that the Attorney General's office can provide opinions on Minnesota law only and felt that this issue involved Federal law. The Legal Subcommittee feels that without an opinion Minnesota is not at risk.
  - Meeting minutes for the Legal Subcommittee are included in Appendix K.

### **Recording Content and Workflow Subcommittee**

- This subcommittee is co-chaired by Denny Kron, Stearns County Deputy Auditor representing the public sector and Jeff Carlson, CEO of C.I. Title representing the private sector. This subcommittee will serve as a resource to the consulting team in their investigation of the requirements, needs and concerns regarding recording content and workflow of real estate documents.
- This subcommittee conducted a kickoff meeting to detail concerns that require attention by the consulting team BenNevis, Inc. as they assess public and private sector stakeholder needs regarding workflow. The subcommittee chair will serve as the contact for this subcommittee in dealings with BenNevis, Inc. and will report to the Task Force on status.
- Meeting minutes for the Recording Content and Workflow Subcommittee are included in Appendix L.

### **Communication Subcommittee**

- This subcommittee will serve to identify communication needs and modes of effective communication. This subcommittee is comprised of the Executive Committee on the Task Force. They will work to review and approve communication vehicles and messages regarding the Task Force's initiative.

### **Technology Subcommittee**

- This subcommittee is chaired by Bill Mori of TriMin Systems. This subcommittee will serve as a resource to the consulting team in their investigations of technology needs, requirements of electronic real estate transactions and county office capabilities.
- This subcommittee conducted a kickoff meeting to detail concerns that require attention by the consulting team BenNevis, Inc. as they assess technology stakeholder needs. The subcommittee chair will serve as the contact person for this subcommittee in dealings with BenNevis, Inc. and will report to the Task Force on status.
- Meeting minutes for the Technology Subcommittee are included in Appendix M.



## **Electronic Real Estate Recording Task Force**

### **GIS Subcommittee**

- This subcommittee is chaired by David Claypool, Ramsey County Surveyor. This subcommittee will serve as a resource to the consulting team in their investigation of the requirements and needs regarding GIS.
- This subcommittee conducted a kickoff meeting to detail concerns that require attention by the consulting team BenNevis, Inc. as they assess GIS stakeholder needs. The subcommittee chair will serve as the contact person for this subcommittee in dealings with BenNevis, Inc. and will report to the Task Force on status.
- Meeting minutes for the GIS Subcommittee are included in Appendix N.

### **Private Sector Subcommittee**

- This subcommittee is chaired by Joe Witt of Minnesota Bankers Association. This subcommittee will serve as a resource to the consulting team in their investigation of the requirements and needs of the Private Sector in real estate recordings.
- This subcommittee conducted a kickoff meeting to detail concerns that require attention by the consulting team BenNevis, Inc. as they assess private sector stakeholder needs. The subcommittee chair will serve as the contact person for this subcommittee in dealings with BenNevis, Inc. and will report to the Task Force on status.
- Meeting minutes for the Private Sector Subcommittee are included in Appendix O.

### **Task Force Project Funding Subcommittee**

- This subcommittee is chaired by Mark Monacelli, St. Louis County Recorder. This subcommittee will serve to assess the on-going funding needs for the Task Force's initiative and work to attract additional funding.

**Select Consulting Team:** The business analyst skills desired for conducting interviews and defining standards included:

- Research and analyze current real estate recording practices in place in Minnesota public and private institutions and on the national level.
- Identify standards that take into consideration the legal, technological and operational needs for electronic real estate recording in the Minnesota public and private institutions including but not limited to the County Recorder, Auditor and Treasurer and private industry groups including but not limited to lenders and title companies, as reflected in the 37 concerns listed in the ERERTF WorkPlan,.
- Develop best practice recommendations on workflow and business process.
- Provide a cost / benefit analysis for any and all recommendations.
- Provide functional, technical and process specifications reflecting these standards for comparison value to be used in evaluating technology options.

See Appendix P for a copy of the Business Analyst RFP.



## **Electronic Real Estate Recording Task Force**

**Consulting Firm Selection Process:** Seven consulting firms responded to the Business Analysis RFP. These firms were LBL Technology Partners, Greenbrier & Russel, Inc., Advanced Strategies, Inc., Shared Resource Management, Inc., Imerge Consulting, Axeos Consulting, Inc. and BenNevis, Inc. Of these submittals four firms, Advanced Strategies, Inc., BenNevis, Inc., LBL Technology Partners, and Shared Resource Management, Inc. were asked to provide a final presentation of their offerings to the Task Force's Executive Committee. After seeing these four presentations the consulting firm BenNevis, Inc. was awarded this contract.

See Appendix Q for a copy of BenNevis, Inc.'s response. A report detailing this process and its outcome was submitted to the ERERTF and is included in Appendix R. BenNevis, Inc. began working on January 14, 2002.

**Prepare Interview Template:** BenNevis, Inc. and the project coordinator have worked to create interview templates / survey questionnaires that can be used for the public and private sector interviews. A copy of survey questions can be found in Appendix S.

**Conduct Interviews:** BenNevis, Inc. is currently in the process of completing its 21 county and 7 private sector/government office interviews. Working with the project coordinator BenNevis, Inc. has crafted an interview agenda to detail at a high level the objective of each visit. See Appendix T for the Interview Agenda. See Appendix U for the interview schedule.

### **Tasks Outstanding - Select E-Recording Vendors and Prepare / Present**

**Standards:** Following the completion of public and private sector interviews BenNevis, Inc. will assess results and develop standards for electronic real estate recording in Minnesota. A cost / benefit analysis will accompany these standards submitted for the Task Force's approval. During this time also the vendor community supporting e-real estate recording will be assessed for inclusion in the pilot phase.

### ***The Design Phase:***

This phase works to provide a design map that lays out a solid foundation for electronic real estate document recording. The Design Phase is targeted to begin in January, 2002 lasting through to July, 2002. The following list the milestone activities included in this phase.

- Technology GAP Analysis (all counties and application standards)
- Pilot Architecture and Dual Mode Processes
- Functional and Business Process Design
- Security Plan
- Communication Plan
- Report Design
- Implementation Plan
- Develop Backup / Recover Plans
- Phase End Review



## ***Electronic Real Estate Recording Task Force***

### ***The Development Phase:***

This phase provides configuration, based on design that will allow for the seamless integration of the private and public sector in e-recording processes. The Development Phase is targeted to begin in July 2002 and last through August 2002. This is a very aggressive schedule and development may need to begin much sooner to accommodate all of the functionality needed by the users of this system and to keep pace with the dates identified for implementation. A risk has been identified in the balance of timeframe, budget and specifications. Changes may be required. Development milestones are also subject to change depending on the technology selected for e-recording.

- Application Configuration
- Unit Testing By EREER Task Force Members
- Report Needs
- Technology Setup / Configuration
- Phase End Review

### ***The Implementation Phase:***

This phase creates and unit tests this environment to ensure its workability. The Implementation Phase is targeted to begin in July 2002 and last through August 2002. Implementation contains training which can easily work within the development time line. But this is also a very aggressive schedule and a phased implementation may be an alternative.

- Training Program
- Install - Final Configuration and Production Database Build
- Phase End Review

### ***Pilot Testing Phase:***

This phase manages and assesses the e-recording processes between private and public stakeholders to validate the standards set for Minnesota. The Pilot Phase is targeted to begin in August 2002 and last through January 2003.

- Pilot Testing Process
- Pilot Changes / Enhancements
- Pilot Communication Program
- Vendor Communication
- Phase End Review



## ***Electronic Real Estate Recording Task Force***

### ***Expected Deliverables:***

The deliverables from this initiative will provide the state of Minnesota with tested e-recording standards for real estate documents that will enable counties to work with private sector members with confidence and knowledge. These deliverables include:

- A high-level model of public and private real estate recording processes in Minnesota,
- Business rules and standards for an electronic real estate recording system,
- A working pilot project, and
- Pilot tested and proven definitions of the necessary features and standards for electronic real estate recording systems in Minnesota.



## ***Electronic Real Estate Recording Task Force***

All of these Appendix items are located for review on the ERER web site:  
[www.commissions.leg.state.mn.us/lcc/erertf.htm](http://www.commissions.leg.state.mn.us/lcc/erertf.htm)

Appendix A: Bank of America Letter

Appendix B: ERERTF Workplan

Appendix C: Project Coordinator RFP

Appendix D: McInerney Consulting, LLC. Response to Project Coordinator RFP

Appendix E: Full project plan

Appendix F: Report from the Department of Finance – Merrill King.

Appendix G: Full detail regarding subcommittees

Appendix H: Volume of filings (Surcharge sheets)

Appendix I: Minnesota Population Map

Appendix J: Meeting minutes for the Pilot Framework and Scope Subcommittee

Appendix K: Meeting minutes for the Legal Subcommittee

Appendix L: Meeting minutes for the Recording Content and Workflow Subcommittee

Appendix M: Meeting minutes for the Technology Subcommittee

Appendix N: Meeting minutes for the GIS Subcommittee

Appendix O: Meeting minutes for the Private Sector Subcommittee

Appendix P: Business Analyst RFP

Appendix Q: BenNevis, Inc. Response to RFP

Appendix R: RFP Review and Selection Process Report

Appendix S: Business Analyst Survey Template

Appendix T: Interview Agenda

Appendix U: Interview Schedule