

## eRecording in the Commonwealth of Virginia â?? An Interview with the Clerks of the City of Fredericksburg and King George County Circuit Court

### Description

### An Interview with the Clerk of the Circuit Court City of Fredericksburg, Virginia



Jeff Small Clerk of the Circuit Court City of Fredericksburg, VA with first K-9 Deputy Clerk

**Question for the Clerk:** As a Clerk in the Commonwealth of Virginia and as a member of the Clerk's Association, what issues and questions are being addressed by the Clerk's Association regarding e-Recording in Virginia?

**Response:** The Clerks are working with the Legislators to have laws enacted to address e-recording issues. Mainly, that race and notice of filings aren't unfairly applied to in person v. mailed v. e-recorded filings. In addition, there needs to be some logistical issues resolved due to different Clerk Offices using different land recording vendors. Some use the Supreme

Court and some use private vendors. These systems need to integrate with whichever e-recording vendor a Clerk decided to use and it's not certain if all the land recoding systems are compatible with all the e-recording vendors.

Question for the Clerk: Are you e-Recording in your office?

Response: We are not yet e-recording because of the issues listed above. However, we do have plans to e-record when we are comfortable the law and processes address the issues above.

Question for the Clerk: How will e-Recording change procedures in your office?

Response: E-recordings will make our processes easier. We won't have to scan or receipt a recording. We can simply view the filing and if it is correct accept it and the image will be recorded and transaction receipted with the money going to our account. If it's not correct we can reject it and it will be electronically sent back to the sender.

Question for the Clerk: How does e-Recording address the statute of "Race-Notice" in the Commonwealth of Virginia?

Response: We are still waiting to see how the Race Notice issues will be resolved. Probably will have to be done through legislation.

By: Jeff Small, Clerk Circuit Court  
City of Fredericksburg, VA  
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## **An Interview with the Clerk of the Circuit Court of King George, Virginia**



Charles V. Mason, King George Circuit Court Clerk

**Questions for the Clerk:** As a Clerk in the Commonwealth of Virginia and as a member of the Clerk's Association, what issues and questions are being addressed by the Clerk's Association in regard to e-Recording in Virginia?

**Response:** At the June 23, 2017 meeting of the Virginia Court Clerks Association (VCCA) Technology Committee we began exploring the issue of document priority. Since Virginia is a "Race to Record" state we feel there is a need to clarify document priority. Does a recording that was transmitted after the prior workdays closing or does document that was physically brought to the recording desk at the opening of the office that day have priority? In many larger localities one or more deputy clerks will review and accept or deny electronically transmitted documents while one or more other deputy clerks record documents physically brought into the office, what is the document priority? There seems to be no clear answer as no document can be accepted (or denied) until the office opens for business.

One possible solution would be the recordation of a "Notice of Settlement". A "Notice of Settlement" could be filed on deeds, deeds of trust and refinance of deeds of trust. The "Notice of Settlement" would be a standard form that if filed 30 to 60 days prior then the instrument would determine the priority of title documents recorded later in

connection with that real estate closing.

The "Notice of Settlement" would have a life span of 30 to 60 days and could be renewed once.

The filing of a "Notice of Settlement" is currently allowed by legislation in New Jersey and it is my understanding will also become effective in North Carolina this year. Before the VCCA were to propose any such legislation we would reach out to the real estate and banking communities to ensure that we come to a resolution that works for all parties.

Question for the Clerk: What is your perspective concerning e-Recording in VA?

Response: E-Recording much like online access to land records, while presenting new challenges, provides the real estate community, banking entities and the Clerks' Office the opportunity to maximize the efficiency of their operation and services to their constituents.

Question for the Clerk: Are you e-Recording in your office?

Response: Yes, we are eRecording in King George County.

Question for the Clerk: How does it work for the Settlement Company/Attorney/Lender to send in e-recordings?

Response: We use 2 recording Service providers; CSC and Simplifile. The service providers transmit the recordings to our server where they are either accepted or rejected. If accepted the image(s) are transferred directly to our land records server without the Clerks' Office having to physically scan the image as we would for a document that is physically received.

Question for the Clerk: How does someone get signed up to e-Record?

Response: Contact CSC, Simplifile or whatever service provider that the Clerks' Office has contracted with for their e-Recording.

Question for the Clerk: How is payment made for the recording?

Response: Upon the Clerks' Office acceptance of the document funds are electronically transferred to the Clerks account.

Question for the Clerk: Are recording cover sheets required for e-Recording documents?

Response: Yes

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**Question for the Clerk:** What about the GAP between transmitting the e-Recording and the actual time it goes on record?

**Response:** Electronically transmitted documents are only accepted for recordation during normal business hours that we would accept documents physically brought into the office. Upon the opening of the office the Clerk or Deputy Clerk recording documents would pull up the on the screen and begin the process of ensuring the document(s) meets the requirements for recordation. If so, the document is "accepted" if not the document is "rejected". Normally the documents received the prior night would be recorded first. There have been occasions when that has been interrupted by a recorder physically bringing in a document for recordation. Each individual Clerks' Office has a process unique to the operation of that office. The process of an offices with multiple Deputy Clerks recording instruments at the same time may be different from an office that has a single Deputy Clerk recording documents.

**Question for the Clerk:** What are the procedures in the event there is a problem with the e-Recording and it cannot be recorded?

**Response:** If a document is rejected for recordation the "rejected" box is checked. On that screen there are a number of boxes that can be checked as the reason(s) for rejection and that is electronically sent to the submitter.

**Question for the Clerk:** How does e-Recording address the statute of "Race-Notice" in the Commonwealth of Virginia?

**Response:** The VCCA will continue to explore the "Race to Record" issue and hopefully will address that issue with a legislative solution in the near future.

**Question for the Clerk:** Any other comments on e-Recording?

**Response:** The VCCA remains committed to policy and legislative initiatives ensuring that Virginia keeps pace with the rapidly changing technology related to the recordation of land records and land record related documents while safeguarding the integrity of those records and balancing the right of public access and individual privacy.

By Charles V. "Vic" Mason  
King George Circuit Court Clerk

<https://www.king-george.va.us/154/Clerk-of-the-Circuit-Court>

*Submitted by Julie Ann Rutledge, VLTA Treasurer*

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