

## Access to Deeds and Land Records in Virginia: A Thirty-Year Perspective Part 3 ?? Electronic Commerce Solutions

### Description

Read part 1 here: [\*Access to Deeds and Land Records in Virginia Part 1 ?? The Ghost of Title Search Past.\*](#)

Read part 2 here: [\*Access to Deeds and Land Records in Virginia: A Thirty-Year Perspective Part 2 ?? Digital Conversion is a Game Changer.\*](#)

I appreciate the opportunity to share my perspectives with the VLTA membership regarding how Clerks of Circuit Court in Virginia are achieving the objectives set forth thirty years ago as part of ??The Feasibility of Modernizing Land Records?• initiative that started in 1993. In the December 2023 article, I shared memories of how title examiners and others involved in the title industry conducted title searches by physically traveling to 120 Clerks?? Offices located in 120 courthouses in Virginia. In the March 2024 article, we examined the migration from courthouse visits to conducting title searches via remote access as a result of the massive conversion of paper deed records to digital technology.

Once the majority of Clerks were successful in implementing remote access services to better serve their clients who conduct title research, the concept of embracing another remote tool was analyzed. As Clerks and title examiners realized the mutual benefits of remote access, Clerks developed a game plan to offer electronic recording of deeds and land records. Those Clerks who had sufficient funding, either through the Technology Trust Fund, the revenue created through remote access subscriptions, local funding or a combination of these sources, started to develop a strategy to build a technology platform to launch a new electronic commerce solution. This strategy made perfect sense as the remote access technology permitted title examiners, settlement agents and other clients to access the deeds and land records, as well as the indexes to those records from anywhere where a computer and the internet were accessible. Why not apply the same approach for the recordation of deeds and start the entire process in digital format from the very beginning? After extensive testing and development of the proper computer coding and programming, a few Clerks?? Offices launched this emerging electronic commerce solution in the 2010 ?? 2011 timeframe. The volume of transactions submitted via electronic recording dwindled in the early years as Clerk??s Offices and the title industry acclimated to this new digital approach. One of the reasons for the limited flow of electronic recordings was the limited number of technology firms that offered electronic commerce solutions. Several Clerks of Circuit Court attended Court Technology or Property Records Industry Association conferences to lure technology companies to electronic commerce opportunities to Virginia. One of the first firms to work with Clerks to launch a robust and effective electronic recording platform was a North Carolina firm that quickly seized the opportunity in Virginia. As more and more technology companies partnered with Clerks of Circuit Court, different electronic recording platforms offered title companies and settlement agents with various ways to conduct electronic commerce.

In Loudoun County, the volume of transactions submitted electronically reached 2.69% in the early years of electronic recording. By 2012, this number jumped dramatically to nearly 18% of all

transactions being submitted electronically. Four years later in 2016, as the popularity and comfort level grew with the title community, Loudoun experienced volume of 63% in electronic transmission of recordings. Other larger jurisdictions experienced the same surge in electronic recordings once electronic recordings were offered. As the success of electronic recording was evident, more and more Clerks of Circuit Court, regardless of size began to offer this electronic service. I recall numerous Clerks of Circuit Court contacting me in the 2013 – 2017 timeframe to ask about Loudoun’s experience with electronic recording. Some Clerks and/or their staff visited my office to observe the electronic recording process and capability. I was pleased to offer support of other Clerks’ interest in pursuing this technology to encourage them to implement this mutually beneficial technology to the Clerk’s Office and to the title professionals. By 2018, Loudoun was approaching a volume of 70% of all deed and recording transactions being submitted electronically. My personal goal was to reach a threshold of 90% of all recordings being submitted electronically. I concluded we would never reach the 100% level as some of our settlement agencies and title companies have offices a few blocks from the courthouse. These local clients enjoy escaping the routines of the office, taking a short walk down the street, and visiting with the Clerk’s Office team. We started to peak at 77% for electronic recordings and I began to wonder if my goal of 90% would become a reality in the near future. In early-2020, as COVID-19 emerged in Virginia, state and local government agencies established social distancing protocols, emergency health precautions, a judicial emergency directive enacted by the Supreme Court of Virginia and many other new protocols that limited access to government services temporarily. While my office remained open for business throughout the COVID-19 crisis, we did operate differently and due to some of the emergency protocols we were required to limit the volume of visitors to the courthouse each day. As a result of the COVID-19 protocols and safety measures, the volume of electronic recordings swelled to a peak of 91% in 2020. While I was pleased to see my goal of achieving 90% had become a reality, I was not pleased that a pandemic created the motivation to submit more transactions via electronic commerce. As more clients valued the electronic capability, we achieved a new watermark of nearly 93% of all recordings being submitted and processed electronically in 2021. While the volume of electronic recordings has slightly subsided since 2020 and 2021, we continue to receive 86 – 88% of all recordings electronically.

The gathering of key stakeholders in Richmond, Virginia thirty years ago is worthy of celebration because today the title industry and Clerks of Circuit Court enjoy a more efficient and effective way to conduct business with tools that permit remote, digital and virtual ways to conduct business. The implementation of effective remote access subscription programs and electronic recording solutions for deeds and land records has inspired Clerks and other agencies to explore similar technology solutions for other key programs and services. The Office of the Executive Secretary (OES) of the Virginia Supreme Court began offering technology solutions to the circuit courts, general district courts and juvenile & domestic relations courts to digitize court records by 2010. Subsequently, OES implemented electronic filing capability of circuit courts to accept new court cases electronically. Now, the majority of courts and clerks’ offices in Virginia offer remote access to and electronic filing capability for court records to attorneys who are licensed to practice law in Virginia. Clerks also began the exploration of offering remote or virtual services to other clients of the clerk’s office. In Loudoun County, the success of remote and electronic technologies for deeds and land records inspired me to commence virtual solutions for marriage license and notary commission clients. Today, a substantial number of Loudoun residents enjoy the convenience of receiving marriage license and notary commission services in a remote/virtual environment. The modernization of land records initiative has truly enhanced access to public records and public services. As a result of these powerful and innovative solutions, all residents of Virginia are better served as Clerks and title companies.

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I am grateful that VLTA requested me to share my personal observations and experiences with this journey related to the modernization of land records. When this journey first began in Virginia, I was a deputy clerk in the Fairfax County Circuit Court Clerk's Office in charge of the land records operations. The Clerk at the time was the Honorable John T. Frey, who allowed me to work with him on technology initiatives related to land records technology enhancements in the mid-1990s. Several years later, when I was elected as the Clerk in Loudoun County in 1999, I commenced the journey of implementing these technology resources in partnership with VLTA and others in the title industry. In addition to developing partnerships with VLTA, I worked very closely with members of the General Assembly who understood the value of land records technologies. Former Virginia Delegate Joe T. May was incredibly helpful and passionate in his support of Clerks' efforts and spearheaded legislative solutions that empowered Clerks to pursue technology advancements. Many of my fellow Clerks of Circuit Court, such as Jack Kennedy (Wise County), John T. Frey (Fairfax County), Yvonne Smith (Henrico County), John Davis (Augusta County), and Vic Mason (King George County) who are now retired or deceased were wonderful collaborative and creative partners. Current Clerks Chaz Haywood (Rockingham County), Randy Carter (Suffolk County), Tina Sinnen (Virginia Beach), Paul Ferguson (Arlington County), Frank Hargrove (Hanover County), Llezelle Dugger (Charlottesville) and Jackie Smith (Prince William County) have been amazing partners in the exploration of new technology solutions to empower our clients and Virginia residents with access to information. It is only with these partnerships and relationships that we can achieve true success with these technology advancements. When I first began the exploration and development of new deed technologies, I always consulted the local title examiners to ensure our tech tools would meet their needs. The collaboration of the Clerks of Circuit Court and the title industry validates the reality of modernization of land records in Virginia thirty years later but it also establishes a solid foundation for future collaborative efforts to continually enhance our business operations to maximize the best possible outcome for the clients we serve. I look forward to more exciting adventures in the future and the partnership with VLTA.

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Gary Clemens has served as the Clerk of the Circuit Court in Loudoun County for the past 24 years. He is dedicated to implementing customer service programs that provide premium service to Loudoun residents and clients from the Northern Virginia region. Gary has received numerous awards for Government Best Practices from the National Association of Counties and the Virginia Association of Counties for customer service programs, technology solutions, creative local government innovations and virtual educational programs. He has served as the president for the Virginia Association of Constitutional Officers and as the president of the Virginia Court Clerks's Association. Gary serves on the Board of Directors for the Morven Park Foundation and on the Board of Directors for the Visit Loudoun Foundation. He previously served on the Board of Directors of the Loudoun Free Clinic for 10 years.

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