

To: House Committee on Judiciary
From: Teri Corsones
Date: April 10, 2020
Re: Inquiry about Access to Land Records

During testimony about section 3 of S.114 on April 9, an inquiry was made about access to land records during the Stay Home/Stay Safe emergency period. Below is my understanding of access to land records in general in Vermont at this time. Concern for the health and safety of town officials is of paramount importance in any analysis of how access to land records might be possible during the COVID-19 crisis.

Access to land records in most Vermont municipalities currently ranges from very limited to none at all. [click here](#) for a link to a site that the Secretary of State's Office created in March at the request of lawyers, bankers and realtors so that municipalities could provide information about title search availability. To date, 222 municipalities have responded. Because it's not clear when the information was provided and circumstances change daily, the information may well be outdated but it provides examples of the type of limited access there is to land records across the state at this time. Only a handful of municipalities offer remote access to full digital records. The range of title search services available otherwise ranges from "open with very limited access" to "closed, but the clerk is providing certain types of information over the phone or via email", to "closed and no communication". It's my understanding that a full 40-year title search that's required to certify title is difficult if not impossible in the majority of municipalities at this time.

Efforts were made by individual practitioners early on to request that title searches be considered an essential service, given the critical nature of real estate transactions to the Vermont economy and to individuals' and businesses' ability to withstand the myriad of challenges they're facing during the COVID-19 crisis. Attached is a sample letter from Attorney Benj Depman to Governor Scott that spells out the critical need for access to land records during the emergency period. A copy was also sent to the Agency of Commerce and Community Development. To date, however, title searches have not been included in the list of essential services.

This situation has highlighted the clear need for a significant overhaul of Vermont's land record and permit recording systems. Attached is a Report of the Study Committee on Standards for Municipal Land Records dated January 15, 2004. It includes extensive analysis of the shortcomings of the current system (made evident by today's crisis – if land records had been digitized as recommended so many years ago, title searches could be conducted remotely today with ease) and makes specific recommendations to address those shortcomings. Ultimately a regulatory body that can implement a plan to get the records process updated, consistent across all recording jurisdictions, is needed. Stakeholders will shortly present the Report to the House and Senate Government Operations Committees in the hopes that the Report's recommendations can finally be implemented as a mid-term response to the crisis. This could ideally be aided by emergency federal funds to digitize land records and make them accessible on-line.

In the meantime, municipal offices and access to municipal land records are not subject to state-wide oversight. Residents who suffer harm due to a lack of access to land records in their towns should contact their select boards about the issue. Real property practitioners are happy to adhere to whatever safety measures are required to protect the health and safety of municipal clerks during title searches. They're also very grateful for the efforts many town offices are making to try to address the complicated issues that are involved. I hope that this overview is helpful to the Committee.