E-Land Conveyancing and Registration – Vision and Risks

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Extract of Register

Sir Robert Torrens
Complete E-Conveyancing System - Principle Stages

Generating documents → Signing documents → Certifying signatures on the documents → Electronic transmission of information → Checking and certifying the material for registration:

- Currency of the information
- Originality of documents
- Originality of signatures
- Synchronization of content-originality-
signature
- Changing the Record/Register

The advantages

1. Simple and standard
2. Efficiency – shortening bureaucratic delays
3. Improving availability and currency of the registered information + enhancing searching possibilities
4. Enhancement of the accessibility of land registration.
5. Consolidation of regional registration offices
6. Enhancing multi-national land market
1. On the one hand: Reducing the danger of fraud and forgery by detecting alerting and preventing typical patterns of fraud

2. On the other hand: Vulnerability to electronic fraud or disruption

3. The identification problem: Initial accessibility to the system is crucial to its vitality

Possible solutions to the identification problem

1. PKI (Public Key Infrastructure) system of electronic signature.
2. Biometric identification system

The problem of identification is still the main obstacle to the full accomplishment of the e-conveyancing vision.
4. URPERA sec.3:
   - The requirement of recording is satisfied by an electronic document
   - The requirement of a signature on a document may be satisfied by an electronic signature
   - A requirement of verification of signature, whether by a notary or by other witness, may be satisfied by the attachment or logical association of all information required with the electronic document or the electronic signature

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E-Conveyancing in USA – Implementation

<table>
<thead>
<tr>
<th>Type of model</th>
<th>Scale of automatization</th>
<th>Mode of signatures' verification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Model 1</td>
<td>Electronic registration of scanned paper-based documents.</td>
<td>The registration is based on visual inspection of an officer.</td>
</tr>
<tr>
<td>Model 2</td>
<td>Electronic registration of a document image that is wrapped in an XML (eXtensible Marked up Language) wrapper containing standard and important data.</td>
<td>The registration here is partially automated but yet requires visual inspection and approval of the recorder.</td>
</tr>
<tr>
<td>Model 3</td>
<td>Electronic registration of documents that has originally been generated by the vendor in XHTML (Extensive Hyper-Text Mark-up Language) format.</td>
<td>The data is automatically checked and accepted or rejected.</td>
</tr>
</tbody>
</table>
The average elapsed time of the process

<table>
<thead>
<tr>
<th>Model</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>one hour</td>
</tr>
<tr>
<td>2</td>
<td>5 minutes</td>
</tr>
<tr>
<td>3</td>
<td>30 seconds</td>
</tr>
</tbody>
</table>

E-Conveyancing in UK - Legislation

- Land Registration Act 2002 - Part 8
- Sec. 92: Electronic Communications Network
- Sec. 93: Obligation that certain dispositions will take effect only if it is made by means of a document in electronic form and it was electronically communicated to the registrar
- Sec 91(3)(b)-(c): Certified Electronic Signature
- Schedule 5: Access to network - only by "agreement with the registrar"
- Sec. 95: Electronic communication & electronic storage of documents
E-Conveyancing in UK – Electronic Network and the Network Access Agreement (NAA)

<table>
<thead>
<tr>
<th></th>
<th>View Register</th>
<th>Submit an e-application</th>
<th>Apply an e-signature</th>
<th>Amend the register</th>
<th>Availability and Other Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full NAA</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>+</td>
<td>Professional Conveyancers &amp; Lending institutions: Solicitors, Barristers, Notaries, Licensed Conveyancers. Pre-conditions: Financial position insurance policies, security demands, past experience</td>
</tr>
<tr>
<td>Read-only NAA</td>
<td>+</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>Estate agents Buyers and Sellers</td>
</tr>
<tr>
<td>Signature NAA</td>
<td>+</td>
<td>-</td>
<td>+</td>
<td></td>
<td>Members of the public wishing to carry out their own conveyancing. Valid only for lifetime of a specific transaction (except for some certified professional users)</td>
</tr>
</tbody>
</table>

E-Conveyancing in UK - Implementation

- Chain Matrix prototype
- Various types of e-signatures
- Tools for including plans and maps in the system
- Tools for executing payments
- Focus on introducing electronic discharges of charges and mortgages
The Canadian Ontario system

- Ontario Land Registration and Information System (POLARIS®)
- Electronic Land Registration System (ELRS)
- Teranet - Canadian firm

POLARIS

- Title Index Database
- Property Index Database
- Image Database
ELRS

- Qualifications of the system:
- Generation of standard documents
- Details are automatically painted in the documents out of the registration system
- Each party signs electronically on the document, which can be signed only when duly completed.
- Electronic submission of applications for registration
- Access – only to authorized unique access key for a registration account which has been set up by Teranet

Access Requirements

- Three criteria for all users: ensuring the identity, having financial resources that are sufficient to compensate victims of fraud and ensuring good character, accountability, qualifications and integrity of the users
- Four categories:
  - A - Listed regulated professionals and financial institutions
  - B - Firms or companies formed by category A regulated professionals in order to carry on business in their profession, such as a law firm
  - C - Any regulated professionals not specified in category A
  - D - All other account holders, including regular business corporations and individuals carrying on business as real estate conveyancers
Israel

- Registration process is basically manual
- Abstract of the register may be electronically viewed by the web site
- Project of electronic scanning and visual storing of documents
- Project of an e-registration.
- Electronic Signature Act 2001 is not currently applicable on any signature that is concerned with land transaction or registration
- Government has announced her intention to launch a project of a new identity card that will combine biometric (fingerprints and face picture) and digital identification tools. Draft legislation in this issue is pending for approval of the

Conclusions

- There are many advantages to E-Conveyancing.
- It has been proved that such systems shorten the time of registration from days to minutes. It saves human work.
- It is geographically more accessible.
- It is claimed but not yet proved that electronic signatures and other electronic identification tools (like pin-tokens or biometric equipment) can reduce the danger of fraud and forgery.
- Accessibility to the system is crucial to its vitality.
- Most of the currently developed e-conveyancing systems (especially those of the UK and Ontario) are based on a network of restricted authorized dealers that has signed a contract with the government and supplied financial guarantees to their registration activities.
- Priority for implementation of electronic registration of charges

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Thanks for your attention !!!