

Central FL PREP Meeting
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THE HISTORY OF PUBLIC RECORDS:
A Look-See At the Past
or
Why We Do What We Do

Presented by
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Agenda

- ◆ Before the Beginning...
- ◆ How We Moved Along...
- ◆ Across the Pond...
- ◆ Modernity Moves In...
- ◆ Where to from here?
- ◆ Questions and Answers



Definition:

- ◆ Public record is a document created or stored by a government in the course of its business
- ◆ Archivology is one of the oldest professions



Before the Beginning: Could it really be 5,000 Years?



MESOPOTAMIA

- ◆ Papyrus deeds for sales and gifts of valuable property existed in Egypt during the 3rd Dynasty of the Pharaohs (3000 - 4000 B.C.)
- ◆ In the late 2000s B.C., Sumeria and the Third Dynasty of Ur maintained records on papyrus, but began preserving them in clay containers



And then the Next Beginning...



Biblical Imperative

- ◆ (Thanks to John Lockwood of ACS for finding the Biblical Imperative for the work of Recorders)
- ◆ Jeremiah, Chapter 32 (that would be the Old Testament)
- ◆ For seventeen shekels of silver, Jeremiah bought his uncle's son's field, mostly because the Lord told him to (v. 9)
- ◆ When Jeremiah bought this land, he says he “subscribed the evidence and sealed it and took witnesses and weighed him the money in the balances.” (v.10)



Biblical Imperative, contd.

- ◆ His writing goes on to describe that he took the evidence of the purchase “both that which was sealed according to law and custom and that which was open (v. 11)
- ◆ He then gave evidence of the purchase “unto Baruch, the son of Neriah, the son of Maaseiah...” (v.12) (guess he must have been the local recorder, eh?)
- ◆ And so it was the property transferred...



CLASSICAL & IMPERIAL ROME

- ◆ Due to the movement of Rome and its armies, its records marched across the entire Middle East, North Africa and Europe
- ◆ Back and forth to Rome – recording revenues, acquisitions, and holdings...
- ◆ For the first time ever that appears to be known, a bound codex was used to fix the original order of relationships between records – in particular keeping track of the land acquisitions from their conquests



BRITANNIA- Domesday Book

- ◆ Originally, not one book but two: Great and Little
- ◆ Rebound in 1984 to improve its preservation for another millennium, it now consists of 5 volumes
- ◆ Used for many centuries for administrative and legal purposes
- ◆ It is the starting point for local historians researching the history of their area
- ◆ It still remains the basis for many legal documents in England today
- ◆ It is a legal document that is still valid as evidence of title to land



BRITANNIA- Domesday Book

- ◆ Compilation of the data only possible because England already had sophisticated administrative system built by the Anglo-Saxons, with shires (aka counties)
- ◆ Boundaries survived with little change until 1974
- ◆ The questions asked by the Commissioners were quite encompassing



BRITTANIA, contd.

- ◆ Landmark document, The Magna Carta, was issued by King John (1215)
- ◆ King John had been excommunicated in a dispute over the appointment of the Archbishop of Canterbury and he used this as an excuse to confiscate church property and sell it back to his bishops at a profit



BRITTANIA, contd.

- ◆ Money was used to create first real British Navy
- ◆ Angered, his barons refused to support his exploits and they refused to fight
- ◆ The baron rebels declared against the king on May 3, 1215
- ◆ In his efforts to hold the whole of his kingdom together, he entered protracted negotiations



BRITTANIA, contd.

- ◆ The end result was the Magna Carta, which was to King John simply a stalling tactic, a bargaining chip, nothing more, and it became a first in the history of Britain
- ◆ The king was subject to a law of the land and established a council for governing the land
- ◆ Has been looked at as a basis for freedom for centuries



BRITTANIA, contd.

- ◆ In these feudal times (1066-1307), properties were transferred with a twig of a tree or a clod of dirt from the property – someone had to walk the boundary of the property, someone had to see them do it, and the seller had to make a formal statement of transfer and someone had to do something (like pound the tar out of the witness) so they wouldn't forget
- ◆ London Public Record Office – Houses “Pipe Rolls” – an unbroken run of almost seven centuries (1156-1833)



MEDIEVAL ENGLAND

- ◆ The English lords' properties were generally the manors and outlying lands worked by their tenants
- ◆ Each manor maintained its own court for the adjudication of property disputes and had a Court Roll: an embryonic deed registry – at the local level
- ◆ Imagine: custom varied from manor to manor



16TH CENTURY CHANGES

- ◆ Henry VIII 1535 – 2 Important Statutes
- ◆ Statute of Uses = required for a transfer of land to be valid there had to be *actual possession and a written deed recorded* in the proper Court roll
- ◆ Statute of Enrollments = required all transfers be *written and recorded to be valid and ignored possession*
- ◆ A public registry of deeds never established in England



THE NEW COLONIES

- ◆ 17th Century (Plymouth Rock, pilgrims, Jamestown)
- ◆ Statute of Enrollments modified to fit new model of property ownership: personal ownership
- ◆ Establishment of a system of recording every transfer of title in a written record filed with the clerk of the county in which the property lies



18th CENTURY AMERICA

- ◆ James Madison (1751 – 1836), a believer in open government and public records:
“A popular Government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy or perhaps both. Knowledge will forever govern ignorance: and a people who mean to be their own Governors must arm themselves with the power which knowledge gives.”



18TH CENTURY AMERICA

- ◆ In 1787 U.S. Government created Territory of Northwest and thus “Public Domain” was born
- ◆ “Public Domain” areas today consist of 30 states called “Public Land States”
- ◆ “State Land States” consist of the first 13 colonies and 5 states created from their boundaries plus Texas and Hawaii
- ◆ Some of earliest land records? 1759



A Florida Sidebar

- ◆ Ponce de Leon (April 1513, St. Augustine) and Hernando de Soto (Spring 1539, Tampa Bay)
- ◆ King Phillip II of Spain, 1561, no longer interested in promoting expeditions to FL
- ◆ Settlement, Spain, France, England, wars, exploration
- ◆ Treaty of Paris 1783, returned FL to Spanish rule
- ◆ Spain yielded FL territory to United States 1821
- ◆ March 1845, statehood (along with Iowa)
- ◆ Multiple countries = multiple forms of land records and ownership



19TH CENTURY AMERICA

- ◆ Recording Acts were born – Notice; Res Notice and Race (fastest horse to the county seat wins...wheeha!)
- ◆ By 1877 all recognized public records were in shambles. President Rutherford B. Hayes appoints Presidential Commission
- ◆ 1899 American Historical Assn. establishes Public Archives Commission
- ◆ Their first report: Public records were a mess and public officials did not much care



20TH CENTURY AMERICA

- ◆ Development of state archives and understanding of the importance of public records
- ◆ The 1930s, 40s and 50s expanded the network of regulation, laws and licensing (FL creation of one set of books to be known as Official Records in 1955)
- ◆ The 1960s, 70s and 80s expanded mass escalation of public records collected



20th CENTURY contd.

- ◆ At the close of the 20th century, much of the information collected by the private sector comes initially from the public records
- ◆ Most states authorize release of public records
- ◆ Move away from “practical obscurity” in basements and hard/paper copies



21st Century

- ◆ Information is the lifeblood of any successful business and of the American economy
- ◆ The economic engine of land transfers and encumbrances had a financial impact exceeding \$2.5 trillion in 2007; much has changed in past 4 years
- ◆ Recorders, title folks and lenders all have important parts to play as we go forward with technology
- ◆ Privacy, ethics, and access are key components of the new standards as we move forward



Where Do We Go From Here?



What are the issues for the next decade?

- ◆ When will the economy recover? Will it recover?
- ◆ What will happen to/with housing?
- ◆ How do we work together for the benefit of all?
- ◆ What's the next “big thing” on the horizon? (We've “been there/done that” on scanning, eCommerce, auto-indexing, online access.)



Be aware

- ◆ Several federal proposals for nationwide land registry
- ◆ Frustration may lead to quick actions with unintended consequences
- ◆ Who is responsible for what – and why?
- ◆ Does pointing fingers accomplish anything?



What's the Bottom Line?

Impact

Failure to acknowledge the long history and importance of public records and to implement explicit *balanced* privacy and access legislation – both state and federal – places public records, their custodians and the citizens in peril. Action is required!

Bottom Line

Open access to public records, protection of certain personally identifiable information, and sharing resources is critical to a continuation of commerce, as well as ensuring trust of government



Important Details

- ◆ 100 years ago, action was required and was taken to put public records in order
- ◆ Now, again, action is required to understand our history and its importance in the scheme of the American Economy which will shift public records to the next level of incorporating new technologies and protecting both personal privacy and public access
- ◆ 100 years from now, it will be something else...and we'll be gone

Contact Information



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