

A Brief History And Organization of the Alaska Recorder's Office



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PREFACE

The recordation/filing¹ of real property and other documents for the purpose of serving constructive notice to the public has had a long and varied history. It is the purpose of this “Brief History and Organization of the Alaska Recorder’s Office” to acquaint the reader with how it all started, developed over the years, and to some extent, what it all means. There is no attempt to discuss any legal issues.² Alaska is a “race/notice” state, i.e. first in time, first in line, and recording/filing of real property and other documents affects all of us.

Credit for some of the material in this paper is given to a document entitled “Recordation and Recording Procedures in Alaska” prepared in 1966 by E. Z. Rehbock, then legal assistant for the Alaska Court System.

¹ The words “record” and “file” and the phrase “file for record” are sometimes erroneously used interchangeably. Within the context of the Recorder’s Office system, there is a basic difference in the words. A recorded document is one that is copied into the records in some manner and returned to the owner. A filed document is placed on file, becomes the property of the State and is not returned to the original owner. The Recorder’s Office handles both type of documents.

²The statewide recording system is currently administered as directed by statutes under nineteen separate titles and by regulations in 11 AAC 06. A comprehensive recording act was enacted in 1988, relating to filing and recording requirements, recordable documents, conveyances, plats and platting authorities.

The Recorder's/UCC Office has been accorded the statutory responsibility of providing a secure, impartial place of record for all documents affecting real property within the State of Alaska. The statewide system consists of 34 separate recording districts.

Since 1975, these 34 recording districts have been serviced by a total of 14 separate offices (including three administered by the court system) located throughout Alaska.

In enacting comprehensive legislation relating to the recording of documents in 1988, the Alaska legislature made the following findings:

“The legislature finds that the

- (1) Recording of legal documents of the kind customarily recorded throughout the United States is an essential state function;
- (2) Time and place of the recording of a document can be more important than the underlying sufficiency of the document;
- (3) Recording offices exist primarily for the benefit and convenience of the general public;

(4) Business community, commercial institutions, including banks, and private individuals cannot function effectively without the public notice protection afforded by recording their documents; and

(5) The policy of the state is to maintain a convenient means of regularly recording legal documents relating to property and obtaining information concerning existing recorded documents.”³

³ § 1 ch 83 SLA 1988

INTRODUCTION

Registration of land titles in one form or another has existed for several centuries in Europe and had been used in parts of the British Empire throughout the world. The colonists, who were responsible for initiation of the system in colonial America, may have secured the general idea from the Dutch system with which some of them had become familiar during their stay at Leyden in the Netherlands and from the abortive campaign of Henry VIII for a universal system of recording conveyances. The first acts followed quite closely the wording of the Statute of Enrollments, passed in England in 1635 requiring that conveyances of real property be “enrolled” on a public record except that they substituted recording for enrolling.

The necessity of requiring deeds, mortgages, and other instruments to be recorded in some public office was recognized in the preamble to the first recording act of South Carolina, enacted in 1698, which reads in part:

“Whereas, the want or neglect of registering or recording sales, conveyances and mortgages of lands, negroes, and other goods and chattels hath encouraged and given opportunity to several knavish and necessitous persons to make two or more sales, conveyances, and mortgages,...whereby buyers and lenders do lose,...therefore it is enacted....”

Though to some extent patterned after European systems, the recording system that developed in America is unique and in its present form almost entirely confined to North America. It has been stated that “the distinctive features of the American system of recording deeds are...indigenous.”

The early day “settlers” in Alaska found civil government and matters concerning recording land “titles” and “ownership” non-existent. It was the early day prospector before the turn of the century that, out of necessity to protect “title” to mining locations and prevent claim jumping, formed “mining districts” and appointed a “recorder of claims.” For instance, on October 15, 1898, the three original locators of the richest gold placer claims in the Nome area joined with three other would-be miners to form the Cape Nome Mining District and appoint an official recorder who could then officially record their claims. The boundaries have been enlarged but the name of the District is still in use today. Similar actions had been taken even earlier in other areas such as the Porcupine Mining District which today is part of the Haines District. From this very early start utilizing basic systems enacted by the original colonists, the recording system in Alaska grew into what it is today.

A BRIEF HISTORY AND ORGANIZATION OF THE ALASKA RECORDER'S OFFICE

Under the territorial form of government in Alaska, the recordation of conveyances, filing of tax liens and recordation of mining claims and other mining instruments was a duty of the United States Commissioners in their respective precincts. The beginning of recording activities in Alaska can be traced to the establishment of civil government for Alaska in 1884 when the Congress provided that Alaska should be governed by the laws of Oregon. Oregon statutes contained copious provisions for the recordation of instruments and the commissioners were charged with the administration of these laws. In 1900 Congress enacted a code of laws based mainly on Oregon law and containing detailed and specific rules for a recording system, which is basically still in force and comports with the principles of recordation as used in the majority of jurisdictions.

The early records of Alaska, as found in the various districts, contained meager information on fee title to real property, although this is one of the important types of information desired. The old records contain mining or quitclaim deeds of property (usually unsurveyed) of which there is no pretense of a legal estate. This condition must not be ascribed to "loss" of old records (although in some precincts it unfortunately happened that they were destroyed by fire), but to the fact that the Congress had for a time long neglected to enact legislation for the acquisition of fee titles in Alaska. Legislation authorizing townsite entry was first enacted in 1891. The homestead laws were extended to Alaska only in 1898. The U.S. Public Land Survey System was not extended to Alaska until as late as 1899.

An important statute provides that persons “actually in use or occupation” of lands in Alaska at the beginning of civil government on May 17, 1884 shall not be disturbed therein, but that the acquisition of such land is reserved to future legislation of the Congress. This act was intended as a preliminary to the enactment of future legislation by the Congress for the acquisition of land. It served as a temporary protection.

The functions assigned to recorders in Alaska were augmented in the early 1900's by congressional legislation on mining on the federal public domain and by enactment of territorial laws on mechanic's liens, conditional sales and chattel mortgages. The body of territorial law relating to the filing in the recorder's office of conditional sales, bulk sales, chattel mortgages and other chattel security became obsolete in 1962 when Alaska adopted the chattel filing provisions of Article 9, Uniform Commercial Code.

At the time of transition from the territorial U.S. District Court to the integrated Alaska Court System, there existed a great variety of functions concerned with recording. The difficulty of transition was alleviated because the present boundaries of recording districts are essentially oriented by the boundaries of the former recording precincts, and the commissioners were replaced by magistrates upon whom the recording duties devolved.

Under territorial government, instruments submitted for recordation were originally copied into the record book by longhand. The use of typewriters was established around 1915. A photostatic copying method was introduced in the large cities, mainly in

Anchorage and Fairbanks, around 1950. At that time it was a practice of the territorial U.S. District Court, which had jurisdiction over recording, to enter into reproduction contracts with commercial title insurance companies. The companies furnished the cameras, were responsible for adequate reproductions and furnished a copy of each instrument to the court under the terms of the contract. Since these arrangements were on a local basis, the size of the copies and the quality varied from place to place. The functions of the recorders were regulated by statute, but their activity lacked central supervision. The statutes made some provision for maintenance of books, for indexing, for fees and general duties of recorders.

Early actions to adjust district boundaries and/or combine districts were accomplished by order of the District Court for the Territory of Alaska. One such order dated November 30, 1948 merged the Goodnews Bay District with the Bethel District.

With the advent of Statehood and pursuant to the Session Laws of Alaska of 1959 and effective in 1960, the Alaska Supreme Court, by Order No. 12, established the recording districts and designated District and Deputy Magistrates to act as Recorders. There are 14 amendments to Order No. 12 which correct descriptions, change places of record and combine recording districts. Some of these amendments were complex in nature. For instance, the Noatak-Kobuk Recording Districts was merged with the Fairbanks Recording District in 1969. A portion of the Noatak-Kobuk Recording District/Fairbanks Recording District above the 68° N latitude is now the Barrow Recording District and a portion of the Noatak-Kobuk Recording District/Fairbanks Recording District below the

68° N latitude is now the Kotzebue Recording District. Amendment Number 12 dated September 11, 1970 combined the Wade Hampton District with the Bethel District.

The last major change took place on July 1, 1975. Order No. 12 was revised to combine the geographical boundaries of:

McCarthy and Chitina Recording Districts to be known as the Chitina Recording District.

Hyder and Ketchikan Recording Districts to be known as the Ketchikan Recording District.

Whittier and Anchorage Recording Districts to be known as the Anchorage Recording District.

Fairhaven and Cape Nome Recording Districts to be known as the Cape Nome Recording District.

The Barrow Recording District was established.

The Kotzebue Recording District was established.

Paragraph 5 of Amendment 13 effective July 1, 1975, put the place of recording for the Cordova Recording District in the town of Valdez. Amendment 14 effective July 21, 1975 took the place of recording for the Cordova Recording District from Valdez and place it in Anchorage.

From 1960 until June 16, 1967, the written description for each recording district was the official description of that recording district. Amendment No. 8 to Order No. 12, dated June 16, 1967 changed that by designating the "Alaska Recording Districts' Portfolio," dated September 1, 1964 as the official maps describing the boundaries of all recording districts. The maps and legal descriptions were intended to complement each other, but if a discrepancy arose, the boundary as shown on the maps would govern. A full set of these maps as amended, may be found in Anchorage, Fairbanks and Juneau. Each place of recording for the other areas has sets for the recording districts for which they are the place of record. There is also a large Recording District Map in each office, showing boundaries of all recording districts in relation to one another.

Since the last major changes to recording districts on July 1, 1975, there have been 34 recording districts serviced through 14 different offices, eleven of which are staffed and managed by Department of Natural Resources, Office of the Commissioner personnel. The remaining three offices are administered through the Alaska Court System personnel on a part time basis. Kodiak, on July 1, 1988, was the most recent office to be placed under the management of the Department of Natural Resources. Boundaries and names of current districts are shown on the attached map dated January 1, 1980.

Due to the great expanse of real estate within the State of Alaska and the infrequency of the population centers, the functions and scope of separate recording offices will vary. In some instances, the volume of recording is not sufficient to warrant an office and full time employee. In three recording districts (Chitina, Seward, and Valdez) the situation is handled by employing Court System personnel on a part time basis. In other recording districts the volume is so low that part time employment of court employees is not feasible. These areas are handled by larger recording district offices with maintenance of grantor/grantee indices and paper copies of documents supplied to court offices within those districts. Recording districts administered in this manner include: Aleutian Islands, Bristol Bay, Cordova, Haines, Kuskokwim, Kvichak, Nenana, Petersburg, Skagway and Wrangell. Still other sparsely populated districts are administered and maintained in larger offices with no local offices maintained. These districts include: Barrow, Ft. Gibbon, Iliamna, Kotzebue, Manley Hot Springs, Mt. McKinley, Nulato, Rampart, Seldovia and Talkeetna.

On August 3, 1971, the court created the position of District (State) Recorder with the responsibility for overseeing the operation of recording throughout the State.

On January 1, 1977, the Recording System was transferred to the Department of Administration, Division of General Services and Supply.

On July 1, 1979, the Recording System was transferred to the Department of Commerce and Economic Development, Division of Banking and Securities.

On July 1, 1980, the Recording System was transferred to the Department of Natural Resources, Division of Management. This agency continues to have the responsibility for operation of the Recorder's offices. The recording system is presently a separate section within the Commissioner's Office.

With each transfer, the department was given authority to promulgate regulations for establishing, modifying or discontinuing recording districts and to prescribe the manner in which business was to be conducted.

Total processing of a document is much the same in all offices. After the initial process of checking for statutory compliance, clocking in and indexing, all documents must be forwarded to one of the three copy centers established for microfilming of the original documents. After microfilming, all documents are returned to their place of reception for proper dispersal. The copy centers are:

ANCHORAGE for: Aleutian Islands, Anchorage, Bristol Bay, Chitina, Cordova, Homer, Iliamna, Kenai, Kodiak, Kvichak, Palmer, Seldovia, Seward, Talkeetna and Valdez Recording Districts.

FAIRBANKS for: Barrow, Bethel, Fairbanks, Ft. Gibbon, Kotzebue, Kuskokwim, Manely Hot Springs, Mt. McKinley, Nenana, Cape Nome, Nulato, and Rampart Recording Districts.

JUNEAU for: Haines, Juneau, Ketchikan, Petersburg, Skagway, Sitka, and Wrangell Recording Districts.

In 1971, microfilming techniques were instituted to replace the photostatic copy method and have been refined to the present day use of microfilm reader/printers and 16mm and 35mm microfiche and roll microfilm, catalogued through the use of computerized alphabetic grantor, grantee and real property description indices.

The Anchorage Recording District was the first district with computerized indices. This was started June 22, 1971. The Palmer Recording District began November 1, 1971. Talkeetna, Fairbanks, Kodiak, Kenai and Cape Nome Recording Districts began January 2, 1972; Juneau Recording District began July 1, 1972; Ketchikan and Sitka Recording Districts began August 1, 1972; Homer Recording District began July 1, 1974; Kvichak, Cordova, Aleutian Islands, Nenana, Rampart, Nulato, Mt. McKinley, Manley Hot Springs, Kuskokwim, Bethel, Chitina, Valdez and Seward Recording Districts began January 2, 1975; Petersburg, Wrangell, Seldovia and Bristol Bay Recording Districts began July 1, 1975; Haines and Skagway Recording Districts began January 2, 1976. There are also computerized indices for Fairhaven Recording District from January 2, 1972, until it was merged with Cape Nome July 1, 1975; for McCarthy

Recording District from January 2, 1972 until it was merged with the Chitina Recording District July 1, 1975; and for the Hyder Recording District from January 2, 1973 until it was merged with Ketchikan Recording District July 1, 1975.

From 1971 to approximately September 1991, paper printouts of the index information were distributed to all locations for public research purposes and were updated weekly. This was certainly more efficient than the handwritten index which must be viewed on film for pre- 1971 records but still represented indices specific to each location only. With the installation of public access terminals in the fall of 1991 in all DNR maintained locations, the public can now access the entire 34 recording district database indices from any location for those records that have been automated from 1971 to the present.

The purpose of the Recorder's Offices has always been to provide a secure, impartial place of record for real property documents. In most cases, these records are irreplaceable and necessary to maintain a chain of title to all real estate within the State of Alaska. The Recorder's Offices also provide a mechanism by which liens, deeds of trust and other encumbrances against specific properties may be brought to public notice.

Illustrations attached indicate the volume of documents filed or recorded from 1990 through 1993. Also included is an organizational chart depicting the present day structure of the 14 State Recorder's Offices and a map of the current district boundaries.