

2018
Deeds Indexing
Standards

Suffolk Supplement

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1. INDEXING NAMES AND ADDRESSES

1.01 Index as Presented in Document – Unless stated otherwise in these standards, names and addresses are entered in the Registry of Deeds index as they appear in the document being recorded. This includes: an ampersand (&); a hyphen (-); commercial at (@); and the period in .com. An apostrophe (') or a comma (,) are not indexed.

The Basic Rules are as follows:

Human Names – The last name of a person is indexed first (in the last name field) and the first name of the person is indexed second (in the first name field).

Eg. Charlie Brown is indexed: BROWN CHARLIE

Government Names – The name of the entity is indexed in the last name field.

Eg. City of Boston is indexed: BOSTON CITY OF

Business Names – The name of the entity is indexed in the last name field.

Eg. Peanuts, Inc. is indexed: PEANUTS INC

Addresses – The number of the locus is indexed first (in the number field), the name of the street is indexed second (in the street field) and the Boston neighborhood, if indicated, is indexed third (in the neighborhood field).

Eg. 10 Main Street Unit #3, Roslindale, Massachusetts is indexed:

10 MAIN ST UNIT 3 ROSLINDALE

Rules for Human Names:

1.02 Also/Formerly Known As – When a person is known by more than one name, enter each name as if it belonged to a separate person. Do not include the abbreviations aka or fka in the index.

1.03 Degrees and Certifications – Words or abbreviations indicating degrees or certifications (CPA, MD, ESQ) are omitted.

1.04 Estates – Words or abbreviations indicating an estate (EST) are omitted.

1.05 Hyphenated Names – Two or more words connected by a hyphen are treated as one word. The hyphen is retained in the index.

Eg. Daniel Simpson-Day is indexed: SIMPSON-DAY, DANIEL

1.06 Lineage Suffix – Any lineage suffix, for example Jr. or III, is included in the first name field, after the first name and middle initial.

Eg. John Paul Jones Jr is indexed: JONES, JOHN P JR

1.07 Middle Names and Initials – Middle names are initialized and entered after the first name. Do not place a period after an initial.

Eg. Henry Cabot Lodge is indexed: LODGE, HENRY C

1.08 Multiple Last Names – The name is entered in the index the way it appears on the signature line. Otherwise, multiple word surnames are not assumed. Only the last word in a person's name is entered in the last name field. Separate multiple initials with a space.

Eg. Johannes Wolfgang Amadeus Mozart is indexed: MOZART, JOHANNES W A

1.09 Prefixes – The name is entered in the index the way it appears on the document.

Eg. John Le Carre is indexed: LE CARRE, JOHN

1.10 Punctuation Marks – Do not enter apostrophes or commas in the index. Do include other punctuation marks.

*Eg. Scarlett O'Hara is indexed: OHARA, SCARLETT
Amazon.com is indexed: AMAZON.COM
Callard & Bowser, Inc. is indexed: CALLARD & BOWSER INC*

1.11 Saint or St. – The name is entered in the index the way it appears on the document (minus the punctuation).

*Eg. Rose St. Stephen is indexed: ST STEPHEN, ROSE
Martin Saint Louis is indexed: SAINT LOUIS, MARTIN*

1.12 Trusts and Trustees – The name of the Trust and Trustee is entered into the index. Words or abbreviations indicating a Trustee (TR) are omitted.

*Eg. Edmond Dantès, Trustee of the Monte Cristo Trust is indexed:
DANTES, EDMOND MONTE CRISTO TRUST*

1.13 Van – Unless it clearly appears that the word Van is a person's first or middle name, Van is treated as part of the person's last name, with Van and any other last name being entered in the last name field of the index as two separate words.

Eg. Edward Van Halen is indexed: VAN HALEN, EDWARD

Rules for Government Names:

1.14 Government Names – Enter government names in the index as follows:

- City of Boston is indexed.....BOSTON CITY OF
- City of Chelsea is indexed.....CHELSEA CITY OF
- City of Revere is indexed.....REVERE CITY OF
- Town of Winthrop is indexed.....WINTHROP TOWN OF
- Commonwealth of Massachusetts is indexed.....MASSACHUSETTS COMMONWEALTH OF
- DEP is indexed.....MASSACHUSETTS COMMONWEALTH OF
- DOR is omitted – indexed under the name of the taxpayer only
- Mass Port is indexed.....MASSACHUSETTS PORT AUTHORITY
- MBTA (S/C=MBTA) is indexed.....MASSACHUSETTS BAY TRANSIT AUTHORITY
- United State of America is indexed.....UNITED STATES OF AMERICA
- United States Treasury Department is indexed...UNITED STAES OF AMERICA
- United States Attorney’s Office is indexed.....UNITED STATES OF AMERICA
- Housing and Urban Development is indexed.....UNITED STATES OF AMERICA/HUD
- IRS is omitted – indexed under the name of the taxpayer only

Rules for Business Names:

1.15 The – Omit “The” when it appears as the first word of a name.

Eg. The Top of the Hub, Inc. is indexed: TOP OF THE HUB INC

1.16 Business Using Human Name – A human name used as the name of a business should be entered in the order presented.

Eg. John Jones Construction is indexed: JOHN JONES CONSTRUCTION

1.17 Abbreviations in Business Names – Business names (including and or &) are entered in the Registry of Deeds index as they appear in the document being recorded, however, the following words must be abbreviated as indicated when included in a name, unless the word comes first in the name in which case it is spelled out:

<i>Eg. Limited Liability Company/Partnership</i>	<i>LLC/LLP</i>
<i>National Association</i>	<i>NA</i>
<i>Incorporated</i>	<i>INC</i>
<i>Limited</i>	<i>LTD</i>

1.18 Numbers in Names – A number that is part of a name is entered as it appears on the document. When a name begins with a number, that number is indexed at the end of the name.

Eg. Top 10 Records, Inc. is indexed: TOP 10 RECORDS INC
The 99 Restaurant, Inc. is indexed: RESTAURANT INC 99

1.19 Doing Business As (DBA) – Business entities that do business under a different name are indexed as follows:

Eg. Loandepot.com doing business as Mortgage Master is indexed: LOANDEPOT.COM

1.20 Successor in Interest by Merger (Successor by Merger) – Business entities that are the successor in interest by corporate merger are indexed as follows:

*Eg. Bank of America NA as successor in interest by merger with Overbank is indexed:
BANK OF AMERICA NA*

1.21 Successor in Interest by Purchase from the FDIC – Business entities that are the successor in interest by purchase from the FDIC are indexed as follows:

Eg. Bank of America NA as successor in interest by purchase from the FDIC as receiver of Washington Mutual Bank FA is indexed: BANK OF AMERICA NA

1.22 Designated Nominees – Business entities that are the designated nominee of another business entity are indexed as follows:

Eg. Mortgage Electronic Registration Systems, Inc. as designated nominee for Taylor, Bean and Whitaker Mortgage Corp. beneficiary of the security interest, its successors and assigns is indexed: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC (S/C=MERS)

1.23 Attorney-In-Fact – Business entities that are the attorney-in-fact for another business entity are indexed as follows:

Eg. Bank of America, National Association by Nationstar Mortgage LLC by its Attorney-In-Fact is indexed: BANK OF AMERICA NA

1.24 Deutsche Bank National Trust Company – Sophisticated business entities involving various trusts and pass through certificates are indexed as follows:

Eg. Deutsche Bank National Trust Company as Trustee for GSAMP Trust 2006-VM3, Mortgage Pass-Through Certificate, Series 2006-FM3, in c/o Ocwen Loan Servicing, LLC West Palm Beach CL 33409 is indexed: DEUTSCHE BANK NATIONAL TRUST COMPANY (S/C=DBNTC)

1.25 MERS or Mortgage Electronic Registration Systems – Is indexed: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC. In addition, with a mortgage the name of the bank or mortgage company involved is also entered into the index.

*Eg. Lenders: Bank of America NA and MERS is indexed:
BANK OF AMERICA NA
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC (S/C=MERS)*

1.30 Unit Deed with Appurtenant Parking Space – A condominium unit with an appurtenant parking space referenced in the unit deed is part of a property’s address and is entered in the index in the street name field following the name of the street and unit with an ampersand (&). When the reference is embedded in the document, it can be easily missed, therefore, the parking space should be conspicuously stated in the condominium unit’s address on the first page of the document.

Eg. 10 Main St. Parking Space 7 Roslindale is indexed:
 UD: 10 MAIN ST UNIT 3 & PKG SP 7 ROSLINDALE

1.31 Easement Deed for a Parking Space – A deed of easement for a parking space is entered in the index in the street name field following the name of the street.

Eg. 10 Main St. Unit 3 and Parking Space 7 Roslindale is indexed:
 EASE: 10 MAIN ST PKG SP 7 ROSLINDALE

1.32 Street Name and Numbered Street Address as Names – Where a street name is used as the name of a business entity, the name of the street is never abbreviated. Where the number in the address is included in the name of the entity, the number is indexed at the back of the name.

Eg. The Road Kill Café is indexed: ROAD KILL CAFE, not RD KILL CAFE
10 Neponset Avenue Condominium is indexed: NEPONSET AVENUE CONDOMINIUM 10

1.33 Mount or Mt. – A street name is entered in the index the way it appears on the document (minus the punctuation) if it contains Mount or Mt.

Eg. Mt Hope Street is indexed: MT HOPE ST
Mount Hope Street is indexed: MOUNT HOPE ST

1.34 Direction in Street Names – South, North, East and West – Directions are always shortened to S, N, E and W when used to begin a street name, except when the given direction is at the end of a street name.

Eg. 10 West Main Street Roslindale is indexed: 10 W MAIN ST ROSLINDALE
10 Charlesgate East Back Bay is indexed: 10 CHARLESGATE EAST

1.35 Rear or ½ in Addresses – When the address is rear, index R after the street number in the number field. When the address is a number and one-half, index ½ after the street number in the number field.

Eg. 10 West Main Street Rear Roslindale is indexed: 10R W MAIN ST ROSLINDALE
10½ West Main Street Roslindale is indexed: 10½ W MAIN ST ROSLINDALE

1.36 Numbered Streets – Numbered Streets are always spelled out, **except in Charlestown.**

Eg. 125 East 7th Street South Boston is indexed:
125 E SEVENTH ST SOUTH BOSTON

123 3rd Avenue Charlestown is indexed:
123 3RD AVE CHARLESTOWN

1.37 Number in Addresses – Numbers in addresses are indexed in the number field as follows:

- No commas or spaces between dashes.

Eg. 33 – 35, 37 – 39 Main St. Roslindale is indexed:
33-35 MAIN ST ROSLINDALE
37-39 MAIN ST ROSLINDALE

- No ampersands between numbers.

Eg. 33 & 35 Main St. Roslindale is indexed:
33-35 MAIN ST ROSLINDALE
or
33 MAIN ST ROSLINDALE
35 MAIN ST ROSLINDALE

- No ampersands between different numbered addresses.

Eg. 33 & 35-37 Main St. Roslindale is indexed:
33 MAIN ST ROSLINDALE
35-37 MAIN ST ROSLINDALE

- No multiple commas or multiple dashes.

*Eg. 33, 35, 37 **or** 33-35-37 Main St. Roslindale is indexed:*

33 MAIN ST ROSLINDALE
35 MAIN ST ROSLINDALE
37 MAIN ST ROSLINDALE

1.38 Condominium Units and Parking Spaces – Condominium units and parking spaces are entered in the index in the following, uniform manner:

Eg. Units 1 and 2 are indexed: UNITS 1 & 2
Units 1, 2, 3 and 4 (up to 4 units) are indexed: UNITS 1, 2, 3 & 4
UNITS 1, 2, 3, 4 and 5 (5 or more units) are indexed: UNITS 1 – 5 INC
PS 8 is indexed: PKG SP 8
Spaces 7, 8 and 9 are indexed: PKG SPS 7, 8 & 9
Spaces 1, 2, 3, 4 and 5 (5 or more spaces) are indexed: PKG SPS 1 – 5 INC

1.39 Sundry Parcels – When multiple parcels and lots are referenced in a document and the Exhibit A without reference to a definitive address, the term Sundry Parcels is entered into the index in the address field. Multiple addresses on a document are not indexed as sundry parcels – enter each.

*Eg. LOTS 6, 8, 17 and 19 is indexed: SUNDRY PARCELS
5 Main St., 7 Hope St., 3 Gray St., 9 Dix St. and 8 Nee St. are not indexed as SUNDRY PARCELS*

1.40 Boston Neighborhoods – Boston neighborhoods are entered into the index in the third field of the address.

*Eg. 33 & 35 Main St. Roslindale is indexed:
33-35 MAIN ST ROSLINDALE*

Boston Neighborhoods are indexed as follows:

ALLSTON
BRIGHTON
CHARLESTOWN
DORCHESTER
EAST BOSTON
HYDE PARK
JAMAICA PLAIN
MATTAPAN
ROSLINDALE
ROXBURY
SOUTH BOSTON
WEST ROXBURY

2. ACKNOWLEDGEMENTS

2.01 Acknowledgement Required – An Acknowledgment (commonly referred to as “notarization”) is the formal statement of a grantor to an official, authorized to take the acknowledgment, that the execution of the document is the grantor’s free act and deed. 28 Mass Practice – Park §385. Pursuant to statute, the document types listed below must be acknowledged to be recorded. Documents not on the list below are accepted for recording, whether or not they are acknowledged:

- Acceptance of Appointment as Condominium Trustee – MGL c. 183A, §8
- Appointment as Condominium Trustee – MGL c. 183A, §8
- Assignment of Mortgage– MGL c. 183, §54B
- Assignment of Lease – MGL c. 183, §4 & §29
- Boundary Line Agreement

- Certification of Translation of Foreign Language Document
- Declaration of Trust – MGL c. 203, §1
- Deed – MGL c. 183, §§1, 4 and 29
- Dissolution of Attachments by plaintiff, his executor, his administrator or attorney of record – MGL c. 223, §132
- Easement – MGL c. 183, §§15 and 29
- Estate Tax Affidavit – MGL c. 36, §16
- Homestead – MGL c. 188, §5(a)
- Incorporation Certificate re Roman Catholic Church – MGL c. 67, §44
- Lease – MGL c. 183, §§4 and 29
- Lien for failure to reimburse the Commonwealth for removal of wharves or piers – MGL c. 91, §49B
- Mechanic's Lien – Notice of Contract – MGL c. 254, §30
- Mechanic's Lien – Statement of Account – MGL c. 254, §30
- Mortgage – MGL c. 183, §§18 and 29
- Notices of Lease – MGL c. 183, §§4 and 29
- Option to Purchase or Lease – MGL c. 183, §§4 and 29
- Partial Release – MGL c. 183, §54B
- Planning Board Release – MGL c. 41, §81U
- Power of Attorney – MGL c. 183, §32
- Power of Attorney Acceptance – MGL c. 183, §32
- Purchase and Sale Agreements or extensions thereof – MGL c. 184, §17A
- Receipt of Federal Revenues for Succession Tax – MGL c. 60, §62
- Release of Attachment – MGL c. 223, §132
- Release of Homestead – MGL c. 188, §10(a)(2)

- Release of Lis Pendens – MGL c. 184, §15(a)
- Release/discharge of Mortgage – MGL c. 183, §54B
- Release of Notice of Contract – MGL c. 254, §§10 and 30
- Resignation of Condominium Trustee – MGL c. 183A, §8
- Tax Redemption – MGL c. 60, §62
- Tax Taking – MGL c. 60, §54
- Terminations of Lease – MGL c. 183, §§4 and 29
- Title Affidavit – MGL c. 183, §5A
- Veteran’s Agent Lien or Discharge – MGL c. 115, §5A

2.02 Affidavits – Affidavit in Latin means “he has declared upon oath.” An affidavit containing sworn verification, signed “under the pains and penalties of perjury,” serves as evidence of the signer’s veracity; therefore, no acknowledgment is required. In and of themselves, affidavits are not recordable, however, specific statutes permit certain affidavits to be recorded.

Eg. Scrivener’s Affidavit – MGL c. 183, §5B

Statement Affidavit – MGL c. 183, §5A

Trust Certificate – MGL c. 184, §35

Estate Tax Affidavit – MGL c. 65C, §14(a)

2.03 Modification of Mortgage – To record a Modification of a Mortgage, the signature of at least one borrower and of at least one lender must be acknowledged.

2.04 Notary Stamp or Seal – Failure of a notary public to affix his official seal or stamp to the document being acknowledged does not affect the recordability of the document, provided the notary has signed the acknowledgement clause and printed his name and the expiration date of his commission beneath his signature. MGL c. 222, §8.

2.05 One or More Grantors – At least one grantor signature on a deed or other written instrument must be properly acknowledged for the document to be recorded. However, both signatures on a declaration of homestead filed by a married couple must be acknowledged for the document to be recorded. MGL c. 183, §30.

2.06 Out-of-State Acknowledgement – An acknowledgment made outside of the Commonwealth but within any state, territory, district or dependency of the United States, must be made before: a justice of the peace, notary public or magistrate of the state in which the acknowledgment is made; a commissioner appointed therefor by the governor of the Commonwealth of Massachusetts; or any other officer of the state in which the acknowledgment is made, provided that a certificate of

authority of said officer in the form prescribed by MGL c. 183, § 33 is attached thereto. To be recorded in Massachusetts, such an acknowledgement does not require the seal of the officer taking the acknowledgement.

2.07 Out-of-Country Acknowledgement – An acknowledgment made outside of the United States or any dependency thereof, must be made before: a justice of the peace, notary public or magistrate of the country in which the acknowledgment is made, provided that it is authenticated by an “apostille” issued by a competent authority of the country from which it emanates; a commissioner appointed therefor by the governor of the Commonwealth of Massachusetts; or an ambassador, minister, consul, vice consul, charge d’affaires or consular officer or agent of the United States accredited to the country where the acknowledgment is made and, if made before an ambassador or other official of the United States, it must be certified by him under his seal of office.

2.08 Sufficiency of Acknowledgement – To be recorded, an acknowledgement must contain: the original signature and the printed or typed name of the officer before whom the acknowledgement was made; the expiration date of the officer’s commission; the name of the person whose signature is being acknowledged; and a statement evidencing that the officer intends such signature to constitute an acknowledgement.

3. APOSTILLES

3.01 Apostille: A What? – An Apostille is a certificate issued by a designated authority in a country where the Hague Convention Abolishing the Authority for Legalization of Foreign Public Documents is in force.

Eg. Apostille


(Convention de le Haye du 5 Octobre 1961)

Country - Ireland

This public document:

*has been signed by Thomas Clancy;
acting in the capacity as Notary Public; and
bears the seal/stamp of Brendan Sweeney.*

Certified

*at Dublin;
on the 3rd of May 2002;
by the Department of Foreign Affairs;
numbered 3949102;
sealed/stamped ; and
signed by Brendan Sweeney*

3.02 Apostille: How Obtained – A notarized document sent from Massachusetts to a foreign country may require an apostille, a document issued by the Massachusetts Secretary of State verifying the authenticity of the notary’s signature on the document. To obtain an apostille:

- (a) have the document acknowledged by a notary public;
- (b) ensure that: (i) the notary signs her name exactly the way it appears on her notary commission; (ii) the certification language (i.e., “Personally appeared the above-named . . .”) is fully completed; (iii) the notary’s “expiration date” is clearly stated on the document; and (iv) the notary has affixed her notary seal on the document and the imprint is legible; and
- (c) bring the original notarized document to the Secretary of the Commonwealth’s Commissions Section, One Ashburton Place, Room 1719, Boston MA 02108, 617/727-2836, and a check or money order for \$6 per document.

Apostilles are also available at Berkshire Superior Court. Contact that court for details.

4. ATTORNEY AFFIDAVITS

4.01 MGL c. 183, §5B – An affidavit made by a person claiming to have personal knowledge of the facts stated therein and containing a certificate by an attorney at law that the facts stated in the affidavit are relevant to the title to certain land and are of benefit and assistance to clarifying the chain of title, are recorded in the Registry of Deeds in the district wherein the land or any portion thereof lies. To be accepted for recording, a 5B affidavit must:

- (a) be signed by the affiant under the pains and penalties of perjury;
- (b) be certified by an attorney licensed to practice law in the Commonwealth of Massachusetts;
- (c) contain the typed or printed name, address, phone number and Board of Bar Overseers (BBO) number of the attorney making the certification; and
- (d) NOT contain documents as Exhibits that are otherwise generally recordable on their own.

5. CHANGES TO INDEX

5.01 Record of Changes – Any change or correction to an index or record made by the Registry of Deeds must be documented in a manner that records the nature and date of the change or correction and be available for public inspection at that Registry of Deeds during normal business hours. MGL c. 36, §14.

6. CONDOMINIUMS

6.01 How is a Condominium Created? – A condominium is a cooperative form of ownership of real property governed by MGL c. 183A, which was enacted in 1963. A condominium is created when a land owner executes and records a Master Deed containing a statement to the effect that the owner hereby creates a condominium to be governed by the provisions of MGL c. 183A. MGL c. 183A, §2

6.02 What is Recorded? –Typically, a Master Deed, a Condominium Trust and a set of plans are recorded at the Registry of Deeds:

- (a) Master Deed: the master deed contains the statement referenced above in section **6.01**, a description of the land, a description of the building(s), a description of the unit(s), a description of the common area(s), a breakdown of proportionate ownership interest(s), a statement of purpose, a statement describing any restrictions, the name of the trust formed to manage the condominium, the names of the trustees and the obligation of recording certificates identifying the present trustees. See MGL c. 183A, §8.
- (b) Condominium Trust: A condominium trust is formed to manage a condominium. The trust appoints and removes the condominium’s trustees, adopts and enforces the condominium’s by-laws, amends and updates the master deed, collects the condominium fees and pays the condominium’s bills. See MGL c. 183A, §10.
- (c) Set of Plans: MGL c. 183A, §8(f) requires “[a] set of floor plans of the building or buildings, showing the layout, location, unit numbers and dimensions of the units ..., and bearing the verified statement of a registered architect, registered professional engineer, or registered land surveyor, certifying that the plans fully and accurately depict the layout, location, unit number and dimensions of the units as built.” The Registry of Deeds interprets this statute to mean that every condominium must record a set of floor plans depicting the layout, number and dimensions of each unit, verified by a registered architect or registered professional engineer, and a site plan depicting the location of the building, verified by a registered professional engineer or a registered land surveyor. The bottom line is that both a set of floor plans and a site plan must be recorded, regardless of who signs off on them.

6.03 What is a Treger Stamp? – Norman Treger filed suit against the City of Boston, challenging the city’s method of assessing property taxes. Treger prevailed and Boston was court-ordered to give tax rebates to previously over-assessed property owners. This ruling, combined with the passing of Proposition 2½, put the City of Boston in serious financial straits. In response, the Legislature passed the Treger Bill, c. 190, §9 of the Acts of 1982, allowing Boston to assess an additional excise tax on certain property development and alleviate those financial burdens.

Chapter 190, §9 states in pertinent part, “... (A)n excise is hereby imposed upon the creation of any condominium or subdivision located in whole or in part in the City of Boston at the uniform rate of five hundred dollars for each unit, in excess of one unit, in the condominium, as shown by the master deed, and five hundred dollars for each lot in excess of two lots, in the subdivision as shown by the subdivision plan ... Payment of the excise imposed hereby shall be made by the applicant to the collector-treasurer of the city prior to recording any master deed or subdivision plan. No master deed or plan shall be accepted for recording in Suffolk county Registry of Deeds or in the land court, where applicable, unless the collector-treasurer certifies thereon that the excise imposed by this section has been paid.”

The “Treger stamp” is the certification by the collector-treasurer that this excise has been paid. A Treger stamp is required not only on master deeds, but also on any amendment to a master deed, even if no excise is imposed thereby.

Eg. Conversion of a triple decker to three condominiums – \$1,000 excise tax assessed

(\$500 for each unit in excess of the first unit).

Eg. Subdivision of one lot into three lots – \$500 excise tax is assessed (\$500 for each lot in excess of two lots).

6.04 How is a Condominium Terminated/Removed? – The unit owners may remove a condominium from the provisions of MGL c. 183A by recording a removal pursuant to MGL c. 183A, §19.

6.05 What is a 6D Certificate? – In a condominium, the common expenses are shared by the unit owners. The amount of the share assessed to each unit owner is considered a lien upon the unit. MGL c. 183A, §5. This lien can be discharged by a 6D certificate from the organization of unit owners (usually the Condominium Trust), recorded at the Registry of Deeds, setting forth the amount owed or stating that no unpaid expenses are owed. MGL c. 183A, §6(d). The 6D certificate is signed by the trustee(s) of condominium trust or an appointed management company.

Examples of 6D certificates, Appointments of Trustee, Acceptances of Trustee or Resignations of Trustee, can be located at suffolkdeeds.com under Vendome Condominium Trust. The Vendome is Boston’s oldest mixed commercial and residential condominium and hundreds of examples of recorded documents may be found there to use as templates to draft the desired document.

7. CONFIRMATORY DOCUMENTS

7.01 Explanation Included – Any document intended to confirm or correct a previously recorded document must include the book and page number of the earlier document and a brief explanation of the purpose of the confirmatory document.

7.02 Re-Recording a Document – A document that has already been recorded may not be recorded again unless it has first been re-executed and re-acknowledged. (Land Court does not generally allow confirmatory documents or re-registered documents without a Court order or approval).

8. CONSERVATION RESTRICTIONS

8.01 Authority – MGL c. 184, §32 states in pertinent part that “No conservation restriction . . . held by any governmental body or by a charitable corporation or trust whose purposes include conservation of land or water areas . . . shall be unenforceable . . . provided (a) in case of a restriction held by a city or town or a commission, authority or other instrumentality thereof it is approved by the Secretary of Energy and Environmental Affairs if a conservation restriction . . . and (b) in case of a restriction held by a charitable corporation or trust it is approved by the mayor, city council, or selectmen or town meeting of the town, in which the land is situated, and the secretary of environmental affairs if a conservation restriction.”

8.02 Indexed and Charged as Single Document – MGL c. 184, §32 requires three distinct elements for every conservation restriction. Those three elements include: (1) grant of the conservation restriction, executed and acknowledged by the land owner; (2) acceptance of the conservation restriction by the conservation commission of the municipality in which the land is located; and (3) approval of the

grant and acceptance by the Secretary of Energy and Environmental Affairs.

These three elements are recorded as a single document, assessed a single document fee (\$75) and all names are indexed as in a single document.

9. COPIES

- 9.01 Certified Copies** – The Registry of Deeds accepts for recording: (1) a copy of a document recorded at another Registry of Deeds if certified by that Registry of Deeds; and (2) a copy of a document from a court or other government agency if certified by the issuing court or government agency.
- 9.02 Electronically Transmitted Government Documents** – Electronic documents from a government agency transmitted to a third party in electronic form and subsequently printed by the third party and presented for recording are acceptable for recording, provided that the governmental entity that created the document intends the printed version of the electronic image to constitute an original document.
- 9.03 Marginal References on Certified Copies** – The person presenting a certified copy of a document for recording may annotate such copy in the bottom margin thereof with one or more book and page numbers when such marginal references are requested by the Registry of Deeds personnel.
- 9.04 Original Documents** – The Registry of Deeds accepts only original documents or copies certified for recording in accordance with these standards.

10. DEEDS

- 10.01 Consideration on Deeds** – MGL c. 183, §6 - Every deed presented for recording must contain or have endorsed upon it the full name, residence and post office address of the grantee and a recital of the amount of the full consideration in dollars or the nature of the other consideration, if not delivered for a specific monetary sum. Full consideration means the total price for the conveyance, without deduction for any liens or encumbrances assumed by the grantee or remaining thereon. All such endorsements and recitals are recorded as part of the deed. Deeds that do not comply with the requirements of this section are not acceptable for recording by the Registry of Deeds. While noncompliance with this section prohibits a deed from being recorded, it does not affect the validity of such a deed.

“You cannot put a price on love.” – Anthony “Tony” Taylor, Supervisor of Records, Suffolk Registry of Deeds. The Registry of Deeds requests that conveyances for “nominal consideration” or “for love and affection” state a consideration of “one dollar (\$1.00).” This practice allows the Registry of Deeds to easily determine if the deeds excise tax is to be collected for the conveyance.

- 10.02 Corporate Deeds** – A corporate deed is effective when signed by the following two corporate officers: (a) the President or Vice President; and (b) the Treasurer or Assistant Treasurer (these officers may be one and the same person). MGL c. 155, §8; MGL c. 156B, §115; and MGL c. 180, §10A.

A corporate vote authorizing a deed is not required. However, it is good practice to record an

authority document authorizing corporate officers to act on behalf of their board of directors. This is evidenced by recording a certificate of the corporate clerk attesting to the adoption of such a vote by the board of directors.

When a corporation is selling a majority of its assets, a vote of two-thirds of the authorized stockholders is required. This is evidenced by recording a certificate of the corporate clerk attesting to the stockholders' vote. MGL c. 156B, §75.

10.03 Deed in One's Own Name – The ownership of real estate passes in one of two ways in Massachusetts: first, by conveyance where a deed is recorded at the Registry of Deeds; and secondly, by inheritance where the real estate passes through probate and is reflected in the records of the Registry of Probate. Both methods of obtaining ownership are equally valid in the eyes of the law.

Prior to the adoption of the Model Uniform Probate Code in 2012, individuals who inherited property did not have a deed recorded at the Registry of Deeds reflecting this fact. This caused great confusion when these owners went to banks, municipalities or utilities attempting to prove ownership of property. A bank, municipality or utility, too often incorrectly, required a deed in the person's name before they would lend, establish residency or change the name on a bill. For those individuals who inherited property through the probate process prior to 2012, the only way to have a deed in the individual's name (See section **10.04**, below) recorded at the Registry of Deeds was to create and record two straw deeds: deeding the property out to the current owner/devisee and another person and then deeding back in to the current owner/devisee.

For estates that commenced the probate process since 2012, the process is now much simpler. Pursuant to MGL c. 190B, §3-907, the personal representative of the estate now records a deed of distribution which distributes the property from the estate to the devisee(s) of the estate.

10.04 Deed to Yourself – One cannot convey to one's self alone. (You cannot deed property to yourself!) If a deed changes the tenancies by which the owners hold the property, however, the deed is recordable. 28 Mass. Practice – Park §57.

10.05 Grantee Address – A deed is not acceptable for recording unless it contains the mailing address of the grantee on it.

10.06 Minors – The age of majority in Massachusetts is eighteen (18). A minor is any person under age 18. A deed on which the minor is the grantor or the grantee is voidable, not void. If the power to avoid the conveyance is not exercised within a reasonable time after a minor comes of age, the conveyance fully transfers title.

10.07 Property Address on Document – A deed is not acceptable for recording unless it contains the address of the property being conveyed with the address clearly labeled "property address" or "locus" on the first page. The Registry of Deeds requests that the party drafting the document comply with MGL c. 183, §6B and state the address of the property being conveyed in the left hand margin.

10.08 Release Deeds – This deed has the same effect as a quitclaim deed without covenants. It is commonly used in situations involving executions where there is a levy and suspension or a sheriff's deed. It is also used when the owner/grantor has questionable title or a minor interest in the deed and releases

all right, title and interest to the original owner. Mechanic's liens, condominium common expenses liens and time-share liens are all enforced pursuant to the procedures set forth in MGL c. 254, §5. At the end of this process, what is recorded at the Registry of Deeds is an auctioneer's release deed along with an attorney's affidavit attesting to compliance with the appropriate statutes. What is remarkable about this process is that the conveyance is absolute with no right of redemption or set-off.

10.09 Sheriff's Deed – The provisions governing levy by sale are found in MGL c. 236. A county sheriff must sell the property at public auction to the highest bidder and convey to the purchaser all of the debtor's title to the land by a sheriff's deed. If the sheriff's deed is recorded within three months of the sale, the sale is valid against any and all persons. The debtor has a right of redemption within one year of the sale. The conveyancing bar is suspicious of sheriff's deeds and usually looks to adjudication via a writ of entry or a land court registration before considering the title marketable. The deeds are signed by a deputy sheriff, notarized and excise tax paid on the consideration stated in the deed.

10.10 Sufficiency of Property Description – A deed is not acceptable for recording unless the property being conveyed is described "with such particularity as to make it capable of identification." At a minimum, the description must include the municipality in which the land is located and: (1) identify the land as a particular lot on a recorded plan; (2) include a "metes and bounds" description of the property, usually carried forward from a prior deed in the chain of title; (3) identify the property being conveyed as the same conveyed in a prior deed which is identified by its book and page number; or (4) state that no new lines or boundaries have been created by the deed. MGL c. 183, §6A.

10.11 Tenants by the Entirety – Pursuant to MGL c. 184, §7, if a married couple takes title as "Tenants by the Entirety," the intended tenancy takes effect without any mention of "husband and wife" or "married to each other" or similar language. If an unmarried couple takes title as "Tenants by the Entirety," the same statute provides that a joint tenancy is created, not a tenancy by the entirety. But beware, a deed that conveys title to two individuals who are married, without reciting any verbiage identifying them as married and silent as to any intended tenancy creates a tenancy in common, pursuant to the same statute.

11. DEED OF DISTRIBUTION

11.01 Indexing – A deed of distribution is indexed as a "deed" with the names of the decedent and the Personal Representative indexed as grantors and the names of the distributees as grantees.

11.02 Property Description – A deed of distribution must contain an adequate legal description of the real estate that has been transferred and must contain a book and page number of the deed that created ownership in the decedent or the certificate of title number held by the decedent prior to death.

11.03 Purpose – Where ownership of real property is transferred pursuant to a probate estate, the personal representative of the estate must execute a deed of distribution as evidence of the distributee's title to the property. MGL c.190B, §3-907.

11.04 Recording – A deed of distribution may be recorded at the Registry of Deeds for the district in which the real estate is located. The filing fee for a deed of distribution is \$125. There is no consideration involved in a deed of distribution, and thus no deeds excise tax is imposed.

11.05 Registered Land – For Land Court treatment of Massachusetts Uniform Probate Code, see memo of Chief Title Examiner, dated October 13, 2012 at <http://www.mass.gov/courts/docs/courts-and-judges/courts/land-court/mupc-memo.pdf>

12. DEEDS EXCISE TAX

12.01 A General Overview – Deeds excise stamps are required to be purchased and affixed to all instruments when the consideration for the transfer exceeds one hundred dollars (\$100.00). MGL c. 64D, §1.

The tax applies:
to any deed, instrument or writing:
that grants, transfers, conveys, assigns or vests
any interest in land
to a purchasing party (grantee).

The tax does not apply:
to any deed, instrument or writing to which
the United States of America,
any federal agency,
the Commonwealth of Massachusetts,
any state agency,
or any city or town of the Commonwealth
is a party (grantor/grantee).

12.02 A Brief History – The federal government began collecting transfer stamps on deeds in 1862. See Crocker’s Notes on Common Forms, §336 (1938). The federal government stopped collecting the transfer tax as of January 1, 1968. The state began collecting a deeds excise tax and issuing stamps on January 1, 1952. From 1952 to 1968, both federal and state tax stamps were purchased. Since 1969, deeds recorded in Massachusetts must include the full consideration, in dollars, for the conveyance or the nature of any “other” consideration; prior to 1969, many deeds were silent as to consideration. MGL c. 183, §6. The only way to figure out what the consideration was provided on older deeds is to back out the costs of the stamps that were purchased and affixed to the deed.

<u>Date</u>	<u>Rate (1st \$500)</u>	<u>Rate (Each Additional \$500)</u>
<u>Federal</u>		
1914 – 1939	50¢	50¢ (repealed and reinstated)
1940 – 1967	55¢	55¢
<u>State</u>		
1/1/1952	\$1.00	55¢
1/1/1968	\$1.00	\$1.00

8/1/1969	\$1.14	\$1.14 (14% surcharge)
7/1/1989	\$2.28	\$2.28 (Barnstable \$1.71/\$1.71)
7/1/1992	\$1.14	\$1.14 (rate increase expired)
1/5/1993	\$2.28	\$2.28 (Barnstable \$1.71/\$1.71)

12.03 Abatement – A customer who overpays the deeds excise tax may file for an abatement of the tax in accordance with MGL c. 62C, §37 with the Massachusetts Department of Revenue using DOR Form ABT (Application for Abatement). MGL c. 64D, §4.

12.04 Administration and Enforcement – The Commissioner of the Department of Revenue is responsible for the administration and enforcement of the deeds excise tax. MGL c. 64D, §6.

12.05 Assumed Mortgage – When the purchaser of real estate buys property “subject to” an existing mortgage, or “assumes” an existing mortgage, the amount of the indebtedness is not taxable. To permit the Registry of Deeds to accurately calculate the tax liability, the deed conveying the property should state the full consideration being paid for the property and the outstanding amount of the mortgage being assumed. DOR Directive 88-18.

12.06 Charter Schools – Pursuant to MGL c. 71, § 89, a Commonwealth charter school is a public school and is entitled to all exemptions from taxation that accrues to any public school, including an exemption on the conveyance of real estate.

12.07 Computation of the Tax – The tax is \$2.28 for each five hundred (\$500.00) or fraction thereof of the stated consideration on the deed, instrument or writing.

Consideration of:	\$1 - \$100	No Excise Imposed - \$0
Consideration of:	\$100.01 - \$500	Excise Imposed - \$2.28
Consideration of:	\$500.01 - \$1000	Excise Imposed - \$4.56 (2.28 + 2.28)
Consideration of:	\$100,000	Excise Imposed - \$456.00
Consideration of:	\$100,000.01	Excise Imposed - \$458.28
Consideration of:	\$1,000,000.00	Excise imposed - \$4,560.00

12.08 Deed in Lieu of Foreclosure – When a borrower conveys ownership of property to a lender in return for the lender cancelling the debt secured by a mortgage on the property, the amount of the mortgage debt being forgiven is consideration. The deeds excise tax due is calculated by adding the amount of the debt being forgiven, plus the value of any additional cash paid to the borrower/Property owner. See DOR Directive 88-18.

12.09 Divorce: Division of Marital Assets – A deed that conveys an interest in real estate from one spouse to another for consideration in excess of \$100 is not subject to the deeds excise tax, provided the deed specifically states that the amount paid is a division of marital assets pursuant to the divorce and lists the court and docket number of the divorce case. When a conveyance is made in contemplation of divorce and states a consideration of one-half the home’s value with no reference to a divorce case – the deeds excise tax applies. DOR Letter Ruling 82-70.

12.10 DOR Enforcement – If the DOR determines that the full amount of Deeds Excise tax has not been paid, it sends a Notice of Intention to Assess to the taxpayer. Within 30 days of receipt of such

notice, the taxpayer may request a conference regarding the proposed assessment. Following the conference, the DOR may impose the assessment and collect in the same manner it collects any other taxes. If the taxpayer disagrees with the assessment, the taxpayer may apply for an abatement. DOR Directive 95-4.

12.11 Evidence of Payment – The Registry of Deeds denotes payment of the tax by affixing an excise stamp(s) to the deed, instrument or writing. MGL c. 64D, §2.

12.12 Federal and State Agencies or Entities – A sale of real estate that involves a governmental agency or entity, as either a seller or buyer, is exempt from the payment of the deeds excise tax. DOR Directive 91-2.

Eg. Freddie Mac
Fannie Mae
Ginnie Mae
Resolution Trust Company (RTC)
American Red Cross
Massachusetts Port Authority
Metropolitan Boston Transit Authority (MBTA)
Boston Redevelopment Authority (BRA)
MassDevelopment

12.13 Grantor Pays the Tax Imposed – The tax imposed is required to be paid by the person who grants, makes and signs the deed, instrument or writing. Although the tax is customarily paid by the seller, the buyer shares joint and several liability for the payment of the excise tax. MGL c. 64D, §2. The deeds excise is collectable from either party to a transfer of property. Bonanno v. Commissioner of Revenue, ATB 2006-204 (Mass).

12.14 Leases – Any lease, notice of lease, assignment of lease or amendment of lease for a term of 99 years or more is taxable. To determine the term of a lease, include any options to extend or renew the lease. DOR Letter Ruling 79-52.

12.15 Nominee Trusts – The sale of a beneficial interest in a nominee trust for consideration in excess of \$100 is subject to the deeds excise tax. The excise stamps are affixed to the assignment of beneficial interest, whether or not that document is recorded. The Registry of Deeds may require the presentment of the document to which the stamp is to be affixed, even if that document is not to be recorded as a condition of selling such a stamp. DOR Directive 95-5.

12.16 Non-Profit Corporations – MGL c. 59, § 5 exempts Non-Profit corporations from the assessment of local taxes on realty, however, they are not exempt from the deeds excise tax.

12.17 Partition of Jointly Held Property – When no party in partition of a joint tenancy receives a greater interest than held previously, no deeds excise tax is due. When a party receives an interest in jointly owned property that is greater than the party's original undivided interest, a deeds excise is imposed based on the consideration given for the excess value of the property. When an interest in property is conveyed to a third party, a deeds excise is due on the consideration paid for the portion conveyed.

In each case, if an excise is due, the person making or signing the deed must make that payment. DOR Directive 89-13.

- 12.18 Property Situated in Two or More Counties** – Where a conveyance of real estate involves property situated in two or more counties, duplicate original deeds are used to record the conveyance and there is no allocation of the purchase price of the real estate based upon county location, the stamp is purchased at the Registry of Deeds in the county where the first recording occurs. For purposes of recording the conveyance in the other county in which the property is located, a statement, such as the following, must appear on the duplicate deed: “This deed is a duplicate original of a deed recorded this date in the _____ Registry of Deeds to which a Massachusetts deeds excise stamp has been affixed and cancelled prior to this recording based upon the full purchase price set forth above.” DOR Directive 05-1.
- 12.19 Proprietary Leases** – A proprietary lease is an agreement between a cooperative housing corporation and its tenant-stockholders for the occupancy of an apartment in the cooperative. A proprietary lease is substantially the same as an ordinary lease of real property. If the proprietary lease is subject to automatic renewal or its term is 99 years or longer deeds excise tax applies. DOR Letter Ruling 90-1 and DOR Directive 11-6.
- 12.20 Purchase of the Stamp** – It is the policy of the DOR that the stamp used to denote the payment of the excise tax is to be purchased at the same Registry of Deeds in the jurisdiction in which the underlying property is located. DOR Directive 05-1.
- 12.21 Recording Is Not Required** – The excise applies to any deed, instrument or writing transferring an interest in real estate, whether or not such document is recorded. MGL c. 64D, §3.
- 12.22 Register of Deeds/Refusal to Record** – The register of deeds may refuse to record or register any deed, instrument or writing which does not have the stamps required by chapter 64D attached thereto. MGL c.64D, §6B.
- 12.23 Time-Shares** – A time-share agreement, lease or license is an interest in real property and, thus, is subject to the excise if transferred, provided that the interest conveyed thereby is for a consideration in excess of one hundred dollars. DOR Directive 11-6.

13. DIVORCE

- 13.01 Divorce and Deeds Excise Tax** – A deed that conveys an interest in real estate from one spouse to another for consideration is not subject to the deeds excise tax if the deed specifically states that the amount paid is a division of marital assets pursuant to the divorce and lists the court and docket number of the divorce case. When a conveyance is made in contemplation of divorce and states a consideration of one half the home’s value with no reference to a divorce case, the deeds excise tax will apply. DOR Letter Ruling 82-70
- 13.02 Divorce Decree: Transfer of Title** – The recording of a duly certified copy of a divorce decree in the Registry of Deeds of the district where real estate is situated, has the same force and effect as if a duly executed deed, conveyance or release had so been recorded. For example, if a decree of divorce orders the conveyance of real property, a certified copy of the divorce decree may be recorded in lieu

of a deed. The recording fee for the divorce decree is \$75. See MGL c. 183, §44.

14. Document Names and Codes

14.01 Document Names and Codes – There are 63 different codes for documents recorded at the Registry of Deeds, the more uncommon documents and lesser used codes are underlined and italicized in the list below, they are as follows:

ABAN.....Abandonment (Usually an Easement is Abandoned)
ACC.....Acceptance of Appointment as Trustee
AFF.....Affidavit (Scrivener’s Error, Estate Tax, Acceptance of a POA)
AGT.....Agreement (Between the Parties – All Parties Sign as Grantors)
AMD.....Amendment (An AGT amending a Recorded Document - ex. MTG)
APP.....Appointment of Trustee (Authority to sign a 6D)
AST.....Assignment
ASL.....Assignment of Lease (Custom House)
ATT.....Attachment (Recorded by the Sheriff)
BOND.....Bond (Usually for Mechanic’s Liens in Register Murphy’s name)
BYLAW.....Condominium Bylaws (Sometimes Recorded Separate from Trust)
CML.....Certificate of Municipal Lien
6D.....6D Certificate of a Condominium Unit
DEATH.....Death (A CTF)
EOP.....Evidence of Possession (Certificate of Entry in a Foreclosure)
CTF.....Certificate (Certificate of Good Standing is the most common)
COMP.....Complaint (Must be Certified/Attested)
DCH.....Declaration of Homestead
DEC.....Decree (Rarely Used – Usually a JGMT)
CD.....Confirmatory Deed (Correcting a Prior Deed with reference)
EASE.....Easement (A Deed of Easement – a Right of Access)
ELEC.....Election (Sometimes Recorded after a Condo Elects Trustees)
EXE.....Execution (Recorded by Sheriff)
FDD.....Foreclosure Deed (Deed, Affidavit and Newspaper Clipping)
FTAX.....An IRS Tax Lien (Recodes as a TXL)
FTAXR.....A Release of an IRS Tax Lien (Recodes as a REL)
JGMT.....Judgment (An Attested/Certified Copy)
LSE.....Lease
LIC.....License (Wharf and Waterway Licenses, License to Sell)
LSP.....Lis Pendens (Must Have an Affidavit of Service)
LIEN.....Lien
MD.....Master Deed
MDA.....Master Deed Amendment
MERG.....Merger (Authority Document for a Corporate Merger)
MTG.....Mortgage

MTAX.....A State Tax Lien (Recodes as a TXL)
MTAXR.....A Release of a State Tax Lien (Recodes as a REL)
NOT.....Notice (A Good Catch-All Code)
 NOL.....Notice of Lease
 ORD.....Order
OOT.....Order of Taking (Order Taking Land)
PR.....Partial Release (Usually Releasing Units from a Construction MTG)
 POA.....Power of Attorney
PRI.....Probate Inventory (Mailed from the Probate Court)
 REL.....Release
REM.....Removal (Usually an Order Removing a Condominium pursuant to MGL c. 183A)
 RES.....Resignation of Trustee
SUB.....Subordination (An AGT usually Subordinating MTGs)
 TXL.....Tax Lien
 TTG.....Tax Taking
TERM.....Termination (A Termination AGT – eg. Leases)
 TRUST.....Trust
 TC184.....Trust Certificate under MGL c. 184,§ 35
 UCC.....Financing Statement
 UCCA.....Financing Statement Amendment
 UCCAS.....Financing Statement Assignment
 UCCC.....Financing Statement Continuation
 UCCPR.....Financing Statement Partial Release
 UCCR.....Financing Statement Release
 UCCS.....Financing Statement Subordination
VAC.....Vacation (An Order Vacating a prior ORD or AGT)
VOTE.....Vote (Corporate Vote Signed by the Secretary of the Corporation)
WVR.....Waiver (Waiver of a Right of First Refusal)

14.02 Short Codes – When submitting documents electronically the following short codes are permitted for indexing purposes (to populate the field type =CODE and press enter):

Bank of America NABOANA
 Bank of CantonBOC
 Boston City ofCOB
 Boston Private Bank & Trust Company.....BPBTC
 Boston Redevelopment AuthorityBRA
 Chelsea City ofCOC
 Citimortgage Inc.CMI
 Deutsche Bank National Trust CompanyDBNTC
 East Boston Savings BankEBSB
 Federal Deposit Insurance CorporationFDIC

Federal Home Loan Mortgage Corporation	FHLMC
Federal National Mortgage Association	FNMA
Jamaica Way Tower and Townhouses Cooperative Housing Corporation	JTT
JPMorgan Chase Bank NA	JPMNA
Massachusetts Bay Transportation Authority	MBTA
Massachusetts Commonwealth of	COM
Massachusetts Development Finance Agency	MDFA
Massachusetts Housing Finance Agency	MHFA
Massachusetts Housing Partnership Fund Board	MHPFB
Massachusetts Turnpike Authority	MTA
Mortgage Electronic Registration Systems Inc	MERS
PNC Bank NA	PNC
RBS Citizens NA.....	RBS
Revere City of	COR
United States of America	USA
United States of America HUD	USAHD
US Bank NA	USBNA
Wells Fargo Bank NA	WFBNA

15. ELECTRONIC RECORDING

- 15.01 Application of Deed Indexing Standards** – When submitting documents through the electronic recording system, submitters must comply with all requirements of these Deed Indexing Standards, particularly those standards related to indexing names and addresses.
- 15.02 Documents Ineligible for Electronic Recording** – Multifunction documents are not acceptable for recording electronically unless the submitter first obtains approval from the Registry of Deeds to which the document is to be transmitted for electronic recording. No deed that is exempt from the deeds excise tax may be recorded electronically unless the submitter first obtains approval from the Registry of Deeds to which the document is to be transmitted for electronic recording.
- 15.03 Original Documents** – Only original documents bearing original signatures and acknowledgements or certified copies from a Registry of Deeds or from another governmental entity (provided that the scanned image of the document presented for electronic recording contains the governmental certification) may be recorded electronically.
- 15.04 Registered Land** – No registered land document may be submitted for electronic recording unless the submitter ensures that the Registry of Deeds to which the document is to be transmitted accepts registered land documents for electronic recording – the Suffolk Registry of Deeds does not permit Registered Land recording to occur electronically.
- 15.05 Submitter Eligibility** – Only certain classes of entities or people are permitted to record documents electronically, including:

- (a) an attorney authorized to practice law in the Commonwealth of Massachusetts;
- (b) a title insurer licensed by the Commonwealth of Massachusetts;
- (c) a state or federally chartered bank insured by the FDIC;
- (d) a credit union insured by the National Credit Union Administration;
- (e) an agency of the Commonwealth of Massachusetts;
- (f) a political subdivision or an agency of a political subdivision of the Commonwealth of Massachusetts;
- (g) an agency of the federal government;
- (h) an attorney authorized to practice law in a jurisdiction within the United States;
- (i) a mortgage servicing company licensed to do business in the Commonwealth of Massachusetts;
- (j) a member of Mortgage Electronic Registration Systems Inc.; and
- (k) a duly organized outsourcing services company authorized to record documents in the Commonwealth of Massachusetts on behalf of an entity that is eligible in its own right to record electronically under this section.

16. FEES FOR RECORDING

16.01 Fees for Recording – Recording fees are due and payable at the time of recording. The fees are statutory and cannot be waived. All federal and state agencies pay recording fees, unless a specific state statute directs that no recording fee is to be charged. See section **16.02**, below.

The fees are set pursuant to statute: Fees for Certain Officers - MGL c. 262, §38 (Registers of Deeds' enumeration of fees), Community Preservation Act - MGL c. 44B, §8 (Surcharge - \$20), and Registers of Deeds - MGL c. 36, §41 (Surcharge - \$5).

- Federal Tax Liens (MGL c. 36, §24) \$5
- Declaration of Homestead (MGL c. 44B, §8(b)) \$35
- UCC Documents (MGL c. 106, §9-525(a)and (b)) \$45
- Municipal Lien Certificates (MGL c. 44B, §8(b)) \$65
- Mortgage Assignments and Discharges \$75
- Plans \$75, per sheet

- Deeds and Easements \$125
- Mortgages \$175
- Trusts \$225
- All Other Documents \$75

16.02. State Agencies Exempt From Payment of Fees

- (a) The Department of Revenue – MGL c. 62C, §50(b)(2)
 “The filing of a notice of any such lien or of a waiver or release of any such lien shall be received and registered or recorded without payment of any fee.”
- (b) Department of Public Health, Division of Medical Assistance – MGL c. 118E, §34
 “The division shall not be required to pay a recording fee for filing a notice of lien or encumbrance or a release or discharge of a lien or encumbrance under this section.”
- (c) Division of Public Welfare, Child Support Enforcement – MGL c. 119A, §6(b)(3)
 “The filing of a notice of lien or of a waiver or release of a lien shall be received and registered or recorded without payment of a fee.”
- (d) Division of Workforce Development, Unemployment Insurance – MGL c. 151A, §16
 “No recording fee shall be paid by the commissioner for filing a notice of lien (for overdue contributions) under this section.”

17. FORECLOSURES

17.01 Foreclosure Proceedings – When a lender forecloses on a mortgage, the lender first files a complaint in the Land Court under the Servicemembers Civil Relief Act. The Land Court issues an Order of Notice which is served on the homeowner, published once in the newspaper, and recorded at the Registry of Deeds. The only defense that can be raised in this proceeding is military status. When no answer is filed, the Land Court issues a Judgment in favor of the lender and the court proceeding ends. The lender then completes the non-judicial foreclosure pursuant to MGL c. 244, which subsequently proceeds as a private matter. The foreclosure documents which are recorded at the Registry of Deeds include:

- (a) Order of Notice (referenced above) – initiates the Foreclosure by Sale;
- (b) Pre-Foreclosure Affidavit pursuant to MGL c. 244, §§ 35B and 35C-the Subprime Affidavit;
- (c) Judgment on the Complaint to Determine Military Status (referenced above);
- (d) POA for the Certificate of Entry;
- (e) Evidence of Possession/Certificate of Entry – evidences the Foreclosure by Entry;
- (f) Foreclosure Deed – see below;

- (g) Assignment of Bid – winning bidder assigns to another (not always recorded); and
- (h) Post-Foreclosure Affidavit pursuant to MGL c. 244, §§ 35B and 35C-the Eaton Affidavit.

17.02 Mortgagee’s Deed, Affidavit and Notice of Sale – A mortgagee’s deed, mortgagee’s affidavit related to the exercise of the power of sale and mortgagee’s notice of sale for purposes of recording, fee calculation and indexing, are deemed a single document. The documents in the package include:

- (a) the foreclosure deed, signed by the mortgagee and notarized;
- (b) the affidavit related to the exercise of the power of sale must have be attached in a manner that permits the Registry of Deeds to effectively scan it; and
- (c) the original newsprint version of the mortgagee’s notice published as a newspaper legal notice; however, a digital version of such mortgagee’s notice of sale that is embedded in and printed as part of the document is an acceptable alternative to the newsprint version of such notice.

In all other respects, a mortgagee’s deed and affidavit is subject to the prohibition against attaching multiple documents as exhibits.

18. FOREIGN LANGUAGE DOCUMENTS

18.01 Translation Required – No document written in a language other than English may be recorded unless it is accompanied by a certified translation into English. In such a case, the document to be recorded must consist of: (a) the English language translation with signatures typed or legibly printed and preceded by “/s/” to indicate a signature; (b) a certification of the accuracy of the translation signed by the translator and acknowledged; and (c) the original foreign language document. The certification may contain facts pertinent to the translator’s qualifications. All three documents, the translation, the certification and the original document, are recorded as a single document with a single recording fee.

19. FORMATTING STANDARDS FOR DOCUMENTS

19.01 Document Formatting – All documents presented for recording must meet the following formatting standards, promulgated pursuant to MGL c. 36, §12A; “A register of deeds may refuse to accept an instrument for recording if it cannot be properly duplicated or a proper record cannot be made thereof”:

- (a) be printed on white paper of sufficient weight to allow for reproduction on Registry of Deeds scanners;
- (b) all document pages and attachments must be on paper that is no larger than 8.5 inches by 14 inches;
- (c) printing must be on one side only; double-sided pages will not be accepted;
- (d) documents that contain printing, writing or other markings must be sufficiently dark in

appearance to be legibly reproduced on standard Registry of Deeds scanners;

- (e) all printing and writing on a document must be of sufficient size to be legibly reproduced on standard Registry of Deeds scanners;
- (f) margins on all sides of all document pages must be of sufficient size to be legibly reproduced on standard Registry of Deeds scanners;
- (g) the first page of all documents must contain sufficient blank space to permit the Registry of Deeds to affix standard recording information to the document without obscuring any information contained in the document; and
- (h) each register of deeds retains the discretion to record documents that do not fully comply with these formatting standards, provided that the record created by the Registry of Deeds is legible and retrievable on standard Registry of Deeds computer systems.

20. HOMESTEAD

20.01 What is a Homestead? – The Massachusetts Homestead Act (MGL c. 188) is a law that protects Massachusetts homeowners from having their homes sold to pay unsecured creditor’s claims, such as utility bills, credit cards and lawsuits.

20.02 Recording Pitfall, Both Names Acknowledged – On a declaration of homestead filed by a married couple, both spouses must sign the declaration and both signatures must be acknowledged.

20.03 Recording Pitfall, Not Created by Deed – A declaration of homestead cannot be created within a deed or other instrument vesting title in the owner.

20.04 Eligibility for Homestead – To be eligible for Homestead protection:

(a) you must own a home in Massachusetts, which home may be a:

- i. single family home;
- ii. 2 – 4 unit multi-family dwelling;
- iii. condominium unit;
- iv. mobile home;
- v. manufactured home; or
- vi. cooperative housing unit;

(b) the home must be:

- i. your principal residence; and
- ii. you must occupy, or intend to occupy, the home; and

(c) qualified ownership includes:

- i. sole ownership;

- ii. tenancy in common;
- iii. joint tenancy;
- iv. tenancy by the entirety (married);
- v. life estate; or
- vi. trust beneficiary of a home held in trust.

If you own multiple homes, homestead protection only applies to the home you designate as your principal residence.

20.05 Three (3) types of Homestead

(a) Automatic Homestead (MGL c. 188, §4)

- By operation of law, a homeowner and the homeowner's family members occupying the home receive a \$125,000 homestead protection in the equity value of the home.

(b) Declared Homestead (MGL c. 188, §3)

- By recording a declaration of homestead in the Registry of Deeds, the homeowner and the homeowner's family members occupying the home receive a \$500,000 homestead protection in the equity value of the home.
- When the home is owned by a married couple, both spouses must sign the declaration.
- When a home is owned in a trust, the trustee must execute a declaration on behalf of the trust's beneficiaries. The trustee must identify the beneficiaries occupying the home and the spouse of any resident beneficiary occupying the home.

(c) Declared Homestead by Elderly or Disabled Persons (MGL c. 188, §2)

- By recording a declaration of homestead in the Registry of Deeds, a homeowner who is age 62 years or older receives a \$500,000 homestead protection in the equity value of her home.
- By recording a declaration of homestead in the Registry of Deeds, a disabled homeowner receives a \$500,000 homestead protection in the equity value of her home. To establish the disability, either an original or certified copy of a disability award letter issued by the United States Social Security Administration or a certification letter signed by a licensed physician registered with the Massachusetts Board of Registration in Medicine, certifying that the homeowner meets the disability requirements stated in 42 U.S.C. 1382c(a)(3)(A) and 42 U.S.C. 1382c(a)(3)(C), must be attached to the homestead declaration form.
- Each elderly or disabled homeowner, regardless of marital status, is eligible for a personal exemption up to \$500,000. In theory, when two elderly or disabled homeowners each qualify for the Elderly or Disabled Homestead protection, the aggregate protection on the home totals \$1,000,000.00. (There is no case law to support or reject this theory to date.)

- Each elderly or disabled homestead terminates upon the person's death. If there are multiple owners and one owner qualifies for the elderly or disabled homestead and another owner does not, each owner may file a homestead declaration (one under §2 and the other(s) under §3).

20.06 What Is and What Is Not Protected

(a) The homestead protects you when:

- you pass away, the homestead protections continue for your spouse, family members and minor children who occupy the home as their principal residence;
- you refinance, your existing homestead remains in effect;
- you sell your house, the proceeds of the sale are protected until you buy a new home, or for one year, whichever happens first; and
- your home is destroyed by fire or other casualty, the proceeds from your insurance claim are protected until repairs are complete, or until you buy a new home or for two years, whichever comes first.

(b) The homestead protects the equity value in your home up to \$500,000 against:

- attachment;
- seizure;
- execution of judgment;
- levy; or
- sale.

Understand, however, attachments and executions issued by Massachusetts courts are recorded at the Registry of Deeds, regardless of the fact that a homestead is recorded. To prevent an attachment or execution from being issued by a court, the homestead declaration must be raised by the homeowner as an affirmative defense against issuance of the attachment or execution.

(c) The homestead does not protect against:

- federal, state or local taxes or liens;
- liens on the property which existed prior to the Homestead law going into effect;
- liens on the property which existed prior to the date the Homestead declaration was recorded;
- court orders for spousal or child support;
- any mortgage(s) on the home;
- attachments to land not owned by the owner of the homestead;
- court-ordered judgments based on fraud, mistake, duress, undue influence or lack of capacity;
or
- Medicaid liens for nursing home stays for which Medicaid paid.

20.07 How to Apply

(a) The Automatic Homestead requires no filing.

- (b) The Declared Homestead requires:
- i. a completed Homestead declaration, signed and notarized;
 - ii. recording the Homestead declaration at the Registry of Deeds;
 - iii. payment of a \$35 filing fee (cash or check made out to the “Commonwealth of Massachusetts”); and
 - iv. a self-addressed stamped envelope provided by the declarant for return of the documents after microfilming.

20.08 How to Terminate/Release a Homestead

Pursuant to MGL c. 188, §10, an estate of homestead created under MGL c. 188, §3 or §4 may be terminated by any of the following methods:

- (a) a deed to a non-family member conveying the home, signed by the owner and any non-owner spouse or former spouse residing in the home as a principal residence as of the date of the deed;
- (b) a recorded release of the estate of homestead, duly signed and acknowledged by the owner and any non-owner spouse or former spouse residing in the home as a principal residence as of the date of the release;
- (c) abandonment of the home as the principal residence by the owner, the owner's spouse, former spouse or minor children, except that such abandonment terminates only the rights of those who left the home; provided, however, that no person in military service, as defined in 50 U.S.C. appendix, section 511, is deemed to have abandoned his or her home due to such military service;
- (d) in the case of a home the title to which is held in trust, by either: (i) the execution of a deed or a release of homestead by the trustee; or (ii) action of a beneficial owner identified in the declaration of trust, taken in the same manner as provided in clauses (b) and (c) of this section, as long as the beneficial owner is not a minor child; or
- (e) the subsequent recorded declaration of a homestead estate under MGL c. 188, §3 on a different property, which declaration terminates only the rights of the owner making such subsequent declaration as well as the rights of that owner's spouse and minor children who reside or intend to reside in the newly Homesteaded property as their principal residence.

21. LIENS

21.01 Judicial Authorization Required – Unless specifically authorized by statute, no document that creates an involuntary encumbrance on the property of another may be recorded unless it has been authorized by a judge.

21.02 Attachment – An Attachment is a court-approved lien on property.

- (a) Pursuant to MGL c. 223 and Mass. R. Civ. P. 4.1, an attachment is a prejudgment remedy

available to a plaintiff suing for money damages in a Massachusetts court and is used to encumber a defendant's property during the pendency of the lawsuit. Real estate located in Massachusetts is subject to attachment. An attachment duly recorded at the Registry of Deeds serves to put the world on notice of the plaintiff's attachment lien.

A General Attachment occurs if a court order allowing a motion for approval of real estate attachment does not identify the defendant's real estate in the county. MGL c. 223, §62.

A Limited Attachment or Specific Attachment occurs if a court order of approval specifies a particular town, address or location, usually by Book and Page number. Almost all attachments are general attachments; specific attachments are rarely issued.

- (b) Who Can Make an Attachment? – The writ of attachment is formal court process performed only by a person authorized to serve civil process. A writ of attachment must be directed to a sheriff, constable, or other person authorized by a court to serve process. See Mass. R. Civ. P. 4.1(b) and MGL c. 220, §7.

A constable may make an attachment only in municipalities in which she is empowered to serve process and only if the damages in the court case do not exceed \$2,500. As a result, constables cannot always record general attachments. To record an attachment in Suffolk, a constable must be permitted to serve process in Boston, Chelsea, Revere and Winthrop.

A person recording an attachment pursuant to a court order must record an attested copy of that order along with the attachment.

- (c) How is the Writ of Attachment Recorded? – Entry onto the premises is not required; a real estate attachment may be deemed to have been made when the officer serving it writes on the writ of attachment that the officer has attached the defendant's right, title and interest to the real estate. After making the attachment, the officer must record a copy of the writ of attachment in the Registry of Deeds. See MGL c. 223, §64.

The writ of attachment in Superior Court is usually stamped by the clerk's office with a notation allowing the attachment. In District Court practice, the judge granting the attachment usually signs the writ of attachment.

- (d) What is the Registry of Deeds' Responsibility? – The Register of Deeds has a duty to record the writ of attachment and must index the document appropriately. See MGL c. 223, §65.

As a general rule- the document is indexed as an attachment (short code=ATT) and only the name(s) of the Plaintiff(s) and the Defendant(s) are indexed. The Defendant's name(s) are indexed as such name(s) appear on the second page of the attached memorandum, not the first page.

Usually, an address and book and page reference do not appear on the attachment and are not indexed. However, if the book and page are included, they are indexed.

- (e) How Long does an Attachment Last? – An attachment last six (6) years from the date of recording. See MGL c. 223, §59.

(f) How is an Attachment Extended, Released or Dissolved? Attachments may be extended, released or dissolved in the following ways:

- i. An attachment dissolves after 6 years by operation of law unless brought forward by the plaintiff. Within those six years, Counsel for the plaintiff files a written request with the Register of Deeds to bring forward the attachment, referencing the attachment, which is recorded. See MGL c. 223, §114A. This document is coded as an **ATT** and the Plaintiff(s) and Defendant(s) names and the name of the attorney are indexed along with the marginal reference of the attachment.
- ii. If a court dissolves an attachment, a certificate prepared by the clerk of court (a Clerk's Certificate) setting forth the ruling may be recorded at the Registry of Deeds. This document is coded as a **REL** and the Plaintiff(s) and the Defendant(s) names are indexed along with the marginal reference of the attachment.
- iii. If there is a judgment for the defendant, a Clerk's Certificate indicating entry of judgment for the defendant and exhaustion of appellate review may be recorded at the Registry of Deeds. This document is coded as a **REL** and the Plaintiff(s) and the Defendant(s) names are indexed along with the marginal reference of the attachment.
- iv. If a bond is posted, a Clerk's Certificate attesting to the posting of a bond may be recorded at the Registry of Deeds. This document is coded as a **REL** and the Plaintiff(s) and the Defendant(s) names are indexed along with the marginal reference of the attachment.
- v. A real estate attachment may be dissolved by a release signed and acknowledged by the plaintiff, the personal representative of the plaintiff's estate or the plaintiff's attorney and recorded with the Registry of Deeds. See MGL c. 233, §132. This document is coded as a **REL** and the Plaintiff(s) and Defendant(s) names and the name of the personal representative or attorney are indexed along with the marginal reference of the attachment.

21.03 Certified Copy of Complaint – Unless specifically authorized by statute (as in the case of the perfection of a mechanics lien or a condominium association lien), a certified copy of a complaint may not be recorded at the Registry of Deeds unless it is specifically authorized by a judicial order.

21.04 Clerk's Certificate – At any time after final judgment or a decree in favor of the defendant, or after discontinuance, dismissal or other final disposition, the clerk of the court where such disposition is recorded will provide certification of such disposition upon demand. This clerk's certificate may be recorded in the applicable Registry of Deeds. MGL c.184, §16.

21.05 Condominium Lien – A condominium association has an automatic lien on a condominium unit to ensure payment of condominium fees. A condominium unit buyer usually requires the seller to provide a statement from the condominium association stating that all condominium fees are paid, in accordance with MGL c. 183A, §6D (often called a "6D Certificate").

21.06 Death of Owner– When a person dies owning an interest in real estate, the Commonwealth has an automatic lien on the property to ensure payment of any estate tax that is due. In most cases, this lien can be resolved by the person in possession of the property by recording an Affidavit of No

Massachusetts Estate Tax at the Registry of Deeds in accordance with MGL c. 65C, §14.

21.07 Execution – An Execution is a court-approved lien on property:

(a) Pursuant to MGL c. 235 and Mass. R. Civ. P. 69, an execution is a writ of process from a Massachusetts court for the purpose of carrying into effect a money judgment obtained in a civil action. It commands an officer to cause payments to be made from the real property of a debtor. The procedure by which the officer takes possession of the real property is called the levy.

(b) Who Can Make an Execution? – The writ of execution is court process and may be made only by a person authorized to serve civil process. A writ of execution must be directed to a sheriff, deputy sheriff or a constable. Special process servers are not permitted.

Writs of execution are not general; rather, they are applied against specific property. A constable, therefore, may make an execution only in municipalities in which she is empowered to serve process and only if the damages awarded do not exceed \$2,500, unless authorized by judicial order.

(c) How is a Writ of Execution Recorded? – The real property of a debtor is subject to levy of execution. See MGL c. 236, §1. There are four steps in enforcing an execution: first, making the levy; second, recording the levy; third, notifying the debtor; and fourth, completing the levy.

More specifically:

- i. The levy is the taking of property by an officer pursuant to the writ of execution. Entry onto the premises is not required; a levy may be deemed to have been made when the officer accepts the writ of execution and writes the “Placed in my Hands” memorandum that is recorded with the writ of execution.
- ii. The writ of execution and the “Placed in my Hands” memorandum are recorded in the Registry of Deeds in the district where the land is located. The memorandum must contain an accurate book and page description of the property.
- iii. The officer must notify the debtor of the taking of the debtor’s property.
- iv. A levy is completed in three ways: by sale; by set-off; or by suspension:
 - A. Levy by sale is accomplished by public auction and the recording of a Sheriff’s Deed;
 - B. Levy by set-off is accomplished by setting-off so much of the debtor’s property as to satisfy the levy and subsequently recording the return; and
 - C. Suspension of the levy, the most common manner of completing a levy, occurs when creditors do not want to force a sale but rather preserve their rights. The officer writes on the bottom of the recorded “Placed in my Hands” memorandum, “I have levied this execution thereupon. And immediately afterwards, by direction of the Creditor’s Attorney, I suspended the further levy of this execution on said land.” See MGL c. 236, §31.

- (d) What is the Registry of Deeds' Responsibility? – The document is called an execution and only the name of the Plaintiff(s) and the Defendant(s) are indexed. The Defendant's name(s) are indexed as such name(s) appear on the second page of the attached memorandum, not the first page.

An address and book and page reference should appear on the execution and are indexed.

- (e) How Long does an Execution Last? – An execution lasts six (6) years from the date of recording. See MGL c. 236, §49A.

- (f) How is an Execution Extended, Released or Dissolved? An execution is extended, released or dissolved in the following ways:

- (i) An execution dissolves after 6 years by operation of law unless brought forward by the creditor. Within those six years, Counsel for the plaintiff files a written request with the Register of Deeds to bring forward the execution, referencing the execution, which is recorded. See MGL c. 223, §114A. This document is coded as an **EXE** and the Plaintiff(s) and Defendant(s) names and the name of the attorney are indexed along with the marginal reference of the execution.
- (ii) Where the matter is settled between the parties, the execution should be endorsed "satisfied in full" and returned by the officer to the court. Thereafter, a Clerk's Certificate indicating that the execution has been satisfied may be recorded at the Registry of Deeds. This document is coded as a **REL** and the Plaintiff(s) and the Defendant(s) names are indexed along with the marginal reference of the execution.
- (iii) Where the execution is abandoned by the creditor prior to sale or set-off, the execution should be endorsed "abandoned" and returned by the officer to the court. A Clerk's Certificate indicating that the execution has been abandoned may then be recorded at the Registry of Deeds. This document is coded as a **REL** and the Plaintiff(s) and the Defendant(s) names are indexed along with the marginal reference of the execution.
- (iv) In the case of a levy by sale, a Sheriff's deed is recorded, and the debtor retains a right of redemption. If that right of redemption is exercised within one year of the sale, a release deed must be obtained from the purchaser and recorded at the Registry of Deeds. See MGL c. 236, §33.

21.08 Out-of-State and Judgments and Executions – A judgment or writ of execution from another State is not automatically enforceable in Massachusetts; it must be recognized and enforced by a Massachusetts court pursuant to MGL c. 212, §4 (Superior Court) or MGL c. 218, §19 (District Court).

A judgment in favor of the government of the United States is perfected by recording a certified copy of the abstract of judgment.

A judgment from the federal court in Massachusetts is enforceable following the procedures set forth in the Massachusetts General Laws. As a general rule, the enforcement of judgments issued by any federal court outside of Massachusetts must initially be registered in the United States District Court for Massachusetts before enforcement can commence in Massachusetts in accordance with the procedures set forth in the Massachusetts General Laws.

Federal judgments for the recovery of money and property require an execution issued by the United States District Court for Massachusetts and are levied by a US Marshall or court-approved process server.

21.09 Federal Tax Lien – The Internal Revenue Service may record a lien against a person’s real estate for the amount of unpaid federal taxes. Once the amount owed has been paid, the IRS records a Release of Federal Tax Lien.

21.10 Homeowners’ Associations – Notwithstanding any language of a non-condominium homeowners’ association agreement to the contrary, no document that purports to create a lien or encumbrance in favor of a homeowners’ association may be recorded without judicial authorization of the lien or encumbrance.

21.11 Judgments Affecting Title to Real Property – Certified copies of judgments affecting the title to real property issued by a Massachusetts state court, the Federal Bankruptcy Court (Massachusetts District) or the Federal District Court (Massachusetts District) are acceptable for recording, with a memorandum identifying the city or town where the land is located and an accurate description of the property. MGL c. 184, §17. Judgments for monetary damages are not recordable and must be recorded in the form of an execution.

21.12 Lis Pendens – When a lawsuit that may affect title to real estate is commenced in state court or federal court (Massachusetts District), either party may request a judge to authorize a “notice of lis pendens” which means “suit pending.”

(a) What is a Notice of Lis Pendens? A Lis Pendens is a notice of pending litigation affecting title to land. The practical effect of recording it is to prevent a sale or transfer of property until the conclusion of the suit.

(b) What is the Register of Deeds’ Responsibility? No assistant recorder may accept a Notice of Lis Pendens for recording unless it contains an endorsement (a memorandum which is signed and approved by a justice) and is accompanied by an affidavit to the effect that the moving party has served notice of such notice by certified mail prior to the recording of the notice. See MGL c. 184, §15.

(c) What is Recorded?

i. A Memorandum of Lis Pendens, which includes:

- A. An attested copy of the memorandum by the clerk of court;
- B. Signed by the attorney;
- C. Signed and approved by the justice;
- D. Containing the names of the parties to the proceedings;
- E. Containing the date the action was commenced;
- F. Containing the name of the court in which it is filed;
- G. Containing the docket number of the civil action; and

H. Containing a description of the real estate, including the book and page of the affected property.

- ii. An Affidavit, signed by the attorney and properly acknowledged, establishing that notice was sent prior to recording.
- iii. Findings and Order of Approval of Memorandum of Lis Pendens, which includes:
 - A. An attested copy of the Order by the clerk of court, signed by the justice.
 - B. This Order need not be recorded, however, the better practice is to record it.

(d) Can a Lis Pendens be Discharged? A Lis Pendens cannot be discharged because it is only a notice. It can be dissolved by the plaintiff, pursuant to MGL c. 185, §15(a), by the recording of a Voluntary Notice of Dissolution. In the alternative, the only way to clear the title is to obtain a certificate from the clerk of court that: (i) judgment has been rendered for the defendant; (ii) the action has been dismissed; or (iii) the action has finally been disposed of as to the land referred to in the Notice of Lis Pendens. MGL c. 185, §16.

21.13 Massachusetts Tax Lien – The Massachusetts Department of Revenue may record a lien against a person’s real estate for the amount of unpaid state taxes. Once the tax has been paid, the DOR will record a Release of Massachusetts Tax Lien.

21.14 Mechanic’s Lien – A mechanic’s lien is created by recording a notice of contract and then a statement of account. The claimant must also commence a lawsuit within a certain set period of time. The procedure for obtaining a mechanic’s lien is a complicated one and the Registry of Deeds recommends that an attorney be consulted before attempting to engage in this process.

(a) What is a Mechanic’s Lien? A mechanic’s lien is a statutorily created lien against real property, the purpose of which is to secure a right to payment for services rendered and materials supplied in connection with the improvement of real property. The creation, perfection and enforcement of mechanic’s liens are governed in Massachusetts by MGL c. 254. The purpose of Chapter 254 is two-fold: to provide security of payment; and to put others on notice of the lien.

(b) Who can obtain a Mechanic’s Lien? A Laborer (MGL c. 254, §1), a General Contractor (MGL c. 254, §2) or a Subcontractor/Supplier (MGL c. 254, §4) may obtain a mechanic’s lien if:

- i. labor or services were provided for the erection, alteration, repair or removal of a building, structure or other improvement on real property;
- ii. material or rental equipment, appliances or equipment were furnished; or
- iii. construction management and general contractor services were provided.

(c) How is the Lien Perfected and Dissolved pursuant to Statute?

- i. Recording a Notice of Contract at the Suffolk Registry of Deeds;
- ii. Recording a Sworn Statement of Account at the Suffolk Registry of Deeds; and

- iii. Recording an attested copy of the complaint at the Suffolk Registry of Deeds within 30 days of commencing the action.

If no attested copy of the complaint is recorded within 120 days of the recording of the Statement of Account, the lien dissolves pursuant to statute.

- (d) How can a defective Mechanic's Lien be dissolved? Under MGL c. 254, §15A, any person who is the subject of a mechanic's lien, which is either procedurally or substantively defective, may pursue a summary discharge of the lien in the Superior or District Court. Summary discharge can only be obtained for defects that will customarily appear on record at the Registry of Deeds or can easily be ascertained from undisputed documents. An attested copy of the Order is then recorded at the Suffolk Registry of Deeds.
- (e) How can a Mechanic's Lien be voluntarily dissolved? Under MGL c. 254, §10, the person who obtained a mechanic's lien on the real estate of another may dissolve it by recording a Notice of Dissolution at the Registry of Deeds.
- (f) How can a Mechanic's Lien be dissolved by a Bond? There are two types of bonds provided for under MGL c. 254; a "blanket bond;" and a "target bond." Bonds are to be made out in the name of the Register of Deeds, which is Stephen J. Murphy in Suffolk County.

Under MGL c. 254, §12, any person may record a "blanket bond" in the form provided by statute which, after recording, prevents a mechanic's lien from attaching to any person's interest named in the underlying contract to which the bond applies.

Under MGL c. 254, §14, a property owner may record a "target bond," a surety bond in the amount of the lien, which dissolves a mechanic's lien. Upon recording and service upon the person who filed the mechanic's lien, the claimant has 90 days to file a claim against the surety, otherwise the lien is dissolved.

- (g) What is a Lien Waiver? A contractor or a subcontractor may release a portion of a lien held thereby, in exchange for payment pursuant to MGL c. 254, §32. The execution and recording of the lien waiver subordinates any lien rights of the contractor to the lender up to the amount of any money actually advanced.
- (h) What is the Register of Deeds' Responsibility? All liens for labor and notices of contract, and all instruments pertaining thereto, if properly acknowledged, are recorded by the Register of Deeds. The names of the parties affected thereby are entered in the grantor and grantee indexes. See MGL c. 254, §30.

21.15 Medicaid Lien – When a person receives Medicaid (often while in a nursing home for which the state pays through the Medicaid program), the Commonwealth has an automatic lien on that person's real estate. After the person dies, the Commonwealth is entitled to reimbursement for the cost of care from the value of the real estate.

21.16 Out-of-State Liens – In general, a court or agency from outside of Massachusetts lacks jurisdiction to encumber real property located within Massachusetts, so liens, judgments, orders, executions and other encumbrances from a foreign court or agency are not recorded unless there is some

Constitutional or statutory exception that specifically authorizes the recording of the proffered document.

22. MISCELLANEOUS DOCUMENTS

22.01 Power of Attorney – A Power of Attorney is a legal document in which an individual (the principal) appoints an attorney-in-fact (the agent) for the purposes and powers set forth in the document. Whenever an instrument to be recorded is executed by an attorney-in-fact, the Power of Attorney should be recorded, except in recorded land. An Affidavit by the attorney-in-fact accepting the appointment is conclusive evidence as to facts pertinent to the powers remaining in effect and is recorded, however, it is not required to be recorded in recorded land. MGL c. 183, §32 provides that the laws relative to acknowledgement apply to a Power of Attorney recorded at the Registry of Deeds.

Documents signed under the Power of Attorney should include the principal's name (which may be typed or hand-written), followed by the signature of the agent and the agent's capacity:

Eg. "Charlie Brown by Peppermint Patty, Attorney-in-fact."

A durable power of attorney, created pursuant to MGL c. 201B, remains in full force and effect despite the disability or incapacity of the principal. MGL c. 201B provides that even if a power of attorney is not "durable" the power of attorney is not revoked upon the death, disability or incapacity of the principal with respect to action taken by the agent in good faith and without actual knowledge of his principal's death, disability or incapacity. This is why an affidavit which accompanies a power of attorney states, "I do not have actual knowledge of any revocation or any termination of said power of attorney by death, mental illness or other disability."

22.02 Wills and Probate Inventory – MGL c. 391, §15C states:

"The register in each county shall, upon the receipt of an inventory, filed in an estate matter being probated in his court, which contains as an asset an interest in real estate located in another county, send a certified copy of the will and inventory to the registrar in the county in which the real estate is located and also to the register of deeds in said county. Upon receipt of said copies said registrar and register shall each file them with the records of their respective offices in the same manner as if such papers had been originally filed in their office."

22.03 Variances and Special Permits – Pursuant to MGL c. 40A, §11, ¶4, no variance or special permit, or any extension, modification or renewal thereof, takes effect until the following conditions have been satisfied:

- (a) the city or town clerk certifies on a copy of the zoning decision "that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied";
- (b) the certified decision is "recorded in the Registry of Deeds for the county and district in which the land is located"; and
- (c) The decision is "indexed in the grantor index under the name of the owner of record or is recorded

and noted on the owner's certificate of title."

The requirements listed above do not apply to zoning decisions in the City of Boston. The Massachusetts Zoning Act, MGL c. 40A, does not serve as the enabling legislation for zoning decisions in the City of Boston. Boston's zoning authority emanates from "An Act Authorizing the City of Boston to Limit Building According to Their Use or Construction to Specific Districts," Mass. Acts 1956, c. 665. Authority over Boston zoning is exercised by the Zoning Commission, the Board of Appeals, the Inspectional Services Department and the Boston Redevelopment Authority. If a building permit is denied by the Inspectional Services Department for noncompliance with the Zoning Code, an appeal can be made to the Board of Appeals which has the authority to grant appeals for conditional uses, exceptions and variances. The bottom line is that Boston zoning decisions are not recorded at the Registry of Deeds.

- 22.04 Boston Landmarks Commission** – Pursuant to Mass. Acts 1975, c. 775, the Boston Landmarks Commission has authority to designate sections of the City of Boston as Architectural Conservation Districts. The recording of the vote of designation sets boundaries for the districts and allows the commission to impose restrictions on the style and types of architecture permitted in those districts.
- 22.05 Receiver's Lien** – Pursuant to MGL c. 127I, in order to enforce the Sanitary Code, a court may appoint a receiver to repair a property and maintain it in a safe and healthful condition. In order to secure payment for the costs incurred, the receiver must have a priority lien on the improved property. No lien, however, is effective unless recorded in the Registry of Deeds for the county in which the property is located.
- 22.06 Notice to Prevent an Acquisition of Easement by Custom or Use** – Pursuant to MGL c. 187, §3, if a person is concerned that a right of easement may be acquired by custom or use, he may give notice of his intention to prevent such easement by employing an officer qualified to serve civil process to post a copy of a notice upon the premises for six successive days or serve the offending party. In order to establish conclusive evidence of the posting or service, within three months after the posting or service, a certificate by the officer that the officer either posted or served the notice and a copy of the original notice must be recorded at the Registry of Deeds in the district in which the land lies.
- 22.07 Pre-nuptial Agreement or Ante-nuptial Agreements** – As a general rule contracts are not permitted to be recorded in Registries. However, pursuant to MGL c. 209, §§ 25 and 26, at any time before marriage, the betrothed may make a written contract allocating real property. A schedule of the property affected is annexed to the contract and both are recorded at the Registry of Deeds before the marriage or within 90 days of the marriage. The recording must be in the Registry of Deeds for the district in which the husband resides at the time of recording; if he is not a resident of Massachusetts, the recording must be in the Registry of Deeds for the district in which the wife resides at the time of recording (if recorded prior to the marriage) or in where she last resided (if after the marriage). The contract and schedule must also be recorded in Registry of Deeds for the district in which any land involved in the contract is located.
- 22.08 Disclaimer of Interest in Real Property** – Pursuant to MGL c. 191A, any beneficiary of an interest in real property (whether by conveyance, devise or intestate succession) may disclaim any such interest which passes to them. Pursuant to MGL c. 191A, §5, the disclaimer of real property is acknowledged in the

manner provided for deeds of real property and must be recorded in the Registry of Deeds for the county in which the real property is situated.

22.09 Name Change Affidavit and Change of Name Petition – Pursuant to MGL c. 183, §5B, a Name Change Affidavit, signed, acknowledged and certified by an attorney, is recordable at the Registry of Deeds. These affidavits usually involve names changed as a result of marriage or divorce.

Pursuant to MGL c. 210, §12, an individual may petition the Probate and Family court to legally change one’s name. An attested copy of the Notice of Change of Name issued by the court is recordable at the Registry of Deeds.

22.10 Petition to Partition – Pursuant to MGL c. 241, §7, upon the filing of a petition to partition, the petitioner must record a notice containing a description of the property and the names of all person appearing in the petition in the Registry of Deeds in the district wherein any of the land involved in the petition lies.

23. MORTGAGES

23.01 Simple Mortgages – Massachusetts is a “title theory” state in which the mortgagee (the Bank) is considered to have legal title to the land, subject to mortgagor’s (the property owner’s) right of redemption. Mortgages need not be multi-page documents; in Massachusetts, the requirements of a valid mortgage include only:

- (a) a Mortgagor (the borrower) and a Mortgagee (the lender);
- (b) a Grant (a mortgage deed pursuant to MGL c. 183, §18);
- (c) Mortgage Covenants, (the promises between the mortgagor and the mortgagee detailed in MGL c. 183, §19);
- (d) a Loan Amount to secure a loan or performance, the terms of which are detailed in the note (see MGL c. 183, §6);
- (e) a Description of the Land securing the loan;
- (f) a provision that the mortgage is subject to the Statutory Condition for any breach thereof, and that the mortgagor agrees to pay the mortgage in accordance with MGL c. 183, §20, retains the Statutory Power of Sale and may foreclose upon the mortgage in accordance with MGL c. 183, §21;
- (g) the Date of the mortgage;
- (h) the Signature of the Mortgagor; and
- (i) Notarization of the mortgagor’s signature.

23.02 Mortgaging Inherited Property from Estates Probated Prior to 2012 – Contrary to what many out-of-

state banks and mortgage companies may believe, if a person inherited property from a properly probated estate, that owner does not need a deed in his or her name in order to mortgage the property. When the mortgaged property is described in Exhibit A, it is referenced by the book and page of the last recorded deed at the Registry of Deeds, the name of the estate, the probate docket number of the estate from which the property was inherited and the book and page of any death certificate and/or estate tax affidavit.

23.03 Discharge of Mortgages – A mortgage grants a defeasible estate which terminates automatically upon performance of the mortgage conditions. A mortgage recorded at the Registry of Deeds is discharged by the recording of a deed of release or an acknowledgement of satisfaction. See MGL c. 183, §§54-55. The basic rule of discharges is that the discharge must be filed by the present holder of the mortgage and the note, and an assignment identifying the present holder recorded at the Registry of Deeds. See MGL c. 183, §28.

The following Massachusetts Statutes provide solutions to various discharge problems:

- (a) Unacknowledged Discharges – proof of execution can be proven in court pursuant to MGL c. 183, §§34-41 or via a scrivener’s affidavit filed pursuant to MGL c. 183, §5B if documents that are not in recordable form are involved.
- (b) Discharge with Missing Assignment(s) – Record a discharge and the original note and any allonge evidencing the transfer of ownership to the present note holder pursuant to MGL c. 183, §54C(a)(2). If a copy of the note is to be recorded, the present note holder must stamp and attest that it is a true copy of the original document or include an affidavit by a Massachusetts attorney attesting to that fact.
- (c) No Discharge but a Note – Record an Affidavit pursuant to MGL c. 183, §§ 5B and 55(h), if the mortgage encumbers a 1-4 family residence and an endorsed note is attached, the mortgage is discharged.
- (d) No Discharge or Note – Record an Affidavit after complying with the process outlined in MGL c. 183, §55 (g)(1).
- (e) Old Mortgage – Pursuant to MGL c. 260, §33:
 - i. No Maturity Date: a mortgage with no stated maturity date expires 35 years from the date the mortgage was recorded.
 - ii. Maturity Date: a mortgage with a stated maturity date expires 5 years after the maturity date.
 - iii. Fixed Term: a mortgage with a fixed term expires 5 years from the end of that fixed term.

Discharge of such expired mortgages must be recorded in registered land by filing a “Request for a Discharge Notation pursuant to MGL c.260, §33.” However, no action is required for such discharge to be effective in recorded land.

23.04 Release of Mortgage Without Satisfaction of Debt – There are instances when a mortgagee may give up the mortgagee’s interest, even though the debt has not been paid. When this occurs, the following or similar verbiage appears on the document: “This release of mortgage does not constitute satisfaction of the underlying debt.”

- 23.05 Lien to Recapture Payment** – A lien to recapture payment is considered a mortgage and is charged a recording fee of \$175.00. Such agreements are used to recover small housing loans that come due when the “net sale price” exceeds the “original purchase price”.
- 23.06 Confirmatory Mortgage** – Minor errors can be corrected in recorded land by recording a “Confirmatory Mortgage” at a recording fee of \$175.00. (Confirmatory mortgages are not accepted in registered land.) The confirmatory mortgage must be an original and state on the first page the words “Confirmatory Mortgage” and, just below those words, state the reason for such recording.

Eg. This instrument confirms and corrects a mortgage recorded at the Suffolk Registry of Deeds in Book 17452, Page 179 dated 00/00/0000 which instrument incorrectly states the maturity date of the mortgage.

Major errors, however, should be corrected by discharging the defective mortgage and recording a corrected mortgage.

- 23.07 Affidavit to Reinstate a Mortgage Lien** – The Suffolk Registry of Deeds will not accept affidavits to reinstate a mortgage lien for recording. In Massachusetts, a discharged mortgage may not ever be reinstated.

24. MULTIFUNCTIONAL/MULTIPLE DOCUMENTS

- 24.01 Multiple Fees for Single Document** – Any document that includes multiple references to more than one other document, intending or attempting to assign, discharge, release, partially release or subordinate those other documents, is separately indexed and separately assessed an additional fee for each such reference. MGL c. 262, §38 and c. 44B, §8.
- 24.02 Multiple Documents Attached as Exhibits** – A document that is otherwise recordable on its own may not be recorded as an attachment to another document but must be recorded on its own as a separate document. Examples of document combinations that would violate this rule include, but are not limited to the following combinations: Deed + 6D Certificate; Deed + Trustee Certificate; Deed + Vote; Deed + Power of Attorney; Deed + Death Certificate; Mortgage + 6D Certificate; Mortgage + Collateral Assignment of Rents & Leases; Mortgage + Trustee Certificate; and Affidavit re Estate Tax + Death Certificate.

25. PLANS

- 25.01 PLAN RECORDING REQUIREMENTS** – Pursuant to MGL c. 36, §13A, the Suffolk Registry of Deeds plan recording requirements, approved by the Attorney General on January 12, 1988, include:
- (a) Size – Plan sizes must be a minimum of 8½” by 11” and a maximum of 24” by 36.”
- (b) Material – Each plan must be on linen or polyester film, single matte (a dull, lusterless surface), with a thickness of .003 mils (a unit of measure equal to .003 inches).

- (c) Material Composition – Each plan must have an opacity (an opaque, translucent composition) which allows consistent diazo (a plan reproduction using the bleaching action of ultraviolet radiation on diazonium salts) and microfilm reproduction.
- (d) Ink – Each plan must be prepared using a compatible ink with excellent cohesiveness to produce a permanent bond and result in a plan with long-term durability.
- (e) Signatures – All signatures must be in black ink (or its equal).
- (f) Reproductions – Conforming linen or polyester reproductions are accepted for recording, provided they contain original signatures.
- (g) Border – Each plan must have a ¼” border.
- (h) Letter Size – The minimum letter size on a plan must be 1/8” in free hand lettering and 1/10” in type set lettering.
- (i) Graphic Scale – Each plan must include a graphic scale.
- (j) Recitation or Certification – Each plan must have an area reserved to receive either a planning board recitation or a Surveyor’s certification.
- (k) Register of Deed’s Square – Each plan must have a blank 3½” square, on the face thereof, reserved for Registry of Deeds use.
- (l) Certification Clause – Each plan must contain a certification clause signed by the preparer stating that he or she has conformed to these plan regulations in preparing the plan.

25.02 Certification – Pursuant to the plan requirements, all plans recorded for land in the Suffolk Registry of Deeds must contain a planning board recitation or a certification from a surveyor. Pursuant to 250 CMR 6, Procedural and Technical Standards for the Practice of Land Surveying, any plan created by a registered land surveyor and furnished to a client must contain the surveyor’s seal, signature and date.

25.03 Minimum Requirements for Recording – No plan may be recorded unless: (1) it complies with the plan requirements of the Registry of Deeds; and (2) is sealed, signed and dated by an architect, engineer or surveyor.

25.04 Rough Plan or Sketch Attached to Document – A copy of a rough plan or sketch that is to be recorded as an attachment to another document must be on white paper no smaller than 8.5 inches by 11 inches and no larger than 8.5 inches by 14 inches. Plans recorded in accordance with this section (eg. common driveway agreement) are exempt from the Registry of Deeds’ plan requirements. A document with a plan attached is not considered to be a “multiple document” for purposes of calculating the recording fee for that document.

25.05 Subdivision Plans – MGL c. 41, §§ 81K – 81GG, more commonly known as the subdivision control law, places requirements and restrictions on the subdivision of land in cities and towns that have planning boards and have accepted the subdivision control law. Pursuant to MGL c. 41, §81N, the City of Boston is exempt from the subdivision control law. As a result, the vast majority of plans recorded in the Suffolk Registry of Deeds do not require planning board

approval and are not subject to MGL c. 41, §81X.

For the remainder of Suffolk County, pursuant to MGL c. 41, §81X, no subdivision plan may be recorded unless it contains:

- (a) certificate by a registered land surveyor that that no new lines have been drawn on said plan;
- (b) an endorsement by the planning board that such plan has been approved by said board and a certificate of the clerk of the city or town stating that no notice of appeal was received during the twenty days following the approval of said plan;
- (c) an endorsement by the planning board or its designee that approval of the plan is not required;
- (d) a certificate of the clerk of the city or town that the plan has been approved by reason of the failure of the planning board to take any action relative to said plan; or
- (e) in the case of an amended plan, a statement by the planning board that changes reflected on an amended plan do not affect any lot which was conveyed or mortgaged in good faith and for valuable consideration under the original plan, prior to the approval of the amended plan.

No definitive subdivision plan may be recorded unless accompanied by a certificate of municipal liens, indicating that all taxes then assessed against the land shown on the plan have been paid in full. MGL c. 60, §23. It is the responsibility of the respective boards of each city or town to forward all necessary municipal lien information to the Registry of Deeds. MGL c. 41, §81X.

25.06 Condominium Floor Plans and Site Plan – MGL c.183A, §8 requires that a master deed includes “a set of the floor plans of the building or buildings, showing the layout, location, unit numbers and dimensions of the units, stating the name of the building or that it has not a name, and bearing the verified statement of a registered architect, registered professional engineer, or registered land surveyor, certifying that the plans fully and accurately depict the layout, location, unit number and dimensions of the units as built.” As stated above, the only possible way to discern the location of the units as built is on a site plan, which must be recorded. However, for the required floor plans and site plan to be accurately and legibly reproduced on standard Registry of Deeds equipment, the floor plans and site plan must be presented for recording as plans printed on mylar material in accordance with the plan requirements contained herein, and not as a paper attachments to the master deed.

26. PURCHASE AND SALE AGREEMENT

26.01 Recording Purchase and Sale Agreement – No purchase and sale agreement may be recorded unless the signature of at least one of the parties agreeing to sell the real estate has been acknowledged. MGL c. 184, §17A.

27. REGISTER’S POWER AND REDACTION

27.01 Redacting Portions of Documents – The register of deeds has the authority to redact any information from any document found to be recorded or presented to be recorded which does not meet the requirements of these standards or of any regulation or statute. MGL c. 66 and c. 4.

Any document which does not meet the legal requirements of any statute or regulation and cannot be remedied through redaction must be rejected.

- 27.02 Rejection of Recording** – Pursuant to MGL c. 36, §12, the Register has the authority to record only those documents which relate to land and may reject any document relative to which the land lies outside Suffolk County.
Pursuant to MGL c. 36, §12A, the Register has the authority to reject any document which cannot be properly duplicated or indexed.

28. REGISTERED LAND

- 28.01 Registered Land Explained** – Massachusetts has two separate systems of recording documents related to the ownership of land. These two systems are known as recorded land and registered land. With registered land, the Registry of Deeds (operating as an office of the Massachusetts Land Court), issues a certificate of title to the owner of the property and annotates the certificate with the document number of any document that affects that property. Certificates of title are assigned sequential certificate numbers and are placed in numbered books. Each registered land document is assigned a sequential document number. Registered land documents are not assigned book and page numbers as is the case with recorded land. Instead, registered land documents become associated with one or more certificates of title.
- 28.02 Application of Deeds Indexing Standards** – These indexing standards apply to registered land as suggested methods of indexing documents. Any time a conflict exists between these standards and Land Court Guidelines, policies, practices or statutes, the Land Court procedures shall be followed.
- 28.03 Both Ways Recording** – A document which references both recorded land and registered land is registered in registered land and subsequently recorded in recorded land. Separate checks are required for the recording of the document on each side – one for registered and one for recorded. This practice does not apply when multiple original copies are available.
- 28.04 Wrong Way Recording** – The submitter is responsible for determining whether a document should be recorded in the registered land section or the recorded land section of the Registry of Deeds. If a document is recorded “on the wrong side,” the party who recorded it is solely responsible for taking the necessary steps to correct the erroneous recording.

If a document containing registered land references is incorrectly recorded in recorded land, the following rules apply:

- (a) for an assignment or release, a certified copy of the recorded land document is accepted for registration;
- (b) for a deed, an “S” petition must be obtained from the land court; and
- (c) for a mortgage or lien, Land Court approval is required.

For any document containing recorded land references incorrectly registered in registered land, a certified copy of the registered land document is accepted for recording in recorded land.

- 28.05 Land Court Guidelines** – Procedures and practices followed by the registered land section of the

Registry of Deeds are set by the Land Court, its memos, directives and guidelines. Such document may be found on the Land Court homepage (<http://www.mass.gov/courts/court-info/trial-court/lc/>). Locate "Topics" section and select Registered Land Memos from Chief Title Examiner, Land Court Rules, Guidelines and Standards and Land Court Rules and Standing Orders.

28.06 Withdrawal – Land may be withdrawn from Registration voluntarily, pursuant to MGL c. 185, §52, a copy of the Notice of Withdrawal is recorded in recorded land to provide a starting point for title.

If land on which a condominium is declared has a title which is both registered and recorded land, the registered land may be withdrawn pursuant to MGL c. 185, §16.

29. SOCIAL SECURITY NUMBERS

29.01 Redaction of Previously Recorded Document – Any time a social security number is discovered in a document previously recorded at the Registry of Deeds, that number is redacted from any electronic or paper versions of such document available to the public.

29.02 Social Security Numbers Not Recorded – No document containing a social security number is accepted for recording unless the entire number or all but the last four digits is redacted.

29.03 Tax Liens; Redaction of Social Security Numbers – Current IRS Directives require that the last four digits of a social security number on a Federal Tax Lien or related document must be preserved and not fully redacted.

30. TIME OF RECORDING

30.01 Deemed to be Recorded – A document is deemed to be recorded at the moment that the Register of Deeds assigns an instrument number, or a book and page number, as the case may be, to such document. MGL c. 36, §14b.

31. TRUSTS

31.01 Certificate of Trust – A certificate sworn to or executed under the penalties of perjury and signed by a person who appears to be a trustee thereunder, according to records filed in Registry of Deeds or another Registry of Deeds in a district wherein real estate owned by a nontestamentary trust lies, is binding on all trustees and the trust estate in favor of a purchaser or other person relying in good faith on the certificate, if the certificate of trust certifies the following:

- (a) the identity of the trustees or the beneficiaries thereunder;
- (b) the authority of the trustees to act with respect to real estate owned by the trust; or
- (c) the existence or nonexistence of a fact which constitutes a condition precedent to acts by the trustees or which are in any other manner germane to affairs of the trust. The certificate most recently recorded in the Registry of Deeds for the county or district in which the real estate lies is controlling. MGL c. 184, §35.

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