



Technology Property

Technology—Property provides information on current technology and microcomputer software of interest in the real property area. The editors of *Probate & Property* welcome information and suggestions from readers.

eChange Is Our Friend: The eMortgage

Information technology has clearly changed many aspects of our personal and professional lives. In the way we shop, communicate, travel, recreate, entertain, and even vote, information technology touches and affects every aspect of daily life. It (or "IT") has radically altered the manner in which lawyers work and deliver services to clients. Indeed, the scope and pace of that change seems to be accelerating. Changing information technology is more than a friend: for better or for worse, it is now a constant companion.

The reach of information technology, of course, extends into the commercial real estate finance industry. Within the industry, information is no longer collected, analyzed, and shared using labor-intensive, paper-based tools. The migration of valuable information from paper to an electronic medium has allowed real property to compete and be traded on an equal footing with traditional investments in companies selling goods and services. Indeed, it is increasingly clear that information technology has become the backbone of the thriving commercial mortgage-backed securities industry (CMBS), which now claims over 25% of all commercial real estate mortgages in the United States. For the first time, commercial real estate debt is a publicly traded commodity.

This sea change will soon transform the medium for documenting real estate loans from paper to electronic (the "eMortgage"). The eMortgage is "a mortgage where the critical loan documentation—specifically the promissory note, assignments and security instruments—are created electronically, transferred electronically and ultimately stored electronically." This definition is from Mortgage Industry Standards Maintenance Organization (MISMO), *Glossary of Terms*, Version 1.1, and is

available at www.mismo.org. The eMortgage is not a scanned-in document image. Instead, it is a specific electronic file of the security instrument package that is consented to, recorded, assigned, and stored electronically. In essence, the eMortgage is the electronic embodiment or manifestation of the security instrument. The "hard" or "wet ink" closing binder is transformed into electronic dots and dashes. The development of the eMortgage will change the manner in which all parties to real estate loan transactions conduct business.

A Changing Industry

The real estate finance industry is hard at work changing over to paperless electronic transactions. The real estate industry understands that an electronic process results in faster and more accurate sharing of information during the underwriting, closing, servicing, and secondary market phases of real estate lending. A faster closing process, in turn, allows loan pricing to be more accurate and responsive to secondary market pricing. Other processing benefits include reduced duplication of tasks and less documentation. In addition, risk is reduced because quality control and regulatory compliance can be performed electronically during the life of the loan. By reducing operational inefficiencies, costs are lowered and liquidity is increased, with the result being increased competitiveness if not higher profitability. Furthermore, with an increase in the quantity and quality of information available to investors, the value (or price) of the product (the loan) to the investors will be more easily determined, reducing the discount for uncertainty. On a broader scale, lenders are investigating technologies such as business process management, rules engines (which automate decision making through a process), and electronic document and content management (all processes that leverage the benefits of a paperless process) to make the next technological leap in improving lending operations. The industry focus is about becoming leaner, faster, and smarter, with the added benefit of transparency for investors, rating agen-

Technology Property Editor: Gerald J. Hoenig, 8495 Caney Creek Landing, Alpharetta, GA 30005, ghoenig@mindspring.com.

Guest Editors: Keith H. Mullen and James R. Nowlin III, Winstead Sechrest & Minick P.C., 5400 Renaissance Tower, 1201 Elm Street, Dallas, TX 75270-2199. Contact Mullen at kmullen@winstead.com or Nowlin at jnowlin@winstead.com.

