E-Land Conveyancing and Registration – Vision and Risks
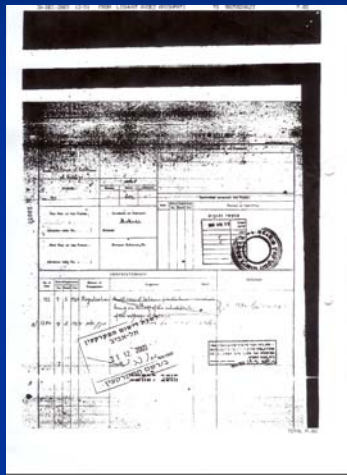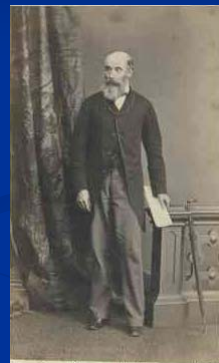
Prof. Haim Sandberg
Law School, College of Management, Rishon Le-Zion, Israel

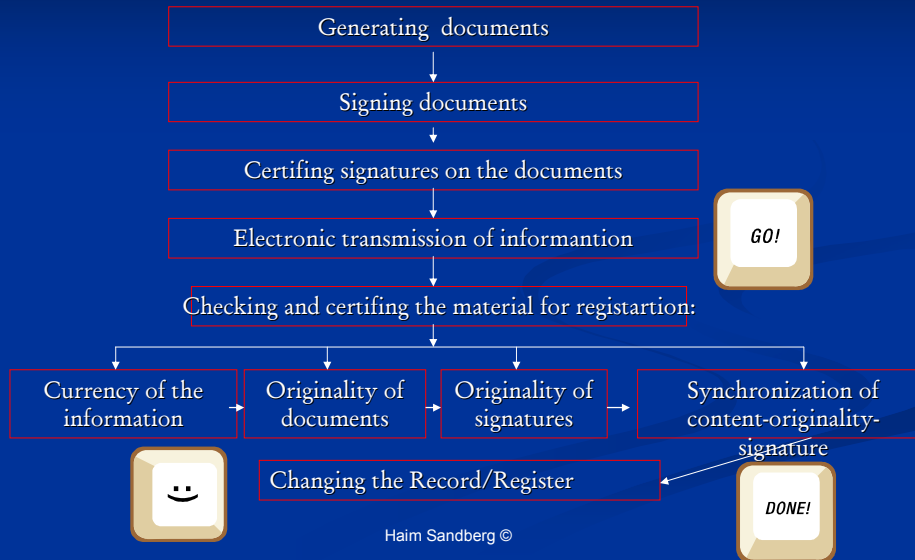## Extract of Register

## Sir Robert Torrens

Complete E-Conveyancing System- Principle Stages

Generating documents

↓

Signing documents

↓

Certifing signatures on the documents

↓

Electronic transmission of informantion

GO!

Checking and certifing the material for registartion:

| Currency of the information | Originality of documents | Originality of signatures | Synchronization of content-originality-signature |

Changing the Record/Register

DONE!

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The advantages

1. Simple and standard
2. Efficiency – shortening Biurocratic delays
3. Improving availability and qurrency of the registered information + enhancing searching possibilitiew
4. Enhancement of the accessibility of land registration.
5. Consolidation of regional registration offices
6. Enhancing multi-national land market
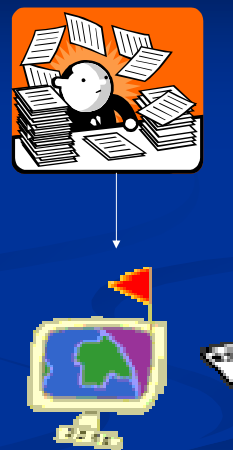
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Enhancement of Security ?

1. On the one hand: Reducing the danger of fraud and forgery by detecting alerting and preventing typical patterns of fraud
2. On the other hand: Vulnerability to electronic fraud or disruption

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

Possible solutions to the identification problem

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

The problem of identification is still the main obstacle to the full accomplishment of the e-conveyancing vision.

E-Conveyancing in USA - Legislation

1. Electronic Signature in Global and national Commerce (E-SIGN) Act 2000.
2. Uniform Electronic Transaction Act (UETA) 1999.
3. Uniform Real Property Electronic Recording Act 2004 (*URPERA*).
4. URPERA sec.3:

- The requirement of recording is satisfied by an electronic document
- The requirement of a signature on a document may be satisfied by an electronic signature
- A requirement of verification of signature, whether by a notary or by other witness, may be satisfied by the attachment or logical association of all information required with the electronic document or the electronic signature

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E-Conveyancing in USA – Implementation

Bramante & Jones 2006- Bramante C. D. & Jones J. L. (2006), URPERA Enactment and eRecording Standards Implementation Guide, PRIA Web Site

	Type of model	Scale of automatization	Mode of signatures' verification
Model 1	Electronic registration of scanned paper-based documents.	The registration is based on visual inspection of an officer	Electronic signature on the signed documents and notary verifications of hand signatures of the vendors.
Model 2	Electronic registration of a document image that is wrapped in an XML (eXtensible Marked up Language) wrapper containing standart and important data.	The registration here is partially automated but yet requires visual inspection and approval of the recorder.	"
Model 3	Electronic registration of documents that has originally been generated by the vendor in XHTML (Extensive Hyper-Text Mark-up Language) format.	The data is automatically checked and accepted or rejected.	All signatures are electronic including the signatures of the parties. Secured access is required from all parties. Confined only to re-conveyances of deeds of trust and satisfaction of mortgages by title insurance companies or loan services.

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The average elapsed time of the process

Model 1	one hour
Model 2	5 minutes
Model 3	30 seconds

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E-Conveyancing in UK - Legislation

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

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E-Conveyancing in UK – Electronic Network and the Network Access Agreement (NAA)

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

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E-Conveyancing in UK - Implementation

Land Registry
Cymraeg

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

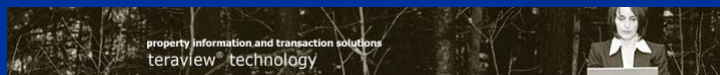Haim Sandberg ©

The Canadian Ontario system

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

POLARIS

- Title Index Database
- Property Index Database
- Image Database

property information and transaction solutions
teraview technology

ELRS

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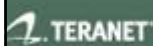
Access Requirements

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

Israel

- Registration process is basically manuel
- Abstract of the register may be electronically viewed by the web site

משרד המשפטים
Ministry of Justice

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

Conclusions

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

Thanks for your attention !!!

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