

Item # 15
2.26-2019

Katrina Olsen

From: Katrina Olsen
Sent: Friday, February 8, 2019 1:15 PM
To: 'glluna@co.fresno.ca.us'
Cc: 'rhanlin@mhm-inc.com'; 'BPELSG.Enforcement.Information@dca.ca.gov'; 'Peter Binz'; 'District5@co.fresno.ca.us'; 'jrousseau@fresnocountyca.gov'; 'pdictos@co.fresno.ca.us'
Subject: Recorder's Office duties and recent changes to online access of maps - not in compliance
Attachments: Recorder Letter 2-8-2019.pdf
Categories: Red category

Dear Ms. Luna,

Thank you for taking a few moments in person this week to hear my concerns that the Fresno County Recorder's Office is not fulfilling their duties.

In brief:

- The Recorder's Office has not been indexing the maps geographically as required per BPC 8770.
- The Recorder's Office has not been indexing the certificates of correction for maps as required per GC 66472.
- The Recorder's Office had the maps available online for "public reference" per BPC 8770 and have now taken them away.
- This lack of access to view maps online is impacting the ability of those who rely on the maps to do their job correctly.
- The new hosting site is not operating correctly – not all maps are linked, and recording data is incorrect.
- The necessity to physically drive to the Recorder's Office is not "GREEN".
- These deficiencies and changes are not in the public's best interest.
- These deficiencies and changes are a backward move and need to be corrected or modified.
- Requesting action be taken promptly to correct.

I've attached my letter stating my concern, citing the applicable codes, explaining the purpose of laws, and citing specific examples of the problem. I appreciate your attention to these issues and look forward to hearing from you soon.

Thank you,

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February 8, 2019

Gina Luna
Recording Manager
Recorder's Office
County of Fresno
P.O. Box 766
Fresno, CA 93712

RE: Recorder's Office duties and recent changes to online access

Dear Ms. Luna,

Per our meeting, February 6, 2019, in your office and at your request I am putting my concerns in writing. This letter expresses my concern that the Recorder's Office has not been fulfilling their duties to store, index, and make maps reasonably available to the public, in particular the recent removal of the capability to view recorded maps online and failure to maintain a geographical index of these maps.

Recorded maps are critical to the preservation of citizen's property rights. Survey maps show the relationship between monuments and other features that physically define property boundaries. Licensure is required for providing surveying services "*In order to safeguard property and public welfare...*". I take the duties I'm sworn to uphold as a Licensed Land Surveyor earnestly. It is important that all information is reviewed before making a boundary decision so it can be fair and correct. Recorded maps are key sources of information necessary to determine the property described in a deed has been located correctly on the physical ground.

Section 8710.1 of the Business and Professions Code

"Protection of the public shall be the highest priority Whenever protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

Section 8770 of the Business and Professions Code

"The record of survey filed with the county recorder of any county shall be securely fastened by the county recorder into a suitable book provided for that purpose, or stored in any other manner that will ensure that the maps will be kept together."

*The county recorder shall keep proper **indexes** of such record of survey by the name of grant, tract, subdivision, or United States subdivision.*

*The original map shall be stored for safekeeping in a reproducible condition. It shall be proper procedure for the recorder to maintain for public reference a set of **counter maps** that are prints of the original maps, and the original maps to be produced for comparison upon demand."*

The spirit of this law is for the Recorder's Office to preserve, maintain, and make available to the public these very important maps so equitable property rights can be recognized and maintained by the public.

The purpose of the "*indexes*" is to provide a geographical method for locating appropriate and applicable maps in a specific area. These maps may contain information relevant to correctly establishing or re-establishing property boundaries for the public, but relevance of that information cannot be ascertained without viewing all the maps in a specific area. To the best of my knowledge the indexes by name of grant (this is not grantee or grantor), tract, subdivision and United States subdivision (Section, Township and Range) have not been maintained since around 2002 when the County Recorder changed from Mr. Greenwood to Mr. Warner. Neither the counter staff nor yourself appeared to be familiar with the indexes when it was brought to your attention. The current system of filing a document with the name of the person or organization requesting the map with the book and page is not an index nor is it geographic in nature. The Department of Public Works has been maintaining an index, however this does not relieve the Recorder's Office of this responsibility, and your lack of knowledge of this charge is alarming. If you don't know how the maps are indexed, how can the public know?

The purpose of maintaining the "*counter maps*" is to provide a readily available public reference free of charge and not hide or hold for ransom information which may be critical to the public's property rights. Having the maps available to view for free online as they have been, is harmonious with the intention of this law and current technology. Removal of this capability and making it so the public now has to physically go to the County Recorder's Office is not a step forward, it is a leap backward. With a click of a button you just increased the public's carbon footprint and increased our valley's air pollution by requiring the public to have to travel to the Recorder's Office for information that previously could easily be viewed online.

Recording my map does not benefit me or my client, because (to state the obvious) we already have the survey information. The reason for preparing a map and having it recorded and indexed is for the public's benefit and protection. This is required by law. The individual property owner requesting a survey pays significantly out of pocket (typically an additional \$1,000 - \$2,000 in our office) for the surveyor to draw the map to required specifications, the County Surveyor to review it, and the County Recorder to make it available to everyone else. The fact the County Recorder would then charge a fee to view this information is offensive and is double charging for a fee already paid by the property owner.

Charging for a paper copy to cover the direct costs associated with that copy (paper, ink, plotter, etc.) is acceptable. These costs are incurred by the user of the data, whether they have the map printed by the Recorder's Office, an outside source, or do their own printing in house. Charging for viewing or downloading the image of the map is unacceptable. The Recorder's Office does not own the map or the data it contains and you cannot sell it. There is nothing secret, private or personal on the maps that need to be protected. You have been entrusted with the honorable duty of properly storing mine and other Land Surveyor's maps and making them available to the public. The Recorder's Office already scans and stores the image of the map. It cannot cost significantly more to have them available online. Why this backward move? It does not seem to be in line with being "*more efficient, accessible, and responsive to the needs of the public*", which is what Tyler (the new webhost) promotes on their site.

I expect prior to making a change such as this there was research done on what other counties and agencies are doing and discussion was held with the users of the information you have been charged to preserve and make available. You seemed surprised when I said many counties in California have the recorded maps indexed and available to view and download for free online, including the adjacent counties of Tulare and Merced. Many counties have very easy to use GIS indexes as well.

I know that the Fresno County Public Works department is working on a GIS and I applaud their efforts to use technology to make access to information easier, not more cumbersome. GIS has a more user-friendly interface than the existing spreadsheet being used. This would seem like a great opportunity to team up and combine resources and reduce redundancy. Removing of the maps online has now produced an error in the GIS links. Basically, one department (Recorder's Office) is undoing the work of another department (Public Works). I expect the departments of Fresno County to work together as a team and to be making decisions that are in the best interest of the public.

I am also the City Surveyor for two cities within Fresno County: Fowler and Kingsburg. Without access to view previously recorded maps I cannot properly execute my duties to check that the maps submitted to the City are technically correct. During our meeting you acknowledged that others have expressed issues with this recent change as well. I'm not the only one negatively impacted by this action.

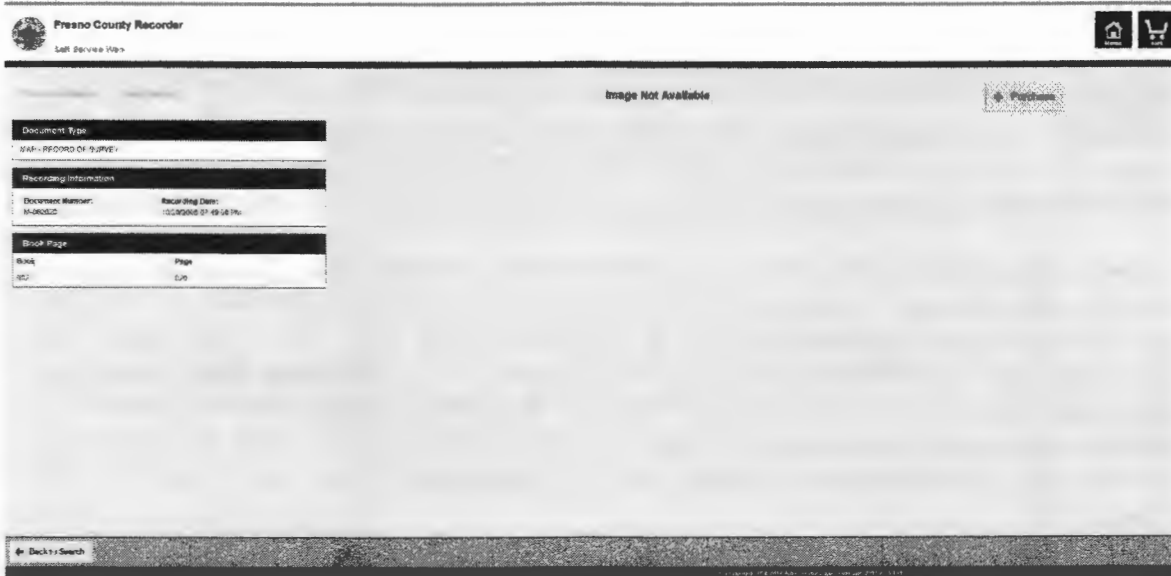
The new hosting site by Tyler is not operating correctly. One of the first maps I searched for, Book 1 of Miscellaneous Maps page 9 (City of Clovis) did not come up and I received this error:

No results found, please try a new search or remove applied Filters

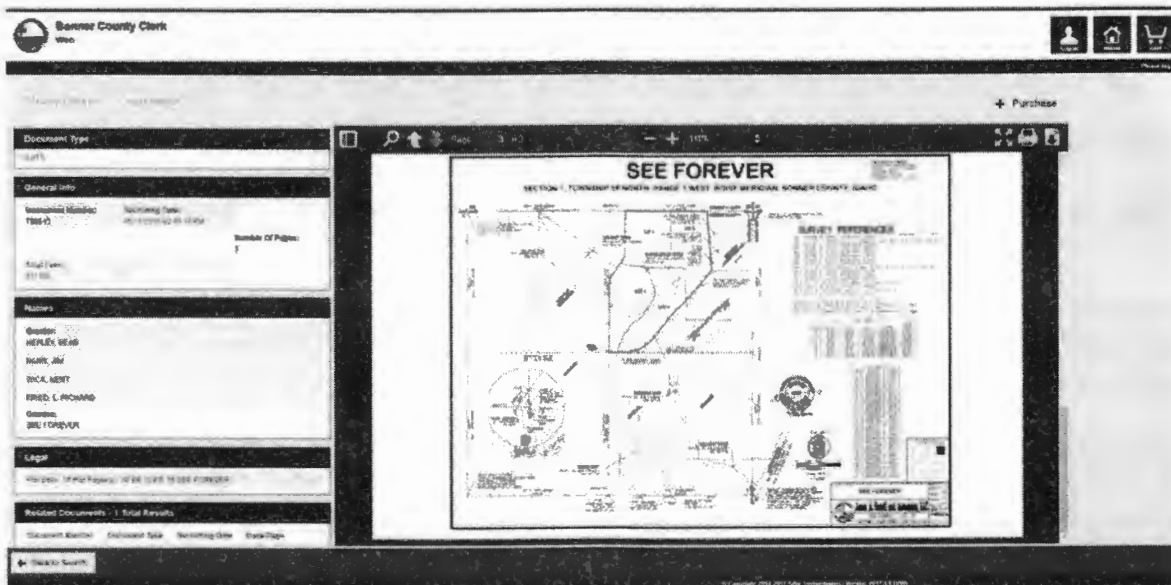
Map Search - Web Book is : 1 : 9 and Document types in MAP - MISCELLANEOUS

I know this map exists and I was able to view it when I drove to the Recorder's Office in person and used different software on the computer in the Recorder's Office. This map used to be available online.

The next map I searched for was Book 2 of Record of Surveys Page 20 (Supplemental map of the City of Clovis). I could not view the map, nor confirm it was the correct map since it indicated it was recorded in 2005 (not 1902) and does not inform me anything about what is on the map or where it is located. As shown on this screen shot:



Now compare this with another site hosted by Tyler where you can view the map or download the map at no charge and have the option to purchase a paper copy for a reasonable fee.



Once this concern of accessibility and indexing of maps has been addressed could you please review your indexing procedures for Certificate of Correction for maps? I think you will also find them deficient for Section 66472 of Government Code.

The Recorder's Office is putting themselves, land surveyors, other agencies, and departments at risk for unnecessary liability and litigation by not fulfilling their duties to store, index, and make maps reasonably available to the public. I am requesting that the maps be put back online immediately. My goal is to get all of us collaborating together to get the system fixed promptly. Because of the urgency of this issue and I have included the parties listed below on this correspondence via e-mail to expedite communication and action.

I am hopeful the Recorder's Office will be part of the solution and not the problem. You have many good resources to draw from including the current Deputy County Surveyor who is very familiar with how these maps are used by the public as well as many citizens such as myself who live and work in this county and are more than willing to participate in helping make Fresno County a shining example of what is possible as technology moves forward, instead of an example of what not to do. I look forward to hearing from you very soon.

Sincerely,

A handwritten signature in black ink, appearing to read 'Katrina M. Olsen', with a long horizontal flourish extending to the right.

Katrina M. Olsen, LS

cc: Fresno County Recorder (Paul Dictos)
Fresno County Chief Administrative Officer (Jean Rousseau)
Fresno County Supervisor (Nathan Magsig)
San Joaquin Valley Chapter of the California Land Surveyors Association (Peter Binz)
California Land Surveyors Association (Professional Practices Committee)
Board for Professional Engineers, Land Surveyors, and Geologists (Enforcement)