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April 18, 2008

## **Administration of Immovable Property Records in New Orleans<sup>1</sup>**

*Many thanks are due to the people who were consulted for preparing this paper, who include:  
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*Any errors are the sole responsibility of the author. Statements, representations and opinions  
expressed or implied in this report are not necessarily those of Terra Institute nor of any of  
the people interviewed as input into this report*

This paper has been prepared based on information gathered mostly from interviews conducted in New Orleans, November 26-December 11, 2007. The topic of how property records are administered in New Orleans is included in a case study sponsored by the UN-Habitat on how New Orleans has dealt with land issues after Katrina/Rita. The purpose of the case study is to contribute to the generation of guidelines by UN-Habitat for assisting people in future times and places who will have to deal with land issues following sudden natural disasters. That case study is titled: "The Challenges of Sudden Natural Disasters for Land Administration and Management: The Case of the Hurricane Katrina in New Orleans", Prepared from contributions by J. David Stanfield (editor), Kali Akuno, Richard Campanella, Annie Clark, Dominique Duval-Diop, Davida Finger, Monique Hardin, Amy Koritz, John Lovett, David Marcello, Bill Quigley, Kalima Rose, Ommeed Sathe, Keith Twitchell, and Nathalie Walker, 11 April, 2008. Digital copies can be obtained from Lynn Burns, at Terra Institute, email: [jdstanfi@wisc.edu](mailto:jdstanfi@wisc.edu); telephone: 1-608-767-3449.

This paper provides more detail and comments than does the case study.

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<sup>1</sup> The jurisdiction of the City of New Orleans is coterminous with the boundaries of the Parish of Orleans. The City Council of New Orleans and the Mayor of the City are the main governance institutions of New Orleans, although there are entities such as the City Planning Commission and the Vieux Carre Commission which are influential in land use patterns of the city. We use the term "immovable property" in the Civil Code tradition to refer to real estate, real property, and other such terms used in other traditions to refer to the land and the permanent constructions attached to the land, to which people have rights such as use, ownership, enjoyment, transfer, and other rights defined in law and custom.

Sudden natural disasters typically damage or destroy the documents which people have about their ownership or other rights to immovable properties. They also damage or destroy archives containing legal documents pertaining to the ownership and other rights to immovable properties, and the systems for administering these archives. Without these documents properly administered, people cannot prove their rights to properties to facilitate rebuilding or to claim compensation for losses. And without these archives in good functioning condition, proving to the world who holds legal rights to immovable properties is constrained, which can lead to conflicts and freezing of property markets and constraints on the uses people can make of their real estate assets.

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## 1. Brief History of Property Records Administration in New Orleans

The administration of documents pertaining to immovable properties in the Parish of Orleans/City of New Orleans<sup>2</sup> dates from the time of the French settlement. A register of mortgages was established, as in most Parishes of Louisiana, and reconfirmed in the Louisiana Civil Code of 1825, as a Parish office, whose function was to maintain a publicly accessible display of the obligations of debtors to creditors.

Subsequently a similar recording of notary prepared acts was undertaken in the Parish Recorder of Conveyances, to have available for public examination any document specifying the conveying of rights to immovable properties from one person or business to another.

During this time each notary continued to archive the acts he prepared to document transmission of rights and obligations pertaining to immovable properties. Since 1733, citizens of New Orleans have visited notaries to execute agreements prepared in reference to buying land, borrowing money, making wills and pre-nuptial contracts, and to forming partnerships and corporations. Citizens also asked notaries to prepare and archive building contracts, purchased shop inventories, deposited plans and surveys, appointed agents, and so on. In New Orleans before the Civil War, notarized agreements also referred to the buying and selling, mortgaging and emancipation of slaves.

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<sup>2</sup> By State Constitutional provisions, the City of New Orleans is not presently empowered to annex territory. The Parishes bordering the Parish of Orleans under the governance of separate Parish Councils have absorbed the suburban growth of the New Orleans metropolitan area, including the property taxes of homes of people who work in the City of New Orleans but do not contribute financially to the maintenance of the infrastructure of the City.

In all of Louisiana until 1867, the notaries acted as archivists of the documents they drafted, witnessed, and signed. Their completed acts were public records. By law they had to maintain offices open to the public during regular hours. They had to have their notarial acts bound at least every second year. As a precaution against fire, their offices had to be in brick buildings with tile roofs.

New Orleans has always held a special status in the state. Louisiana law provides for the elected offices of the Clerk of the Civil District Court (separate in Orleans Parish from the Clerk of the Criminal District Court), the Register of Conveyances, and the Recorder of Mortgages whose jurisdictions are the Orleans Parish. While the Clerk of the Civil District Court has not had administrative authority over the elected Register of Conveyances or the elected Recorder of Mortgages which maintain indexes of conveyances and mortgages respectively in the Orleans Parish, the budgets of these two agencies come from the judiciary.

The uniqueness of the Parish of New Orleans in terms of the relative autonomy of the administrators of conveyances and mortgages is further emphasized by the Legislature's creation in 1867 of the Notarial Archives (N.A.) only in New Orleans under the authority of the Custodian of Notarial Archives who is appointed by the Governor. In New Orleans individual notarial offices prior to that date operated as the official repositories of notarial acts documenting legal transactions in real property. But from 1867 until 1970, while notaries in Orleans Parish continued to archive their most current records, they were obliged to turn their older records into the Notarial Archives at prescribed intervals. Therefore, in order to retrieve an act of conveyance or mortgage prepared before 1970, one must have the name of the notary who created it and the date on which it was created.

After July, 1970, notarial acts in Orleans Parish are filed directly in the Notarial Archives and receive a Notarial Archives number for identification purposes.

Throughout Louisiana's recent history the Parish Clerks of Courts in all other Parishes exercised the responsibilities of the recorder of mortgages, the register of conveyances, and document archive. In the Parish of Orleans, these three functions have been kept as separate administrative offices under the authority of an elected Recorder, an elected Register, and a Custodian appointed by the Governor.

A fourth agency which participates in the administration of immovable property records in New Orleans—although not a legal repository of those records—is the Real Estate and Records Division of the City's Department of Property Management. This office was created after WWII, to provide information by district, square and lot number to facilitate the determination of ownership of land parcels throughout the city. This service was established primarily to support code enforcement, health and other regulatory functions of the City, and to assist with public infrastructure investments and private development projects in the city which had greatly increased at that time.

## **2. Procedures for preparing and recording documents pertaining to immovable properties.**

Transactions (sales, donations, mortgages, etc.) are described in acts prepared usually by a licensed notary who is also usually a practicing attorney. These documents are archived and indexed to facilitate retrieval by potential buyers or mortgagers of real estate who want to verify that the sellers are the true owners and to know what other interests there may be in the properties. The documentation of rights to real properties which is archived in the Notarial Archives in New Orleans provides the legal basis for proving the validity of transactions involving rights to real estate. The Louisiana Public Records Doctrine holds that a transaction which is not documented, indexed and archived in the Notarial Archives has no legal effect<sup>3</sup>.

The offices of Register of Conveyances, Recorder of Mortgages, and Real Estate and Records provide essential indexing and abstracting of these documents in order to facilitate the location of acts in the Notarial Archives which describe transactions pertaining to real property.

There are three public agencies involved in maintaining the legally mandated archives of documents pertaining to immovable property in the City of New Orleans:

- Notarial Archives under a Custodian appointed by the Governor;
- Conveyances under an Elected Register, but whose budget is administered by the Court;
- Mortgages under an elected Recorder, also whose budget is administered by the Court;

The Real Estate and Records Division, under the City's Property Management Department, assists the public and governmental agencies in locating acts which transfer rights—conveyances (not including mortgages) archived by these three agencies. This office helps people who can locate their properties on a comprehensive parcel map links to records for each parcel containing N.A. numbers or notaries' names and dates of transactions.

A fifth public entity which maintains copies of acts which transfer rights—conveyances-- (not including mortgages), and a map of properties to which these acts refer is the Municipal Assessor (there are presently seven assessors each responsible for assessing all properties within a defined assessment district of the City of New Orleans), who receives a copy of each conveyance and an extract from the Register of Conveyances.

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<sup>3</sup> See Hon. Mitchell Landrieu, Chairman, Governor's Study Commission for the Custodian of Notarial Records—Parish of Orleans, May, 1989 for a description of this doctrine and its implications.

## **2.1. Notarial Archives**

New Orleans Notarial Archives today holds some 40 million pages of signed acts compiled by the notaries of New Orleans, Louisiana, over three centuries. They reside in the only archive dedicated to notarial records in the United States, established in 1867 by the Louisiana Legislature. Approximately 16 million pages of documents prior to 1930 are archived in the Notarial Archives Research Center, while approximately 24 million pages in 60,000 bound volumes for more recent notarial acts are stored and administered in the filing office of the N.A.

The research center also houses 5,000 original 19<sup>th</sup> century architectural drawings in a genre that exists nowhere else in the world. If they were lost, they would be gone from the face of the Earth.

The filing office houses all modern real estate transactions in New Orleans. Their loss would cause economic chaos.

Since June 11, 2007, after documents arrive at the filing office of the Notarial Archives, they are stamped, labeled and assigned a Notarial Archives number. They are then scanned into a digital data base, and subsequently the contents of the acts are coded into a digital extract to facilitate retrieval in the future.

## **2.2 Register of Conveyances**

If the paper documents received by the N.A. refer to the transfer of rights to a property, they are sent to the Registrar of Conveyances for indexing as required in that office, with the original and copy stamped with the archive number and a conveyance instrument number. The original paper act is then returned to the N.A. for permanent binding and storing, and the paper copy is sent to the appropriate city assessor.

The indexing done by the Register of Conveyances during a period of years was done through the use of a version of the “soundex” system. Soundex was patented in 1918 as a method of indexing based on the way a person’s name was pronounced rather than the way it was spelled. Initially the method was used to handle census and immigration data. That system was used to archive and retrieve documents until 1987. After that date a digital extract was prepared for each document, containing the names of all sellers and purchasers, the square, lot and address of the property, the type of document, and a unique conveyance instrument number. This index, however, covers one year so that to use it to find documents the interested person has to know the year in which the conveyance was prepared.

These extracts are printed, several to a page, as a security backup. A copy of these printed “extracts” is sent to the City Real Estate and Records Office for updating their records.

## **2.3 Recorder of Mortgages**

If the document received by the N.A. is mortgage related, the original is sent to the Recorder of Mortgages for indexing (name of mortgagor, name of notary, date of mortgage act, amount borrowed, District, square lot and address and where relevant the subdivision name where the mortgaged property is located). A mortgage instrument number is also assigned. The original of the mortgage act is then returned to the Notarial Archives for permanent binding and storing. Cancellations of mortgages are not recorded in the N.A., but rather only in the Recorder of Mortgages.

Computerization of the mortgage archiving system was begun in September, 1987. Prior to that date, finding mortgages relied on a card filing system, arranged by name of the mortgagee, including all names of married women and co-owners.

## **2.4 Real Estate and Records**

This office, a Division of the City's Property Management Department, was created just after the end of World War II to provide information about property ownership to other public agencies engaged in the development of the City, whether they be Federal (like the US Army Corps of Engineers), State (as the new Road Home Program), or Municipal (for example, Transport and the public utilities).

Most users of the office today, however, are holders of property in the City who wish to get copies of their property documents from the N.A., and can use the office's maps of properties to identify their properties, and then consult with the accompanying abstract to locate the relevant N.A. document numbers or notary's name and date of document. This office acts as a "key" to acts archived in other offices.

Immediately following Katrina/Rita, however, in the organization of the debris clean up, the records of this office were frequently consulted by FEMA to identify the ownership of vacant lots where the debris could be deposited. By knowing where the lots were, the office could rapidly produce the latest extracts of conveyances pertaining to those lots to get the names and addresses of the latest recorded owners.

The founders of this office produced copies of maps showing city streets, squares and lots which notaries and urban planners used to help identify property locations. A map of all of New Orleans showing the boundaries of the city's Municipal Districts and Assessor Districts and the streets and squares within each district was made in 1926 and is in use to this day.

For each square identified on these maps, a separate sketch of appropriate scale was prepared showing the actual property boundaries as prepared by office field surveyors and draftsmen. These surveyors and draftsmen assigned unique property identification numbers to each property, to identify where to find the parcel page containing information about a particular parcel.

Title abstractors took copies of the extracts produced by the Register of Conveyances and physically attached the extract pertaining to a parcel to the information page for that parcel. That page was opened containing the basic information about the physical characteristics of each parcel, particularly location--square, lot, address. The extracts contained the name(s) of their owners and the date of their acquisition of ownership.

As lots are subdivided, or as properties are combined, the square/lot maps are modified to show the new boundaries, and new numbers are assigned. Abstractors then begin the process of recording any transactions on the pages opened for the new parcels.

There have been initiatives in the past 10 years to build on the geographically organized ownership records of this office into a GIS, by digitizing the maps and extracts for each parcel. The approach used was to contract with a private firm for this work, which was not wholly successful due in part to the gross underestimation by the firm of the time and expertise required.

Unfortunately even with the traumas of Katrina/Rita, the City Council has not appreciated the value of the records administered by this office. The records of transactions in the square folders maintained by this office are daily slipping further out of date with the three year backlog of unprocessed extracts and with no updating of parcel maps for an even longer period.

## **2.5 Work loads**

The total number of acts archived annually in the N.A. since 2003 through December 6, 2007 is shown in Table 1:

**Table 1: Number of Acts Archived by Year**

Year	Number archived
1993	55,090
1994	58,752
1995	56,187
1996	61,622
1997	70,085
1998	59,924
1999	58,454
2000	54,614
2001	57,326
2002	64,799
2003	69,125
2004	64,405
2005	48,329
2006	54,650
2007 (thru 12/6/2007)	80,973
Estimated entire 2007	86,000

There are 151 different types of documents archived in the N.A. The most numerous since June 11, 2007 through December 6, 2007 (the computerized index began on June 11) are approximately as shown in Table 2:

**Table 2: Number of Some Different Types of Documents Archived in 2007**

Road Home Covenants	15,552
Judgments of possession	1,281
Liens	1,537
Mortgages	8,078
Assignments of mortgages	1,004
Sales	5,675
Donations	880

It should be noted that the N.A. does not record mortgage cancellations, which go directly to the Recorder of Mortgages. In the period January 1, 2007 through December 7, 2007, there were 43,995 mortgage releases taken in by the Mortgage office (all but 729 being completed during that period). This office also indexes the mortgage related documents it receives, a total of 40,633 in the first 11 months of 2007<sup>4</sup>. There were 7,517 mortgage certificates prepared during this same period.

## **2.6 Administrative Responsibilities**

The custodian of notarial records in the Parish of Orleans is appointed by the Governor with the advice and consent of the Senate, for a four year term, which runs concurrent with the Governor. The custodian is a licensed and practicing attorney at law and notary public in the Parish of Orleans, and a member in good standing of the Louisiana State Bar Association.

This position is part time, and paid from the fees that the custodian charges for services of the office. The statutes stimulate that the custodian may charge and receive the same fees of office as are allowed by law to other notaries for the making and certifying of copies. The compensation of the custodian by statute shall not exceed a stated amount of dollars per annum.

Similarly the salaries of the full time Deputy and full time Archivist are stipulated in the Statutes.

Any remainder from the collected fees is used to operate and maintain the functions of the office of notarial records. A private firm has been contracted to design and install the document scanning and digital archiving system, and to do the indexing of the documents once they are scanned.

The unexpended funds remaining at the end of the fiscal year from the fees collected are to be dedicated to microfilming or other imaging projects to “ensure the indefinite survival of the records” (RS 35:328).

The elected Register of Conveyances and the elected Recorder of Mortgages are likewise part time positions, whose budgets come from the Judicial Expense Fund of

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<sup>4</sup> These figures from were provided by the Mortgage Office on December 10, 2007.

the Civil District Court. These two elected officials head offices staffed by professional civil servants for the most part, who are permanent employees of the City.

The staff of the Real Estate and Records Division are city employees; their salaries and benefits are part of the City's annual operating budget.

## **2.7 Fees**

Notarial Archives fees are \$10.00 per document. If the document is more than 10 pages there is an extra charge. There is a \$10.00 service charge for letter size paper documents which are bound in legal size books. There is a \$15.00 service charge for inadequate margins.

The Notarial Archives also collects a "document tax" for the City of New Orleans which was installed in the 1980s. This tax is \$325 for each document presented for archiving, which describes a sale, donation, mortgage, commercial lease, or transfer/exchange of real property, regardless of the value of the property involved. The revenues collected go directly to the City's general fund.

The Conveyances office charges a flat \$30.00 fee for acts of sales. Every other document is \$12.00 per page.

Mortgages charges a flat \$30.00 fee for recording mortgages. Everything else is \$24.00 for the first two pages and \$10.00 for every subsequent page for documents such as contracts, modifications, articles, etc.

The fees collected by Notarial Archives, except the document tax, are deposited into an account under the control of the Custodian, subject to annual audits. These funds are used to cover the operational and investment costs of the Notarial Archives.

The fees collected by the Recorder of Mortgages and by the Register of Conveyances are deposited into accounts under the control of the District Judges through the Judicial Expense Fund. The operational and investment costs of these two offices are paid from the JEF, through an annual budget approved by that entity.

The Division of Real Estate and Records charges a fee for pages copied, but not for research assistance.

## **3. Property Tax Assessors**

In Orleans Parish, seven assessors compose a board of assessors. One assessor is elected from each municipal district of New Orleans, and each must be a resident of the district from which he is elected; all serve four-year terms. The primary duty of the assessors is assessment of property subject to ad valorem taxation in their respective Districts.

Districts 1, 2 and 3 basically cover the city as it was in 1836. District 4 was added in 1852 when the Garden District—the former City of Lafayette—was annexed to the

city of New Orleans. The Algiers District 5 joined the City, and then the uptown area up to Lowerline Street became District 6. Carrollton became District 7 when it was annexed to the City in the 1870s<sup>5</sup>.

The logic for having an Assessor for each District was to assure each neighborhood added to the city would be assessed to set property taxes by someone who was familiar with local property values.

Each assessor maintains a map showing the location of each property in his/her District, in addition to identifying each property according to Square and Lot number as is done for legal descriptions in conveyance Acts prepared by notaries. The Register of Conveyances sends a copy of each conveyance to the appropriate Assessor in whose District a property is located. The assessors organize files so that there is one folder containing all information, including conveyances, relevant to the assessment of a particular property, as distinct from the files maintained by the N.A. which are organized in the time order in which the documents are received.

Each Assessor sets the assessed value of the land in each property in the District at 10% of market value, all residential structures also at 10% of value, and all commercial structures at 15% of value. By Constitution, there is a homestead exemption of \$7,500 of a home's assessed value, if the owner lives in the property.

The City of New Orleans City Council sets the millage or rate of taxation, which is presently about \$0.19 per dollar of assessed value. Thus a home valued at \$100,000 would be assessed as \$10,000, and would receive a homestead exemption of \$7,500, for a total assessment of \$2,500 and a tax bill of \$475.

These property taxes provide approximately 20% of the City's operational budget. Of the revenues generated about 60% go to support the Orleans Parish School Board with another 40% dedicated to the liquidation of city bonds.

There is also a provision in law for the freezing of assessments for homes owned by people 65 years old or older and below a certain income level, at the assessed value of the last assessment, rather than being reassessed every four years as is required by state law for all other properties.

The Assessors now use a Computer Assisted Mass Appraisal (CAMA) System to arrive at more accurate and transparently calculated assessments. The reform of the property tax assessment in recent years was in part motivated by a series of newspaper articles beginning in 2004 which linked assessments to political campaign contributions<sup>6</sup>, and led in the 2006 elections to a campaign by the IQ party ("I Quit") to elect assessors who promised to resign if elected.

Legislation has also been approved after Katrina to place all assessment under a single City property tax assessor, and eliminate the seven elected assessors, presumably to

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<sup>5</sup> From the Orleans Parish Board of Assessors, "Facts You Need to Know", 2007.

<sup>6</sup> See for example the article by staff writer Gordon Russell, from the Times Picayune which detailed evidence for the conclusion that "while the average New Orleans homeowner enjoys a low property tax assessment, a select group of locals gets an even larger break: the people who donate to the assessors' campaigns."

assure a more professional and uniform application of assessment procedures. Katrina has forced several administrative changes in the City, and provided an opportunity for the community elements pushing for more professionalism in land administration to bring about both the CAMA innovation and the unification of the seven Assessors in a single office, thus eliminating 7 elected positions and replacing them with just one.

The approximate number of properties in each Assessment District is shown in Table 3.

**Table 3: Approximate Number of Properties by Assessment District**

District	Approximate Number of Properties
1	11,000
2	17,000
3	80,000
4	6,900
5	18,900
6	17,623
7	11,800
Approximate total	163,200

Maintaining a public perception of fairly calculated property assessments is fundamental to the collection of property taxes. Following Katrina and Rita, property values soared in the neighborhoods of the city less affected by the flooding and winds, as did the sales rates in those areas.

The reassessments done for the tax collections of 2007, using CAMA and based on market sales' values in each District, produced greatly increased tax assessments in those neighborhoods where land values had soared. Many homeowners naturally appealed their new assessments. Due to the volume of appeals, the City Council hired a law firm to hold hearings on the appeals. That firm adjusted the assessments, usually downward, in ways which produced another round of appeals from the Assessors in November, 2007 who objected to the methods used by the contractor which they saw as undermining the transparent and objective CAMA produced assessments and thereby also undermining public confidence in the fairness of the newly reformed assessment system.

#### **4. Katrina impacts<sup>7</sup>**

Prior to Katrina, the N.A., Conveyances and Mortgages offices and their archives were located in the basement of the Civil District Court, next to City Hall in New Orleans. This building was constructed in the 1950's and reflected the cold war concerns with protecting archives from nuclear attack. There had never been a

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<sup>7</sup> Based on Notarial Archives, "FEMA Public Assistance Program Application", December 8, 2005, and Ann Wakefield, "The Effects of Katrina on the Notarial Archives", Submitted to the newsletter of the Society of Southwest Archivists, January, 2006

serious threat of flooding of that space, except for one instance of water seepage due to improperly installed phone lines. Even during Katrina there was no flooding. There was, however, significant damage to documents on lower shelves of the archives due to sewage back up into the basement archives.

Hurricane Katrina hit New Orleans in the early morning hours of Monday, August 29, 2005. By late afternoon, televised news footage showed images of widespread flooding, rooftop rescues, and looting. The human suffering of thousands of people who had sought shelter at the Superdome was the center of the coverage. The dire situation there did not bode well for the Notarial Archives, whose two offices were located within two blocks of the Superdome. The filing office and its nearly 60,000 volumes of original documents of permanent legal value were in the basement of the Civil District Courts Building. Flooding at the Superdome indicated an immediate threat to the safety of records of enormous economic and legal value to property owners and title companies in Orleans Parish. The second office – the research center – with about one linear mile of original records of permanent historical and cultural value dating from 1734, was on the third floor of a commercial office building next door to the Hyatt Hotel. Television images of the blown-out windows at the Hyatt foretold equally heavy damage from wind and rain at the research center, where the stacks were surrounded by windows.

The general principle in archival practice prior to Katrina was that water-soaked records need to be frozen within 24 to 48 hours to have a reasonable hope for salvaging. Although subsequent experience showed that there is a longer time frame for saving such documents, it was clear that the records at both locations required immediate assessment, rescuing, and stabilization. Prior to the storm, the Notarial Archives had signed on to Munters Corporation's Code Blue Program, which would give the agency priority protection and assistance in a general catastrophe.

The custodian and his deputy were unable to gain clearance for immediate access to the basement of the Civil District Court building, and it was not until September 6 that two Notarial Archives employees and a representative from Munters were finally able to assess the damage.

They found the Court building basement covered in filthy water to a level of 6 inches, soaking 5,000 volumes and causing dangerously high levels of moisture in the remaining 55,000 volumes. The decision was made to remove materials from the basement, store them temporarily, and to locate alternative, above-ground office space. The last task proved enormously difficult given the widespread destruction of public buildings in New Orleans and the public and economic imperative to locate the records in Orleans Parish.

Water removal by pumps powered by generators began September 7, with packing-out of records shortly thereafter. Eighteen climate controlled trucks housed the 55,000 volumes of un-soaked records temporarily on the street. The 5,000 sewer water damaged volumes were frozen and shipped to Chicago, IL, for specialized drying and sanitizing. Another building had to be found for housing the records, as there were no assurances that the Courthouse basement would never suffer water damage again. The 18 trucks housing the records remained parked on Poydras Street and Loyola Avenue for three weeks, including on September 23 through Hurricane

Rita. On October 1, newly hired temporary employees began removing boxes of books from the 18 trucks and place them in a temporary site at Ernest N. Morial Convention Center, Ballroom No. 1. A second contractor was hired to control the environment of the ballroom and to triage the books as they came off the trucks, inspecting for mold or other damage and treating as necessary.

The Conveyance and Mortgages offices followed the lead of the N.A. in the initial move of their archives and staff desks to the 18 trucks, then to the Convention Center and finally to the new space in the Poydras street offices.

The City with FEMA assistance leased new office space at commercial office rates in a privately owned building across Poydras Street from City Hall and the Civil District Court. Neither the City of New Orleans nor the State of Louisiana had above-ground space for Notarial Archives, Conveyances or Mortgages use. Environmental monitoring equipment was purchased. More furniture and equipment, including new computers and supplementary air conditioning units that operate 24/7, and window protection were purchased for the new office space for the three offices and their archives.

The N.A., Conveyances and Mortgages offices were open to the public on 10 October, 2005, although with limited capacities.

An important impact of Katrina has been on the staffing of these offices:

--The Notarial Archives dropped from 28 full time people (including the staff assigned to the Research Center) to 13 in the filing office and 7 in the Research Center when the N.A. office reopened on October 10, 2005. Many staff came back at different times between Oct till Dec. depending on their situations like school for kids, housing availability, etc. Many had to travel great distances to get to and from work since their homes were damaged. The staffing levels are up to 29 people today, 21 in the filing office, and 8 in the Research Center staff and one new Information Technology specialist positions.

--Conveyances fell from 33 staff pre-Katrina to 12 people, and back up to 20 staff people presently.

--Mortgages fell from pre Katrina 44 people to 25 permanent staff presently, having fallen to just 10 staff when the office re-opened after Katrina.

The records of the Real Estate and Records office are on an upper floor of City Hall, so did not suffer flooding or wind damage. But this office did suffer a reduction of staff to five people presently, although there had been a trend prior to Katrina for the City to reduce the number of field surveyors and title abstractors. Five years ago there were 14 permanent employees, but at the arrival of Katrina there were 10. At the time of Katrina, there was a backlog of extracts from the Register of Conveyances of approximately four months due to a lack of abstractors, and a growing backlog of parcel subdivisions and other boundary modifications.

Following Katrina/Rita the number of people coming to the Real Estate office daily for information they needed to locate their documents in the N.A almost doubled. People needing documents typically did not remember the year when they or their parents or grandparents had acquired their property, which made searching the archives of the N.A. and Conveyances very difficult. So, they came to this office to locate their properties on the property maps, and get the N.A. filing number or notary name and date of transaction, and then go and get a copy of the documents they needed from the N.A.

To meet this greatly increased public requests for information with much reduced staff, the office assigned the remaining abstractors to tending the public information counter, and to helping people search for the information they needed from the office's records. No updating of the records has been done since Katrina, which has produced an accumulated backlog of about three years, a serious constraint on the public's ability to find needed acts, and ultimately a threat to the entire system of land records administration

For all of the land records administration agencies, as the initial emergencies for dealing with human safety had passed, and as the next phase of recovery and rebuilding began, many families became concerned for their property documents which had been lost or damaged in the storm and subsequent evacuation. This concern was increased as programs for providing assistance began to require evidence of residence and ownership of properties. An important impact of the disaster was the greatly increased public awareness of how public agencies archive their Acts of Conveyance and Mortgage, and the importance of these archives for recovering documents lost or damaged in the disaster and subsequent displacement. Some of this awareness was surrounded by a generally positive attitude toward these offices when they were able to produce copies of their property documents. In other cases, the fragmented nature of the document administration system, which requires the public to go from office to office, each one using a different indexing system for locating documents, has produced sentiments like the one I heard from a young couple who were on their way to the N.A.: "This is a joke". Probably they were responding to the old paper records and indexes, although the system they were using was capable of producing the documents that they needed.

Especially with the decisions during the past 20 years of the main land records administration offices (N.A., Conveyances, Mortgages, Real Estate and Records, Assessor) separately to incorporate information technology to improve efficiency and security, the inefficiency and fragmentation of the system as a whole is becoming more obvious. Each office maintains its own indexing system for finding documents after they are recorded, and each office has had at least two such indexing systems which had been created over the years of operation. Staff has to be quite skilled to use these multiple archiving and retrieval systems.

Some introduction of IT has occurred, but the compatibility of formats and equipment are not at the desirable level. Offices are in different buildings. The people who go to one office to find their conveyances or mortgages almost inevitably have to go to other offices, depending on the information they have about the most recent conveyances or mortgages pertaining to the property. Three part time heads of N.A.,

Conveyances and Mortgages have different reporting and auditing requirements, and are not closely involved in the daily operations of these agencies.

How efficient is the present fragmented and duplicative system? As a point of reference, the County of Dane in the State of Wisconsin, where the State capital is located in the City of Madison, there are approximately 180,000 properties whose documentation of legal rights is administered by an office headed by an elected Register of Deeds, with 18.5 staff positions. During a recent five year period this office administered an average of 183,429 documents yearly (scanning and indexing each, answering requests from the public and from title professionals), or 9,915 documents per staff person<sup>8</sup>.

In the Orleans case, there are approximately 163,200 properties. Considering only the four immovable property information offices which archive, digitally process, retrieve, and provide information to the general public concerning rights to immovable properties (N.A.—filing office only, Conveyances, Mortgages, and Real Estate and Records), there are staffs of 21, 20, 25, and 5 respectively, for a total of 71 permanent staff. This staff has processed approximately 130,000 recordable documents (including mortgage cancellations as well as Road Home covenants, and Judgments of Possession) in the 11 months of 2007, an unusually high volume year, or approximately 1,831 documents per staff person. While not exactly comparable, the New Orleans/Orleans Parish system is approximately 18.5% (1,831/9915) as efficient as is the system with the same basic responsibilities which functions in a similarly sized Dane County. While the demands on the New Orleans system may be more complicated than those on the Dane County system, there does appear to be room for improvement in the New Orleans system.

Motivated by legislative requirements to modernize and through the prodding by the Custodian and some civic organizations, the Custodian and a consultant working with the Clerk of Courts in recent months have visited neighboring Parishes and other States which have invested more systematically in information technology and re-engineering the property records administration systems to improve the administration of immovable property records. These visits have yielded a conviction that Parish of Orleans/City of New Orleans can and should have a more modern immovable property records administration system, although this conviction has not resulted yet in a consensus about exactly what that system should look like.

## **5. Post Katrina Structural Changes**

Prior to Katrina, the N.A. had designed a tender for scanning and indexing of its functional archives of 60,000 volumes of documents. Katrina interrupted this plan, but the tender was reconfigured and a contract with a private firm was finalized in 2006. Even with some initial problems with the precision and completeness of the indexing, the system for scanning and indexing documents began functioning on June 11, 2007.

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<sup>8</sup> See Jane Licht and David Stanfield, “Modernizing the Deeds Registry in Dane County, Wisconsin”, Terra Institute, 2005.

A new law transfers the offices of the custodian of notarial records, register of conveyances, and recorder of mortgages and their respective duties and functions to the clerk of civil district court as parish recorder and abolishes these three positions effective Jan. 1, 2009. It provides for the clerk to assume the duties of the custodian, the register, and the recorder on that date, and for the budget of the new consolidated system to be under the judiciary.

The Clerk is required to present to the Legislature a plan in January, 2008 for moving to this new administrative system.

At this point there is no consideration for incorporating the parcel maps and records of the Real Estate and Records Division into the new consolidated system.

There has been a decision to combine the seven elected assessors into a single office headed by just one elected assessor, but the actual procedures and staffing of that new office have not been designed, nor have the linkages of that new office with the newly consolidated immovable property records administration system.

## **6. Conclusions**

### ***6.1 Katrina/Rita Influences.***

The decision had already been made prior to the disaster to copy notarial acts into digital form through scanning, and create a digital extract-indexing system. However the disaster did give the effort to modernize the administration of these records greater public support as people realized the importance of these archives and their susceptibility to physical damage and destruction.

The Katrina/Rita destruction of office equipment also permitted the upgrading of information technology to the latest and most powerful equipment and software in the three traditional offices. Little investment has been made in the Real Estate and Records Division, although there was a plan devised 10 years ago for constructing a GIS based on the records of this office.

Katrina/Rita also crystallized the calls for reform of the property records administration system, making it more professional and transparent through the consolidation of the three document administration offices (Archives, Conveyances and Mortgages) under the Clerk of Courts as is done in other Parishes of the State. Exactly how this consolidation will affect actual procedures is not yet defined either in broad outline or in detail, but is the subject of study since the Clerk must present a consolidation plan to the Legislature by January 1, 2008.

In the Division of Real Estate and Records, the Katrina/Rita disaster did not damage the records, but did disrupt the established staffing patterns which were already inadequate leading to the present inability to update and maintain the map based property records information system.

## **6.2 Structural Changes**

There are encouraging trends toward more staff efficiency, quicker and clearer responses to public requests for information, greater professionalism and insulation from political interference, but there are important issues yet to be resolved<sup>9</sup>:

- 1) Is putting the functions of a new “Recorder” under the Clerk of Courts and the budget of the judiciary preferable to creating a separate land records office with a sole focus on immovable property records administration? Similarly will the financial autonomy previously held by the N.A. be protected in the new system, so that there will be funding available for continued modernization and improved security as well as ease of access to property records?
- 2) Will the professionalization of staff be assured through the selection of professional leadership and staff and their continued training and encouragement, as well as through more competitive salaries?
- 3) Will the document based records system used by the N.A., Conveyances and Mortgages evolve into the use of comprehensive property maps to facilitate public use and understanding of the records system, and to permit the easier use of the information by public utilities, planning offices, and developers?
- 4) Will the property based records of the Real Estate and Records Division be updated and salvaged to form the core of this map based property records administration system?
- 5) Will permanent space be found for the Research Center and for a re-engineered system which will consolidate the N.A. Filing Office, as well as the Conveyance, Mortgage and Real Estate offices?
- 6) Exactly how will the procedures of these offices be modified to really function as a “one stop shop” for the general public, which will also reduce the costs in time and money for retrieving and recording property information?
- 7) Are the resources of the N.A. sufficient for scanning and indexing of documents back in time at least 30 years, particularly permanent staff resources for monitoring the work of the contractor and for incorporating the software into the daily procedures of the N.A. as well as Conveyances, Mortgages, Real Estate and Records, and Assessors?

Also the restructuring of the Assessors has been advanced since Katrina/Rita through the use of CAMA and the reliance on documented market sales to arrive at assessed values. There may be additional efficiencies by combining the seven assessor offices into a single one. However, the modification of the 2007 assessments by a firm hired

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<sup>9</sup> The Landrieu Commission report of 1989 presents some very insightful suggestions which may still be relevant for improving the professionalism of the offices handling the administration of property records in New Orleans.

by the City Council has caused concern for maintaining the trend toward more transparency, fairness and efficiency.