



# VMCTA *News*

NEWSLETTER OF THE VERMONT MUNICIPAL CLERKS' AND TREASURERS' ASSOCIATION

**CELEBRATING**  
over  
**75 YEARS!**  
1936-2014

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## VMCTA Newsletter Committee

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## Welcome to the first quarterly VMCTA newsletter.

Your submissions are welcome — or feel free to contact a member of the committee with an idea.

## About Foreclosures

**Foreclosure:** action taken by a lender when a property owner (borrower) does not make the agreed upon payments on the loan and the lender either takes possession of the property or arranges for its sale at public auction.

**F**oreclosures are complicated and the laws in Vermont have changed in recent years. As various documents are submitted for recording, Vermont town clerks struggle to make order of the records, as well as understand the terminology and correctly index the information. To help clear the air, Attorney Kevin Shortell of the Law Offices of Fred Peet addressed the Chittenden-Grand Isle County Clerks, taking the group on a step-by-step walk through the process. Shortell, who has been with the Peet practice for seven years, noted that 80% of his practice is real estate.

All activity generates documents that should be recorded in a town's land records.

First of all, a notation should be made on the original mortgage, when a property goes into foreclosure.

### Strict Foreclosure

For many years, the practice among lenders in Vermont was almost exclusively to foreclose on properties by what is known as STRICT FORE-

CLOSURE. In strict foreclosure, when a borrower fails to make payments on a mortgage, the lender or bank (mortgagee) can initiate foreclosure proceedings by filing a COMPLAINT FOR FORECLOSURE in the Superior Court, and serving the Complaint upon the property owner (mortgagor) along with a SUMMONS AND NOTICE OF FORECLOSURE.

The Complaint will name the foreclosing lender as the Plaintiff. The owner of the property being foreclosed upon will be named as a Defendant, along with any junior mortgagees or lienholders.

Subsequently, the Court will issue a JUDGMENT AND DECREE OF FORECLOSURE, which will provide a certain amount of time (six months, unless otherwise agreed to by the parties or ordered by the Court) for the property owner and each of the other Defendants to pay the amount due in order to redeem the property from foreclosure. If any of the Defendants pays the amount necessary to redeem the property, the Court will issue a CERTIFICATE OF REDEMPTION, which effectively discharges the mortgage which was being foreclosed. If the property is not redeemed within the time set, then the Court will issue a CERTIFICATE OF NON-REDEMPTION, which in strict foreclosure serves to fore-

close the interest of all of the Defendants and transfer the property to the Plaintiff foreclosing bank.

Each of these documents (Complaint, Judgment and Decree of Foreclosure, and Certificate of Redemption or Non-Redemption) is recorded in the Land Records. Although strict foreclosure is still a

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### Indexing Protocol in a Foreclosure Cross Complaint

**Grantor** – bank  
**Grantee** – homeowner

**Foreclosure** (Complaint, Judgment, and Certificate of Non-Redemption):

**Grantor** – Defendant(s)  
**Grantee** – Plaintiff

**Certificate of Redemption:**

**Grantor** – Plaintiff  
**Grantee** – Defendant(s)

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viable method of foreclosure, it is much more common today to see foreclosure by judicial sale.

### Foreclosure by Judicial Sale

Several years ago, a line of court decisions, particularly from the Bankruptcy Court for the District of Vermont, prompted a switch from strict foreclosure to foreclosure by judicial sale for foreclosures of residential property in Vermont. In these cases, the Bankruptcy Court

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## Executive Committee

### PRESIDENT

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Karen Richard  
Colchester Town Clerk & Treasurer  
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\*Term until 2014

# President's Message

## A message from VMCTA President Tammy Legacy

I want to thank the members of VMCTA for electing me as your President of this wonderful organization. Sometimes I am still surprised that you wonderful people chose me. I am proud of our organization and am proud to be the Town Clerk of Roxbury. I would not have imagined when I took the part-time position of Assistant Town Clerk in 1997 that I would become Town Clerk and President of the Vermont Municipal Clerks and Treasurers Association.

Welcome new Clerks and Treasurers. You have chosen a wonderful position in your Town. If you need any help, please contact your neighboring Towns, VMCTA Mentors (list on website) or any Clerk and Treasurer in the State. We have all been in your position as newbie and are here to help.

The past six months have been interesting. I had hoped to be able to visit every County Meeting by now but unfortunately family obligations and winter weather have not allowed that. My plan is to make these visits before my term is over.

The toughest job so far has been making appointments to the committees. I am very thankful that we had some new volunteers. These committees are very important to our organization and having new points of view are crucial to moving forward with our ever changing jobs.

Members of the committee for the Town Officers Educational Conference requested the Clerks and Treasurers help with planning the annual conference. Over the last few years, TOEC has offered less sessions for Clerks and Treasurers so many of us decided not to attend the conference. The VMCTA Education and Certification



Committee has been working hard to offer some valuable sessions for all of us. This year, TOEC will take the place of our annual New Clerk/Treasurer training and with three locations to choose from, hopefully many of us will be able to attend.

For the first time, VMCTA and VLCT are co-sponsoring a Municipal Treasurers Workshop. The sessions look very worthwhile and VMCTA members will receive a discount of \$10.

I want to thank Donna Kinville, Chair of the Education and Certification Committee and her fellow committee members for all the work they have been doing. This committee works very hard with many hours spent preparing for our spring trainings and the annual conference in September.

I would also like to thank Karen Richard, Chair of the Legislative Committee and Carol Dawes, member of the Legislative Committee for all the work they have been doing testifying in Montpelier and keeping us all aware of changes that may affect us.

I am so happy that Deb Beckett has agreed to be Chair of the Newsletter Committee. I had missed our newsletter over the past few years. She has a wonderful committee and they are working hard at revamping this valuable resource.

I hope everyone enjoys a wonderful spring, is able to attend some of the trainings coming up and hopefully I will see you all in September at the annual conference. Please save the date - September 15 and 16.



# Educational Opportunities

## New Clerk & Treasurer Training

The VMCTA is offering its new clerk and treasurer training as a part of the TOEC (Town Officer Education Conference) event. By offering the new training as part of TOEC, we are able to offer the course at three locations around the state AND offer a full day of training for clerks and a full day of treasurer training.

The dates are:

April 2–Lake Moree

April 9–Sheraton Hotel  
South Burlington

April 23–Killington Grand Resort

The topics being covered with a brief description are:

### Clerks

- Vitals, Licensing & Notaries: Basics of being a clerk.
- Elections - Introduction into actually preparing and running an election.
- Roundtable: Do you have questions from your day to day activities that you need an answer to? Discussion lead by fellow clerks.
- Recording/Indexing, Part 1: Introduction of how to record a document into your land records.
- Recording/Indexing, Part 2: This session will delve more into the kinds of documents that are received and other recording questions.

### Treasurers

- Duties and Responsibilities of a Treasurer: Your duties as a treasurer varies between municipalities. What exactly are your responsibilities?

- Reconcile Taxes to Grand List, Part I: How do you reconcile, what do you need to do and what can you do all year to make reconciling easier.

- Reconcile Taxes to Grand List, Part II: This is a workshop where all participants will leave with their taxes reconciled and their journal entry complete.

- Ethics, Audits, checks and balances, Parts I & II: These two sessions will deal with the checks and balances that every office needs, what is an ethic issue and a self-audit checklist will be presented.

So mark your calendar and look for the brochure which will be coming soon.

Any questions, please feel free to contact me or any member of the education committee.

—Donna Kinville

South Burlington City Clerk  
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## Clerk of the Year



Westfield Town Clerk Connie LaPlume, left, Vermont's 2013 Town Clerk of the Year, with VMCTA Past President Sandra Pinsonault at the 2013 Conference in Killington.

## Certification & Continuing Education Committee

Donna Kinville, South Burlington  
(Chair)

Tracy Borst, Thetford  
Suzanne Dechame, Fair Haven  
LaDonna Dunn, Westfield  
Henry Heck, Rutland City  
Clyde Jenne, Hartland  
Heidi Racht, Huntington  
Georgette Wolf-Ludwig

### Tip Top Tips

Build your filing system using the five steps to organizing any space: Plan, Purge, Sort, Place and Use. However there is an additional step necessary for filing: Index.

**1. Plan** – Consider the purpose of your filing system and the types of categories relevant to your life. Take a few minutes to contemplate the “big picture” before you begin.

**2. Purge** – Get rid of duplicates, out of date papers, and papers which can be easily replaced. Only keep what you will use.

**3. Sort** – Sort all your files into Action, Project, Resource, or Archive. Consolidate/purge any duplicates. Alphabetize within each section.

**4. Place** – Put the sorted files into an upright file drawer or file holder. \*BONUS STEP: Index – Make an index for each section (Action, Project, Resource, or Archive) and tape it to the front of the file drawer for that section.

**5. Use** – Once you create your system, refer to your index every day before doing your daily filing. Don't neglect your new system or you'll never become proficient. USE your filing system.

—Porter Knight

[Vermont resident Porter Knight Porter is a dynamic and popular presenter, life-changing consultant, and author of two books: ORGANIZED TO LAST: 5 SIMPLE STEPS TO STAYING ORGANIZED and GET PAID TO WIN CLIENTS: PUBLIC SPEAKING AS A MARKETING TOOL. A nationally-recognized industry leader, she presented two workshops at the 2013 VMCTA Conference in Killington.]

# Update on Montpelier

As part of the Legislative update the VMCTA has had several productive meeting with the Secretary of State Jim Condos and staff. These meetings have allowed us to collaborate in a proactive manner rather than reactive. Examples of our success have been working through the details on S.86 prior to committee hearings. The Vermont Tax Department has hired a new policy analyst and we have made an introduction and requested to work actively on any proposals that may affect the association.

We have weighed in successfully on the following bills:

S.86 An act relating to Miscellaneous Changes to Election Law

VMCTA worked during the summer/fall with the SOS to resolve the differences and concerns within S.86. The bill is currently in House Government Operations and had done a preliminary walk-through which at this point VMCTA is comfortable with the changes. The bill is likely to go to a Committee of Conference for the House and Senate to negotiate the final bill

An outstanding issue that will be contained in the annual miscellaneous tax bill: changing the date of the primary elections. This bill will not have a bill number until voted out of House Ways & Means, as early as next week. VMCTA met with Secretary of State's Office on March 10 to discuss options for implementation in 2014. It is unclear at this time to what date/year the primary date will be moved.

**H.586** This bill would adopt multiple provisions related to the remediation and preservation of waters of the State.

This bill proposed a per parcel fee, collected by Town Treasurers, to fund water cleanup. VMCTA was successful in removing the fee after testifying on more than a dozen points which would make the collection difficult and costly to towns.

**S.134** An Act Relating to the Repeal of the Delinquent Property Tax Penalty

The Senate Government Operation Committee took preliminary testimony on March 12. One low-income advocate testified in support of the repeal. S.134 is unlikely to pass this session.

**H.661** An Act Relating to the Exhumation Requirements and Notice

Advocated successfully to provide more clarity for Town Clerks because this is not a process that happens very often, if at all, for some town clerks. The bill will pass this House this session but remains unclear if the Senate will consider the bill.

We are tracking more than two dozen bills which could affect our offices in one way or the other as well as the potential of provisions to be added to miscellaneous or omnibus bills for which we have little or no notice.

## Legislative Committee

Karen Richard, Colchester (Chair)  
Deb Beckett, Williston  
Tim Corcoran, Bennington  
Carol Dawes, Barre

# Clerk Local Update

## News from Rochester

With great relief I can say that Rochester has completed all our FEMA projects after being beat up by Tropical Storm Irene. What a great feeling it will be to see a somewhat normal summer! We are very lucky to have been directed through the aftermath by our Selectboard Chair, and our town owes him great thanks.

Rochester received a grant from the Vermont Digital Economy Project that worked with us to update our website. This website runs on the WordPress content management system, and is very easy to update. I am still working on getting all the forms that were on the old website moved to the new one, and then it's just a matter of getting information from the community to keep the site updated and current. We also have

the ability to take credit cards and ACH payments through the new website as well, which will be a nice service to offer.

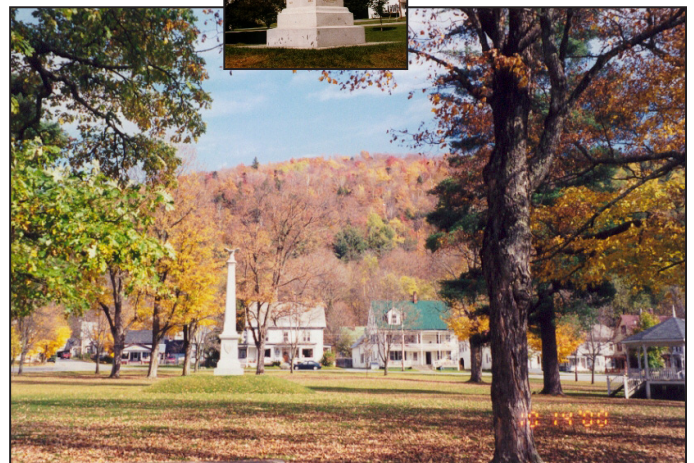
I have used the FlatPak voting booths for a couple of local votes so far this year — what a nice change to set up and take down compared to the old metal ones! The general consensus is that they are ok, but people are missing the curtains. Many people will go to the very back of the booths to vote, even though we show them how difficult it would be for anyone to “sneak a peek” without them knowing while they vote...

Our Town Meeting was Monday, March 3, at 7 pm. This was the first year in the eight-plus years I've been here that I didn't have to be voted into office as Clerk and Treasurer again. It feels good to have that bit of worry off my shoulders, although I always say there aren't any

other crazy people in town who would take the job! Hope everyone had a great Town Meeting, and that Spring comes as soon as possible!

—Joanne McDonnell

*Left: Rochester's Civil War Monument was the first erected in Vermont. Below, the town green.*



## Website Committee

Lucrecia Wonsor, Killington  
(Chair)

Bobbi Brimblecomb, Marshfield  
Donna Kelty, Barre Town

## Friendly Visit



John Dresch of IMAS, a vendor at the VMTCA Conference in Killington in September, chats with Priscilla Aldrich, Burke Town Clerk/Treasurer. Photo: Heidi Racht

## Foreclosures *continued from page 1*

invalidated certain foreclosures when the property owner subsequently filed bankruptcy. The reasoning behind these decisions is that where the value of the foreclosed property exceeds the amount owed under the mortgage, the transfer of the property to the bank in foreclosure includes a certain amount of equity which should otherwise be available to pay other creditors in the bankruptcy. Such a “preferential transfer” may be invalidated by the Bankruptcy Court.

To avoid the possibility of having a foreclosure invalidated in bankruptcy, almost all foreclosures of residential property are now done as foreclosures by judicial sale. The initial steps in the process are similar to strict foreclosure (Complaint, Judgment, and Certificate of Redemption/Non-Redemption). However, the Judgment will state that if no Defendant redeems within the time set, the property will be auctioned by the Plaintiff to satisfy the debt. The failure to redeem forecloses out the interest of all Defendants other than the property owner (i.e., junior mortgagees or lienholders). The property owner still has the right to redeem until the gavel falls at the auction.

After the initial redemption period has passed, an auction will be held at the property, and the property will be sold to the highest bidder (typically the Plaintiff itself). Following the auction, the Court will issue an Order confirming the sale (typically designated as a CONFIRMATION ORDER or ORDER CONFIRMING SALE). In Foreclosure by Judicial Sale, it is the Confirmation Order that functions like a deed to actually transfer the property to the highest bidder at the auction. Often, an AUCTIONEER’S DEED will be recorded along with the Confirmation Order, although nothing in Vermont law requires an Auctioneer’s Deed.

The proceeds of the sale are applied first to satisfy the mortgage to the plaintiff, including accrued interest and expenses of the foreclosure and the sale. Any additional proceeds would then be used to pay any junior mortgagees or lienholders. Any proceeds remaining after payment of all mortgagees and lienholders would be paid to the Defendant property owner.

A court’s Confirmation Order should have a PTTTR.

### Foreclosure by Nonjudicial Sale

A less common foreclosure procedure, foreclosure by nonjudicial sale, is available for certain non-residential property. In foreclosure by nonjudicial

sale, the foreclosing mortgagee does not need to file a court action, but may foreclose by serving a notice of intention to foreclose upon the mortgagor (property owner), publishing a notice of sale for three successive weeks in a local newspaper and recording the Notice of Sale in the Land Records. The foreclosing mortgagee then holds an auction, and records a deed which conveys the property to the successful bidder at the auction. Along with the deed, the foreclosing mortgagee must record an affidavit setting forth certain information required by statute.

Most foreclosures (other than nonjudicial ones) are required to go through the mediation process.

No laws require the owner to be out of the residence in a foreclosure. Shortell commented, “Typically, by the time we get to this point, the person has moved on.” He also mentioned that lenders have the right to winterize their property and, with common foreclosure, “they have gotten better about making sure property is taken care of.” If there were issues around the safety of the property, the town could get involved.

In a Strict Foreclosure, it is the Certificate of Non-Redemption that transfers the property. In a Foreclosure by Judicial Sale, it is the Confirmation Order which transfers title.

It goes without saying that Kevin Shortell’s presentation to the county meeting was well-received and most informative. Everyone left the evening having a better handle on the terminology and eager to put their new-found knowledge to work in their offices.

—Heidi Racht, Huntington

**NOTE:** *The Chittenden-Grand Isle Clerks reorganized this fall and have scheduled bi-monthly presentations. In January, the group was treated to a presentation on elections, led by John Cushing, in Milton. On March 26, the group will gather at 6 pm in Jericho where Andy Mikell, State Manager/Title Counsel, Vermont Attorneys Title Corporation, will be able to answer questions about indexing challenges. The meetings are open.*

## History Highlight

### Flood of 1858 Almost Wiped Out the Town

**HUNTINGTON —** When the waters of the Huntington River surged over their banks in July of 1858, the entire settlement along the shore was nearly obliterated.

**Bridges, fences, homes, barns and even huge pieces of land with standing crops were whisked away in the torrent. At the north village, a 90-ft. covered bridge was carried away, along with a dam and two adjacent buildings, one of them a brick machine shop three stories high.**

**Another three-story building stored with carriages and lumber, was swept 100 rods down-stream and deposited along the bank without a scratch on the carriages or lumber.**

**Sidney Gillett, Charles Work, Edwin Dike and Chester Rood had ascended Camel’s Hump on an outing the day before the flood and were trapped on the spot. They later reported that the clouds around them “resembled the waves of the ocean, rolling and seething as if the whole earth were covers with a mighty deluge as in the days of Noah.”**

**Chester Rood never recuperated from his night of terror, died later from the effects of exposure.**

—Reprinted from the  
VERMONT SUNDAY NEWS, August 28, 1956.