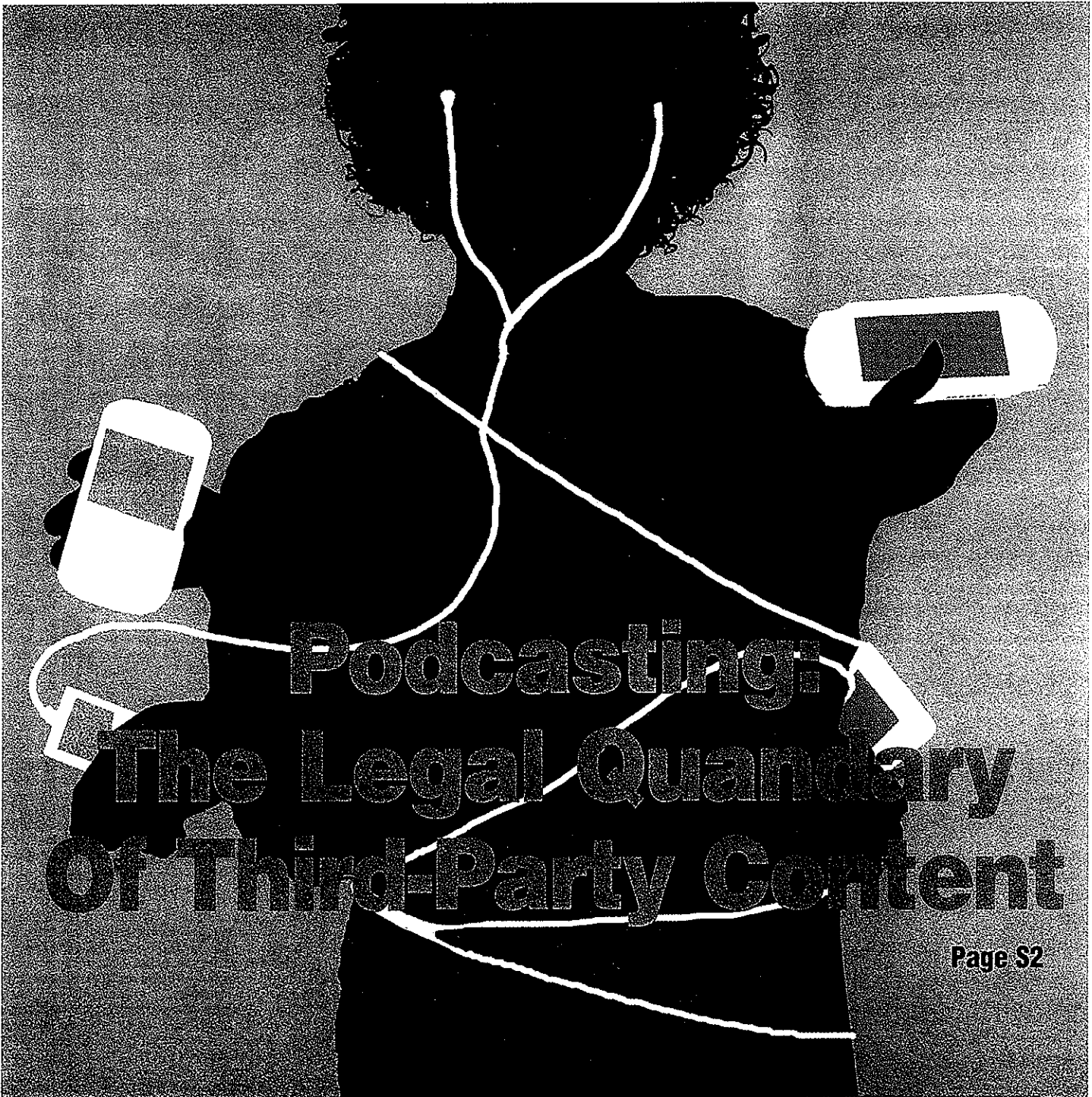


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New York City lawyers must get comfortable with e-forms because paper is no longer an option.

BY LARRY HUTCHER

Until July 2004, all real estate tax filings required by New York City were prepared the old-fashioned way—on paper. Thereafter, the city implemented a requirement that all transfer tax forms for real property and co-op apartment conveyances be created via its electronic format known as ACRIS.

ACRIS has ushered in a new era for the city's real estate world. But the question is, has the implementation of ACRIS really been a step forward?

For the city, the answer appears to be a resounding yes. With the advent of ACRIS, gone are the days when city workers were forced to spend large amounts of time and resources to input data into a computer system. Now that the burden—and the liability for any errors—has shifted to the filing parties, the city has saved a huge amount of time and money.

As to buyers, sellers and their attorneys, the answer as to whether ACRIS is a step forward appears more mixed. Certainly, parties and their attorneys have benefited from the electronic forms in that information can be input into ACRIS in advance of a closing, and then accessed by the parties to the transactions.

Larry Hutcher is a senior partner at Davidoff, Malito & Hutcher.

On the other hand, many real estate lawyers have lamented the loss of the flexibility that came with a paper-based system, in particular the freedom they enjoyed in making last-minute changes to tax documents merely by picking up a pen and crossing out an incorrect name or figure and replacing it with the correct information. Now, corrected documents must be filed after a closing.

For many attorneys, especially those who do not consider themselves especially tech savvy, the new electronic filing requirements did not come as particularly welcome news.

In particular, many lawyers have found ACRIS to be a cumbersome system that is not exactly the epitome of "user-friendly" technology. For example, it has a number of drop-down menus that a user may believe is necessary, even if it is not. If a user accidentally trips one of these menus, ACRIS can require the completion of a form that relates to the selected option, even though that item was chosen in error. Correcting such mistakes, which requires navigating through a number of screens, can be confusing.

Faced with e-filing requirements on one hand and a difficult-to-navigate interface on the other, many attorneys have given up. Rather than attempt to use ACRIS, or even attempt to learn it, a large number seem to opt for the simplest route: farming out the work to the title company

E-Filing Produces a Variety Of Ways to Get the Job Done

involved in the transaction. The benefits of doing so are obvious, since title companies are experienced in using ACRIS and will create the necessary forms at a reasonable fee, typically around \$100.

Moreover, if a mistake on the forms needs correcting, the title company can be called upon to fix it. While the turnaround time to correct a mistake could be one day—which would delay a closing—this might be less time that it would take an attorney who has difficulty using ACRIS to make the needed corrections.

For example, one attorney noted that it took him three hours to correct a small mistake on his e-filing because he was not as comfortable with ACRIS as he would have liked. Another noted that while he was able to master ACRIS and is comfortable with the system, he simply does not find that it is cost effective in light of the low fee charged by many title companies.

While there are obvious benefits to having a title company prepare one's documents for electronic filing, there is a downside as well. Specifically, by allowing a title company to prepare all of one's documents, one cedes a certain amount of control. As a result, one is dependent on the title company if there are any mistakes that need correcting in a hurry.

Other than generating one's own tax filing documents by using ACRIS or farming the job out to a title company, there is a third option attorneys are starting to use to enable them to retain control over their documents. This entails inputting one's own data electronically, but doing so via the use of a more user-friendly interface than the one offered by the city.

Last year, TitleVest, a leading title company, launched a first-of-its-kind software application known as ACRIS ASAP, which dramatically simplifies the creation of the e-forms. ACRIS ASAP enables users to input all of the information necessary to the various forms on one easy-to-navigate screen. Then, information from the single screen is populated into all of the documents required for a given transaction.

The system is much easier and faster to use than ACRIS and offers several benefits. First, ACRIS ASAP automates the creation of Deeds and the Affidavit in Lieu of Registration, and automatically creates the required recording cover pages for co-op transactions on the day of closing.

Additionally, the documents are stored

on TitleVest's Web site, where they can be accessed—and edited—at a moment's notice by any party to the transaction. And it's completely free to attorneys.

Conclusion

Unlike the Internal Revenue Service, which gives individual taxpayers the choice of whether to prepare forms electronically or on paper, parties wishing to conduct real estate transactions in New York City must file their tax forms electronically. This system has brought tremendous gains to New York City—no longer must it devote its resources to inputting information for every real estate transaction or bear the responsibility for fixing mistakes on forms due to the incorrect inputting of information. For transacting parties and their attorneys, however, who now bear their own burden of creating forms in an electronic format, the reviews are mixed.

While parties certainly benefit from having their forms stored on the city's site, where they can be easily accessed by all parties to a transaction, this benefit has come at the cost of a more complicated process for generating and filing the forms required, including the obligation to file corrected forms if changes, including adjustments, have been made.

Moreover, the advent of e-forms has meant that many closings have been delayed due to a mistakes, either because the seller's attorney was not sufficiently proficient with ACRIS to generate a new document on the spot or because the title company who prepared the documents was not able to generate a corrected version on a same-day basis.

Ultimately, regardless of one's views on ACRIS, parties and their attorneys must find a way to become comfortable with electronic forms because paper forms are no longer an option. Within the constraints of electronic forms, however, parties can choose the extent to which they will have to navigate the world of e-filing.

Those more comfortable with the city's interface can use ACRIS directly. Others will no doubt stay with the easiest option: entrusting the job to a title company who will generate the forms for a party. However, for those seeking a middle ground, the easy-to-use interface now offered by TitleVest just may be the right option.