

Real Property Section
Annual Meeting Program
Ocean City, MD
June 12, 2015
8:30 a.m. – 9:30 a.m. Segment
(Part I)

ADVANCE HANDOUTS*

for

“See Into the Future of

Electronic Recordation of

Land Records

in

Maryland”

Co-Chairs:

Judge Glenn T. Harrell, Jr.
Joseph F. Devlin, Esq.

Panelists:

Judge Kathleen G. Cox
Hon. Julie Ensor
Ms. Barbara Hansman
Henry I. Louis, Esq.

* Additional materials discussing the May rollout of the e-recording program will be supplied at the June 12 program, whether through paper handouts or on a flash-drive for each attendee.

CONTENTS

- I. Md. Rule 16-307. Electronic filing of pleadings, papers and *real property instruments* (emphasis added).
- II. September 8, 2014 Letter from Judge Kathleen Gallogy Cox, County Administrative Judge for the Circuit Court for Baltimore County, to Ms. Pamela Harris, State Court Administrator, transmitting the Circuit Court's proposal for an "eRecording Pilot Program."
- III. "Electronic Recording of Lands, September 2014, A Pilot Project in Baltimore County Circuit Court"
- IV. Administrative Order, dated October 7, 2014, of the Court of Appeals approving the Circuit Court's proposed Pilot Program

Rule 16-307. Electronic filing of pleadings, papers and real property instruments.

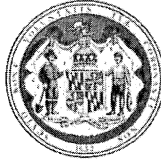
a. **Applicability; conflicts with other rules.** This Rule applies to the electronic filing of pleadings and papers in a circuit court and to the electronic filing of instruments authorized or required by law to be recorded and indexed in the land records. A pleading, paper or instrument may not be filed by direct electronic transmission to the court except in accordance with this Rule or the Rules in Title 20. To the extent of any inconsistency with any other Rule, this Rule and any administrative order entered pursuant to it shall prevail.

b. **Submission of plan.** A County Administrative Judge may submit to the State Court Administrator a detailed plan for a pilot project for the electronic filing of pleadings and papers or of real property instruments. In developing the plan, the County Administrative Judge shall consult with the Clerk of the Circuit Court, appropriate vendors, the State Court Administrator, and any other judges, court clerks, members of the bar, vendors of electronic filing systems, and interested persons that the County Administrative Judge chooses to ensure that: (1) the proposed electronic filing system is compatible with the data processing systems, operational systems, and electronic filing systems used or expected to be used by the judiciary; (2) the installation and use of the proposed system does not create an undue financial or operational burden on the court; (3) the proposed system is reasonably available for use at a reasonable cost, or an efficient and compatible system of manual filing will be maintained; (4) the proposed system is effective, secure and not likely to break down; (5) the proposed system makes appropriate provision for the protection of privacy and for public access to public records; and (6) the court can discard or replace the system during or at the conclusion of a trial period without undue financial or operational burden. The State Court Administrator shall review the plan and make a recommendation to the Court of Appeals with respect to it.

c. **Approval; duration.** A plan may not be implemented unless approved by administrative order of the Court of Appeals. The plan shall terminate two years after the date of the administrative order unless the Court terminates it earlier or modifies or extends it by a subsequent administrative order.

d. **Evaluation.** The Chief Judge of the Court of Appeals may appoint a committee consisting of one or more judges, court clerks, lawyers, legal educators, bar association representatives, and other interested and knowledgeable persons to monitor and evaluate the plan. Before the expiration of the two-year period set forth in section c of this Rule, the Court of Appeals, after considering the recommendations of the committee, shall evaluate the operation of the plan.

e. **Public availability of plan.** The State Court Administrator and the Clerk of the Circuit Court shall make available for public inspection a copy of any current plan. (Added June 5, 1995, effective July 1, 1995; amended June 5, 1996, effective Jan. 1, 1997; Oct. 31, 2002, effective Jan. 1, 2003; Dec. 4, 2007, effective Jan. 1, 2008; Oct. 2, 2014, effective October 14, 2014.)



The Circuit Court for Baltimore County

THIRD JUDICIAL CIRCUIT OF MARYLAND

KATHLEEN GALLOGLY COX
CIRCUIT ADMINISTRATIVE JUDGE and
COUNTY ADMINISTRATIVE JUDGE

COUNTY COURTS BUILDING
TOWSON, MARYLAND 21204
410-887-6510

September 8, 2014

Pamela Harris
State Court Administrator
Administrative Office of the Courts
Maryland Judicial Center
580 Taylor Ave
Annapolis MD 21401

Dear Ms. Harris,

In collaboration with Judicial Information Systems and pursuant to Maryland Rule 16-307, attached is documentation to support the implementation of an eRecording Pilot Project in the Baltimore County Circuit Court.

Clerk Julie Ensor has worked closely with Barbara Hansman, the Land Record Project Manager for the Judiciary to communicate the concept with our staff, the Baltimore County Office of Budget and Finance, the Office of Information Technology and State Department of Assessments and Taxation, as well as the ELROI vendor and title industry representatives. They have focused on the process, content, requirements and guidelines for such a pilot, resulting in these accomplishments:

- confirmed existing workflow processes with related agencies
- researched available eRecording products and services
- determined the scope of an eRecording initiative for Baltimore County
- created and submitted a statement of work
- conducted a procurement and selected a vendor

Based on the extensive preparation that has been done, which is discussed more fully in the enclosed plan, in conformance with Rule 16-307b, I have concluded that

(1) the proposed electronic filing system is compatible with the data processing systems, operational systems, and electronic filing systems used or expected to be used by the judiciary; (2) the installation and use of the proposed system does not create an undue financial or operational burden on the court; (3) the proposed system is reasonably available for use at a reasonable cost, or an efficient and compatible system of manual filing will be maintained; (4) the proposed system is effective, secure, and not likely to break down; (5) the proposed system makes appropriate provision for the protection of privacy and for public access to public records; and (6) the court can discard or replace the system during or at the conclusion of a trial period without undue financial or operational burden. The State Court Administrator shall review the plan and make a recommendation to the Court of Appeals with respect to it.

Letter to Pamela Harris
Dated September 8, 2014
eRecording Pilot Project in the Baltimore County Circuit Court
Page Two of Two

On behalf of our customers and all parties involved, we are eager to move this project forward, therefore, we are requesting approval to proceed with an eRecording Pilot.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Gallogly Cox". The signature is fluid and cursive, with the first name being the most prominent.

Kathleen Gallogly Cox
Judge

cc: Julie Ensor, Baltimore County Clerk of the Court
Barbara Hansman, JIS Land Record Project Manager



ELECTRONIC RECORDING OF LAND RECORDS September 2014

A Pilot Project in Baltimore County Circuit Court

In partnership with related agencies, we seek to move Land Record processing into the digital age.

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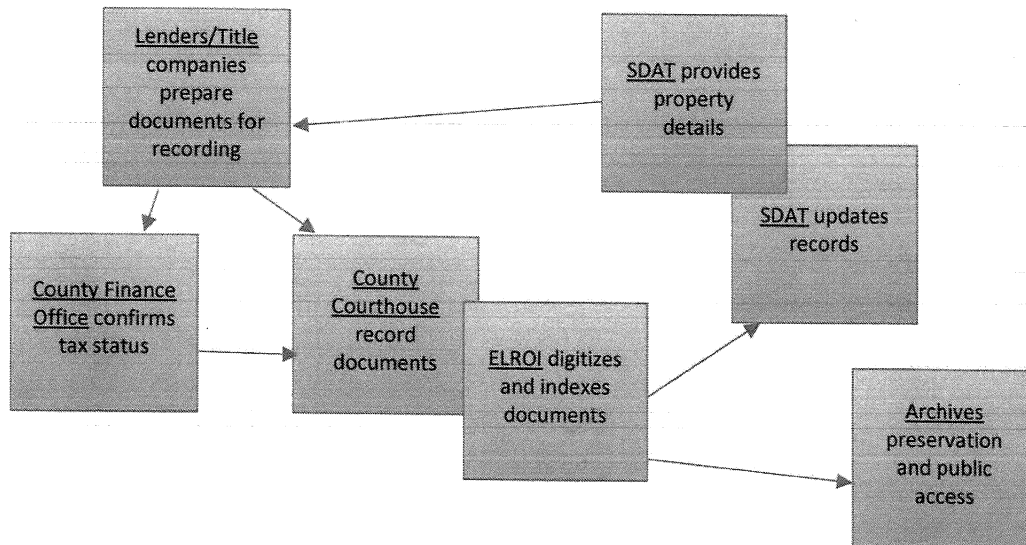
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Section 1 – Overview

1.1 Background

Baltimore County Circuit Court is interested in creating an eRecording pilot project to allow customers to electronically record land record documents. Clerks of the Circuit Courts are legislatively responsible for the recordation of Land Record documents for the public, as well as providing access to these documents. This filing process has been automated from a paper storage system to a digital image system – the Electronic Land Record On-line Imagery System (ELROI) – which is the State’s land record document management system – the natural progression of the system is to upgrade the functionality to serve customers more effectively and efficiently.

To enhance the process to electronically record land record documents, other agencies must be involved because the Courthouse process is only one piece of the overall effort. Linking agencies and the ability to exchange information via a secure web portal could allow us to create workflows to keep the documents moving through the State Department of Assessments and Taxation (SDAT), local Finance Offices, courthouses, all of whom are involved when recording a land record transaction, then on to the Maryland State Archives for preservation and public access.



The existing paper process is time-consuming, requiring a lender to make several stops to get a document to its final destination. Providing the ability to file these documents electronically will be convenient, secure, efficient, and improve accuracy, saving time and resources.

1.2 Stakeholders

1.2.1 Internal

The key stakeholders for the pilot project are the Land Record staff at the Baltimore County Circuit Courthouse, the Baltimore County Office of Budget and Finance (OBF), project management support from Judicial Information Systems, AOC, AOC Finance, and the ELROI vendor, all of whom share the responsibility for the accurate and effective delivery of this system. Governance and effective teamwork among all service providers will be of paramount importance to the success of this pilot.

1.2.2 External

Citizens conducting real estate transactions would reap the rewards of streamlined processing, as well as those preparing for and executing transactions on their behalf. The industry is a complex assortment of customers that includes title companies, bankers, the real estate industry, the bar, attorneys, builders, etc. with equal diversity in terms of size and technical capability. These are our primary customers, and the ability to eRecord has been the requested technology for several years.

1.3 Business Need

Paper processes, though effective for a few hundred years, is resource intensive both for the customer and the County. The business need starts with the ability to significantly reducing the use of paper, which includes physical hand-offs to a number of related agencies.

In the Land Record office, there is mail opening/processing, bulk drop-offs, staff review, document preparation, scanning, indexing, filing, storing, returning and, until ELROI, retrieval. As expected, economic times dictate processing backlogs. Baltimore County wishes a way to utilize available technology to eliminate time-consuming, manual work and streamline the indexing/verifying function while improving accuracy. Title companies and lenders want a secure, efficient method to file documents from their offices; meetings and interviews with stakeholders have confirmed a strong interest. Establishing a system will utilize advanced technology to better serve our customers, significantly improve judicial processes and enhance service to related agencies. We propose that it will:

- Provide customers with a reliable and effective capability to record electronic land record documents from their offices via a protected website.
- Streamline courthouse receipt, processing and indexing of land record documents to help eliminate backlogs, and improve accuracy and efficiency of the process.
- Assist finance offices in respective automation efforts by providing secure electronic interfaces to help eliminate backlogs, and improve accuracy and efficiency of the process.
- Work with the State Department of Assessments and Taxation to verify tax status and export property ownership data for improved accuracy and timeliness.
- Create and provide for real-time reporting at any time.
- Comply with state laws, rules and requirements for electronic documents processing.
- Achieve the timeline established by the State Court Administrator for the pilot.
- Create a fully-functioning pilot scalable to state-wide use on acceptance.
- Speculate how the internal and external stakeholders will function in the future.
- Provide a solution flexible enough for continuous improvement but contained now for easy installation and upgrades.

1.4 Pre-RFP Research & Findings

The objectives of the research included reviewing existing processes and defining what kind of collaboration with other stakeholders would provide mutual gain. In doing so, we were able to separate what we want to continue to do and what procedures need attention. For example, 20-25% of

documents submitted to the Finance Office and the Circuit Court for recording are rejected; we labeled this an opportunity. Then the goal was to analyze what the market has to offer to determine if there's a fit for Circuit Courts and related agencies now. This effort required a wide variety of tasks including documenting the existing workflow and meeting with each stakeholder group, then examining documents for eRecording feasibility and checking interoperability with existing vendors.

A Request for Information (RFI) was conducted by JIS in 2013 to obtain up-to-date information on advances with eRecording, and based on those responses, Baltimore County staff, Clerk Ensor and Barbara Hansman attended several webinars where potential vendors explained their products. Maryland's unique recording laws require customization, including workflow, rules, fees, indexing requirements and more. Simply put, vendors are told how we process individual instruments - we check for required information, we obtain Finance Office approval, we calculate fees, we apply a book and page, we index and verify - this becomes the vendor's logic; each document type is analyzed individually. As the analysis moved to less frequently used document types, they became more complicated, or required the staff to actually read the document for necessary details. Programming for low-volume, high-complexity documents may not be worth the effort at this time and may increase risk.

Many eRecording vendors offer a fee-for-service arrangement. They customize their product at no cost to the customer, and contract separately with title industry users to charge a fee for each document submitted. This method is widely used for land record recording. Over 1100 counties in the United States offer eRecording. Oddly, many counties have more than one eRecording vendor, which turns out to be a good approach because it encourages competitive fees. Maryland is one of the only three States in the United States that does not allow any counties to use eRecording.

Most systems on the market have a built-in payment system. Unlike the paper process, which collects checks and cash for deposit, and may take several days for the funding to be available to AOC, all money collected by eRecording for recording fees, surcharges, taxes, etc. will be deposited into Baltimore County's account that night and be available the next morning.

Since the Baltimore County Office of Budget and Finance is an integral part of the overall effort, we met with them to present the opportunity and established their buy-in and support. We envision the Finance Office personnel having the ability to view submitted documents and electronically approve or reject according to tax status. For selected document types, such as agriculture, SDAT would also be able to view submitted documents and electronically approve or reject according to property transfer rules. In addition, we met with the Baltimore County Office of Information Technology for their insight with respect to the pilot project.

For integration with the current LR system, ELROI, we discussed this concept with the vendor, Lidos (SAIC) and they have confirmed compatibility for Group IV tiffs and related indexing; in fact the OPTIX system has a built-in Application Programming Interface (API) to import images and data. Additional analysis and testing will be required for real-time processing.

On the backend, we anticipate very little change to the Archives transfer. Full books would still be sent nightly, except the electronic books would be a new book type. The new "electronic" book type is not unlike the creation of other new book types which have been used over the last several years.

When considering the resources needed for such a project we expect to have an executive sponsor/steering committee, and the creation of a core work team. The management of the Baltimore County details are delegated to Clerk Julie Ensor, who will chair the steering committee. She will continue to be active on the functional side, but will delegate the technical and project management to Barbara Hansman at JIS. We assume additional steering committee members consisting of Baltimore County OBF and OIT, Title Industry representatives and others, and a core work team of subject matter experts from land record and Finance Office staff.

Section 2 - Procurement

2.1 Statement of Work

In search of an experienced vendor, the SOW was focused on the combination of Maryland's recording requirements, advanced technology, and best fit for the Judiciary. A Request for Proposals was put out to bid, and a number of proposals were received and evaluated – both documents available on request. If the Court approves this plan, we will be awarding the contract to Simplifile.

2.2 Vendor Selection

Simplifile offers a fee-for-service web-based model that is in use in over 1120 counties. Their model answers the Judiciary's unique needs regarding the workflow and approval process required to record documents in Maryland as well as the requirements of the MD Rule 16-307 - ELECTRONIC FILING OF PLEADINGS, PAPERS, AND REAL PROPERTY INSTRUMENTS. The below text supports the choice of vendor to conduct a pilot in Baltimore County:

“(1) The proposed electronic filing system is compatible with the data processing systems, operational systems, and electronic filing systems used or expected to be used by the judiciary; “

Simplifile uses a stand-alone web-based component that requires PC hardware already in place in the courts. Using an API, data and images will be delivered to ELROI for final verification. Simplifile will provide end-of-day reports for entry into GEARS. This proposed electronic solution allows the State of Maryland to maintain internal processes while adding e-Recording capabilities.

“(2) The installation and use of the proposed system does not create an undue financial or operational burden on the court; “

The cost to develop and implement a pilot e-Recording system for the State of Maryland is \$0.00. This customized SaaS (Software as a Service) platform charges a small fee if customers choose to use the system. Court land record operations will change but not significantly; verification of eRecorded documents will remain the same.

“(3) The proposed system is reasonably available for use at a reasonable cost, or an efficient and compatible system of manual filing will be maintained; “

Simplifile is web-based and accessible via the Internet; estimated fees to use the system are \$4-5 per document. The use of this type of product will replace the customer's costs for shipping documents via US mail, courier or FEDX, where costs vary based on weight, location, and required delivery timeframes. The current process to record paper documents will also remain in place.

“(4) The proposed system is effective, secure, and not likely to break down; “

Simplifile is the leading provider of electronic recording services, and has the largest e-Recording network in the nation, with a 99.5% availability each calendar month, during normal e-Recording business hours, and be available 24/7, with 24-hour on call support.

Simplifile transmissions occur over the Internet using the Secure Socket Layer (SSL) protocol and 128-bit encryption. System access is password protected, and submitter and county users must first be authorized by submitter and County representatives respectively.

“(5) The proposed system makes appropriate provision for the protection of privacy and for public access to public records; “

Simplifile transmissions occur over the Internet using the Secure Socket Layer (SSL) protocol and 128-bit encryption. System access is password protected, and submitter and county users must first be authorized by submitter and County representatives respectively. Customer data is always protected and the confidentiality of customer data is protected to the maximum extent of the law.

“(6) The court can discard or replace the system during or at the conclusion of a trial period without undue financial or operational burden.”

Since there are no start-up costs for Simplifile, and the State of Maryland has the right to terminate the pilot e-Recording system at any time; customers who used their system would simply go back to recording paper documents.

Section 3 – Proposed Plan

The overall purpose of a new eRecording system is to provide superior customer service to title companies and financial institutions, reduce foot traffic and processing time, increase productivity, ensure security, and improve tracking and data accuracy in safekeeping official public information in accordance with local, state and federal laws. This system will remove some level of manual intervention, provide the ability to eliminate some level of paper from the land record recording process and automate time-consuming processes. Economies in terms of time and accuracy will benefit related agencies.

3.1 Events & Timeline

Simplifile proposes that they can implement their product within three months of receiving final requirements. This does not take into account all of the preparation and communication needed to re-gather the stakeholders, announce the project, complete MOUs, create the teams, specify roles and responsibilities, involve the related vendors, etc. To that end, we will conduct pre-vendor meeting tasks to ensure we are prepared for a vendor kick-off meeting within 45 days of contract award. Then we will have a vendor planning meeting to articulate the tasks and lay out a high-level plan. The goal is evolution, not revolution. We must work toward bang for the buck, but not to the extent where it is not practical for the title industry or our staff. As this is a very visible project, careful change management is essential.

Below is a high-level list of tasks.

3.1.1 Prepare for the Vendor Planning Meeting (day 1 - 45)

- Reassemble the stakeholders from related agencies to confirm and update documentation for individual areas as well as cross-functions.
- Meet with the title industry representatives to announce the plans to gain buy-in and document any concerns. (possibly at the MLTA conference)
- Confirm the requirements for an import to ELROI; confirm Baltimore County staff requirements.
- Re-visit AOC Finance procedures.
- Establish governance – an oversight/steering committee.
- Define a core work team with representatives from each area who actually do the work.
- Create a communication mechanism for all to access, such as a website, that solidifies contact information and backups, houses related documents and schedules.

3.1.2 Vendor Planning Meeting (day 60 – 90)

- Provide and discuss the pre-meeting details.
- Discuss and agree on where and who needs an MOU or Agreement document.
- Communicate workflow requirements and acknowledgement processes/stamps.
- Provide initial document types to be eRecorded, helper documents, indexing requirements and rejection criteria.
- Discuss interfaces with SDAT.
- Provide and discuss export data requirements for ELROI.
- Concur on customer fee schedules.
- Provide AOC bank routing forms.
- Demo the project document repository.
- Create a project plan/schedule.

3.1.3 Post Vendor Planning Meeting (day 105 – TBD)

- Vendor to customize and configure the system.
- Vendor to demo and authorize local administrators.
- Vendor to provide access to test system for internal stakeholders, etc.
- Core work team to test, test, test.
- Vendor to provide test files for ELROI integration.
- Vendor to coordinate financials with AOC Finance and the County Finance Office.
- Vendor to establish relationships with the title industry.
- Vendor to demo for title industry.
- Vendor to provide access to test system for the title industry.
- Core work team to test, test, test.
- Pilot go-live.

IN THE MATTER OF THE
IMPLEMENTATION OF A
PILOT PROGRAM FOR THE
ELECTRONIC FILING OF
REAL PROPERTY INSTRUMENTS
IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY

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IN THE
COURT OF APPEALS
OF MARYLAND

ORDER

WHEREAS, Maryland Code, Real Property Article § 3-502(a) authorizes the Administrative Office of the Courts to “establish a pilot program for the electronic filing of instruments authorized or required by law to be recorded and indexed in the land records”; and

WHEREAS, Real Property Article § 3-502(b)(1) provides that “Maryland Rule 16-307 shall govern the plan for the pilot program and implementation and evaluation of the pilot program”; and

WHEREAS, Rule 16-307b. provides that a “County Administrative Judge may submit to the State Court Administrator a detailed plan for a pilot project for the electronic filing of ... real property instruments” and sets forth the factors that the County Administrative Judge must consider; and

WHEREAS, Rule 16-307b. further provides that the “State Court Administrator shall review the plan and make a recommendation to the Court of Appeals with respect to it”; and

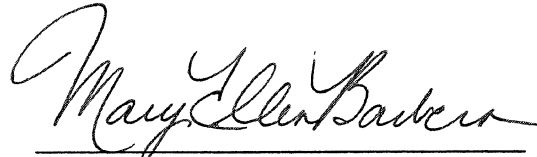
WHEREAS, The County Administrative Judge for Baltimore County has submitted a detailed plan to the State Court Administrator for review, in compliance with Rule 16-307; and

WHEREAS, In compliance with Rule 16-307, the State Court Administrator has reviewed the plan and has recommended that this Court approve the plan; and

WHEREAS, Rule 16-307c. provides that a “plan may not be implemented unless approved by administrative order of the Court of Appeals.”

NOW, THEREFORE, It is this 7th day of October, 2014, ORDERED, by the Court of Appeals of Maryland, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, Maryland Code, Real Property Article § 3-502, and Maryland Rule 16-307, that the establishment of a pilot project for the electronic filing of real

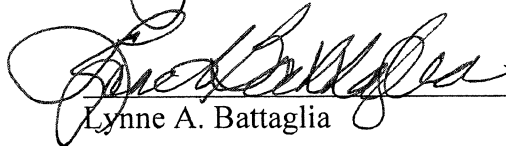
property instruments in the Circuit Court for Baltimore County be, and hereby is,
approved.



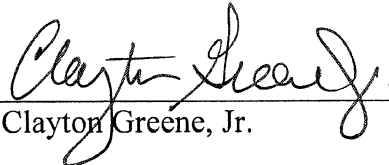
Mary Ellen Barbera



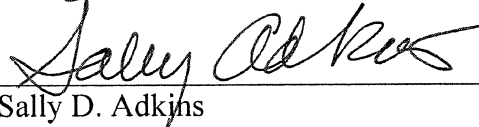
Glenn T. Harrell, Jr.



Lynne A. Battaglia



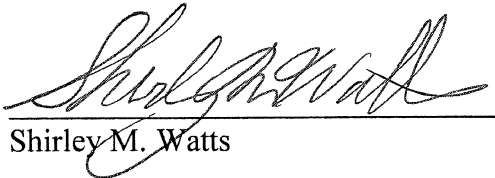
Clayton Greene, Jr.



Sally D. Adkins

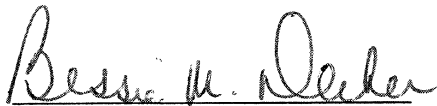


Robert N. McDonald



Shirley M. Watts

Filed: October 7, 2014



Bessie M. Decker

Clerk

Court of Appeals of Maryland