



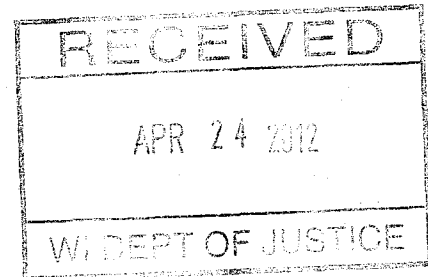
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April 23, 2012

Roy R. Korte
Assistant Attorney General
Wisconsin Department of Justice
17 W. Main Street
P. O. Box 7857
Madison, WI 53707



re: Request for an Informal Opinion
So-Called "Update of Land Patent"

Dear Assistant Attorney General Korte:

This letter is intended as an informal request for an opinion, consistent with § 59.42(1)(c) Wis. Stats.

The responsibilities of a corporation counsel include giving advice to the register of deeds as to her or his statutory powers and duties, including those under Section 59.43 Wisconsin Statutes. I am seeking guidance with respect to the duty of a register of deeds to record or file certain instruments, collectively referred to as "Update of Land Patent". A copy of these instruments is enclosed.

To my eye, the "Update of Land Patent" is similar to a self-awarded "land patent" and "declaration of land patent" [*See: "State v. Glick" (1986, 7th Cir) 782 F2d 670*] and "*State v. Leist*" (1987, Ct. of App.) 141 Wis.2d 34, 414 N.W.2d 45. *See Also: 69 Wis. Op. Atty. Gen. 58 (1980)*-which addresses a register of deeds duty to file or record "common law liens" or "writ of attachment"]. A copy of each case and the OAG opinions are enclosed.

As best as can be determined, the intent [of the drafter and/or person(s) presenting the "Update of Land Patent" for recording or filing] seems to be: 1) have the original federal land patent updated in their name(s); 2) nullify any transaction on the parcel(s) since the date the land patent was originally issued; 3) attempt to except the parcel from land use and zoning, liens, property taxes and assessments and liens; and 4) immunize the parcel(s) from state court jurisdiction. Whether this is a misguided effort or unlawful conduct and grounds for lawsuit or prosecution [for slander of title or ???] are open questions, left for others to consider and decide.

I advised the Register of Deeds, among other things, that:

- While note entirely clear, a strong argument can be made that the instruments, i.e., "Update of Land Patent", probably have no legal meaning or effect.
- The "Update of Land Patent" are not instruments that affect title to land or are authorized by law to be recorded or filed under § § 59.43(1), 706.05(1) and/or 706.085 Wis. Stats.
- The "Update of Land Patent" should be returned to the person(s) who presented the same for recording, with a brief explanative letter.

A copy of the Register of Deeds explanative letters are enclosed.

While I am reasonably confident in the correctness of the advice given, there is confusion about these matters. I am not aware of any Wisconsin appellate court or informal/formal OAG opinion that have definitively answered the questions. Moreover, based on anecdotal reports of similar documents being offered for recording or filing in other counties, some persons may be broadly disseminating these instruments and the questions will likely arise again.

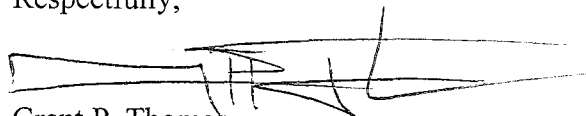
For purposes of this letter, I am ignoring the questions of: 1) Whether the "Update of Land Patent" meets the standard format or other technical requirements under § 59.43 Wis. Stats. 2) Whether the instruments identify the drafter? *and* 3) Whether these instruments trigger § 77.22 Wis. Stats. form / fee. The reason being that such defects or errors are easily corrected and do not address the core issues.

So, that leaves two questions:

- May a register of deeds refuse to record or file instruments like the "Update of Land Patent"?
- If so, on what grounds?

Please contact me if you require anything further.

Respectfully,



Grant P. Thomas
Door County Corporation Counsel

GPT/llh

C: Carey Petersilka, Register of Deeds