

# ST. CROIX COUNTY LAND INFORMATION INTERNET ACCESS POLICY REPORT AND RECOMMENDATION

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*This document was compiled extensively from the following reports:*

1. *Wisconsin Land Information Association: INTERNET PRIVACY & OPEN RECORDS, February 2003*
2. *Ozaukee County Land Information Office: LAND INFORMATION INTERNET PRIVACY POLICY REPORT AND RECOMMENDATION, October 2002.*

## **Executive Summary**

The St. Croix County Land Information Office (LIO) serves as the coordinating body for land information and land records in St. Croix County. As the coordinating body for land records, the LIO is charged with providing public access to land records through the public access portion of Wisconsin Land Information Program retained fees. Increasingly, the business sector, local officials, the general public and county departments are requesting and expecting internet access to more detailed land records pertaining to property ownership, valuation and taxation. Internet access to land records will provide greater convenience and more economical access for citizens and business customers who use this data. County departments expect to significantly reduce the amount of staff time spent responding to requests for land information.

The LIO currently has a web site on the County's intranet that allows unrestricted access to county mapping and real property records. The LIO seeks to establish a County policy that will govern Internet delivery of land records information to the public, private business and other governmental entities. The Land Information Committee, comprised of county staff from various affected departments, has reviewed the WLIA Internet Privacy & Open Records Report, privacy policies from other counties, the state Open Records law, and privacy concerns expressed by members of the Planning, Zoning, and Parks Committee. Three primary issues have surfaced during this review:

1. How does the Open Records law apply to information published on the Internet?
2. If information can be blocked from public access, what are the implications for customers as well as for county staff in terms of workload?
3. How should the County balance its mandate to provide open access to public records with the desire of constituents to protect their personal privacy and safety?

The land records under discussion here are available unrestricted within the courthouse because they are contained in public records that are subject to the Wisconsin Open Records law. These records are accessed, viewed and copied daily by many businesses and private individuals. Several policy options for Internet publication of these records are available for consideration:

- Do not restrict access to any public land information currently available within the courthouse.
- Remove the name search capability but provide full access via display results.
- Remove the name search capability for the open public Internet access and develop a user name and password extranet application for different users; governmental, business, and public.

Critical to the process is the involvement of local governmental units, regular business customers and the general public. The following report provides background information on the above issues, reports the policies of other jurisdictions with land records Internet access, discusses policy implications, offers technical options for blocking selected information, and discusses the consequences of blocking this information.

## **Internet Access Issues and Open Records**

*Legal/Open Records Status of Internet Information. How does the Open Records law apply to information published on the Internet?*

The first issue is a legal one based on the status of Internet information as an open record. All of the information to be made available on the web site is also available in unrestricted, open records stored in County offices in both electronic and paper format. The public can access the electronic records in house on computers and programs designed for public use. For convenience, County staff also provides access to open records information over the phone. If the information available on the web site is viewed as a "pure" open record, then access to it may not be restricted in any way without facing the possibility of a legal challenge. Alternatively, if the record is viewed as something less than a "pure" open record, then the County may have some choice about the information it makes available on the web page. In other words, some information may be restricted or information on particular individuals may be restricted, while other information is not restricted.

The open records status of information published on the Internet partially depends on how the Internet is viewed. If the Internet is viewed as an extension of County government, then anything electronically available within the walls of the courthouse should also be available over the Internet. On the other hand, if the Internet is viewed primarily as a communication tool, then the information contained on it may not have the presumption of access associated with open records.

*If information can be blocked from public access, what are the implications for customer service, as well as County staff workload?*

Assuming that Internet information is not a pure public record and that access to information could be restricted, this restriction raises the issue of customer service. Internet access lifts the burden on users who rely on this information who would otherwise have to obtain it by physically traveling to the County buildings or by calling a County office. The primary users of the Internet system would come from businesses and local officials. These users are primarily real estate and finance professionals who use property information to conduct routine business. Title companies, appraisers, realtors, law firms, and mortgage financing companies, as well as municipal assessors, clerks and treasurers all use land records to prepare documents or satisfy requests for information. A complete list of users of real property information, as compiled by the Wisconsin Real Property Listers Association, is found in *Attachment A*.

Again, assuming that access to personal information could be restricted, this restriction would cause users to continue their contact with County staff. Access to the property information on the Internet would provide an efficiency gain that would not be possible with any other technology. Access would allow County staff to manage a growing level of transactions without a corresponding increase in staff resources. However, if access were restricted, these users would continue to rely on County staff to provide the information they are seeking.

#### *Privacy of Individuals*

The final issue is personal privacy and the responsibility of government to protect and respect the privacy of individuals. The unrestricted dissemination of personal information is a growing concern as citizens lose control over their private information. Citizens both voluntarily and involuntarily provide personally identifiable information to government, but in either case, have little control over how that information is subsequently distributed or made available for public inspection. The issue becomes particularly sensitive when personal safety could be jeopardized, because information is open to anyone regardless of intent. While unrestricted access to land information has resulted in quantifiable efficiency gains, the loss of personal privacy represents a non-quantifiable cost. Given this tradeoff, the question becomes, how should the County balance its mandate to provide open access and the positive efficiency gains associated with widely distributing this information with the desire of constituents to protect their personal privacy safety.

#### **Summary of Open Records Provisions** **Records Definition**

16.61 (2)(b) Records of state offices and other public records

*"Public records" means all books, papers, maps, photographs, films, recordings, optical disks, electronically formatted documents or other documentary materials, regardless of physical form or characteristics, made, or received by any state agency or its officers or employees in connection with the transaction of public business and documents of any insurer that is liquidated or in the process of liquidation under ch. 645.*

## 19.32 (2) Definitions

*"Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. Record includes, but is not limited to, hand written, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks.*

The data available on the web page is drawn from the property document recordings database maintained by the Register of Deeds Office. Those records are used by the Real Property Lister to compile a real property database to support property assessment and taxation. The real property database is further maintained by the Treasurers Department as property taxes are collected. As a public record, Wisconsin's open records law governs the information contained in the database(s).

According to a report compiled by Wisconsin's Legislative Council, the Wisconsin Open Records law is based on a strong presumption in favor of public access to state and local government records. This presumption applies whether or not the information in the record contains personally identifiable information, where personally identifiable information is defined by statute to mean information that can be associated with a particular individual through one or more identifiers or other information circumstances. [s. 16.62 (5), Stats.] Open records requests may be made orally, but they must be in writing before action to enforce the request may be commenced.

The Open Records law also indicates that the presumption of complete public access is an essential function of representative government and that denial of public access is generally contrary to the public interest and may be denied only in exceptional cases. [s. 19.31, Stats.] Exceptions to access can include exceptions specifically set forth in open records law, exceptions based on open meetings law, or common law exceptions. The Wisconsin Supreme Court has not listed the common law exceptions, so the records custodian leaves these matters to a case-by-case determination. This case-by-case determination is decided using the balancing test where the records custodian decides whether permitting access and inspection of records would result in harm to the public interest that outweighs the benefit to the public interest of allowing open inspection.

In the case of computer records, the law states that computer programs are not subject to open records. However, the material used as input for a computer program or the material produced as a product of the program is subject to the general right of examination and copying unless another exemption to the Open Records law is applicable. In all cases, however, there is a strong presumption in favor of allowing public access to public records.

## **Policies of other Wisconsin agencies**

The following information was obtained from a survey done by Dane County regarding Internet distribution of land records and the St. Croix County Land Information Office polling neighboring counties. Dane County solicited input from professional associations, including the Wisconsin Register of Deeds Association, Wisconsin County Treasurers Association, the Government Information Processing Association of Wisconsin (GIPAW), and the Wisconsin County Land Information Officers

The City of Madison restricts access to names on the Internet site upon request, but the City does not block names in other forms of data distribution. In order to have a name blocked, a person must submit a written request; the City honors all requests. When a name is restricted from display, the field for owner name displays this message: *Owner's name is available at the Assessor's Office.*

The City of Milwaukee, Waukesha County and Clark County' web sites do not allow a search of property information by owner name, but they display name information as a result of the search. This approach is intended to balance the needs of business users of the site with citizen concerns for privacy and protection from harmful intent. City staff internally access this information using an application that does allow a name search. The City has not received requests to block access to this information.

Barron County sought an Attorney General's opinion about whether providing information on the Internet would release them from responding to open records requests in County offices. The Attorney General did not discourage placing information on the Internet but stated that information available on the Internet could not replace the access available in County offices, including the expected provision of some level of personal assistance. At the same time, the Attorney General did not explicitly comment on the open records status of Internet information.

Land information officials in Kenosha County have received requests to restrict access to personal information on their Internet postings. Kenosha County currently removes all names upon request unless that information is related to tax billing. Tax billing information is not restricted because state statutes require that the assessment roll reflect the owners of records as they are recorded in the Register of Deeds Office.

Outagamie County has received one request from a law enforcement official to restrict access to his/her name on a data distribution list provided to private vendors. Outagamie County typically does not honor these requests but did so because this case was a special directive.

Washington County Wisconsin has had 9 requests to restrict access to personal land and ownership information published in newspapers (6 in 1998 and 3 in 1999). Washington County officials did not comply with these requests.

Wood County has received one request to restrict access from a citizen who was bothered by marketers who purchased county information on septic systems. Wood County did not honor the request and does not have a defined policy. All requests are handled on case-by-case basis.

St. Croix County's survey of neighboring counties includes Polk, Pierce, Dunn, and Washington County, Minnesota. Only two of the counties have Internet sites at this time. Pierce County allows parcel searches on site address, parcel number, and owner's last name. Washington County, Minnesota allows searches on site address and parcel number, but does not return owner names.

Developing a consistent policy is important as agencies share information across jurisdictions. Blocking names on a city's page, for example, does not ultimately protect privacy if those names and addresses are available on the County's web site. Consistency with the State is also important. The County Clerk is responsible for maintaining voter registration records. Typically these lists contain a registered voter's name and address. Beginning next year, campaign finance reports, including polling list information will be electronically filed. This would reflect activity at a

statewide level, where a bill is currently before the legislature (passed Assembly unanimously) allowing victims of abuse to have their names removed from polling lists based on a conviction or charge currently under investigation.

## **Policy Options**

### ***1. No restrictions on search capabilities or access to records.***

This alternative assumes that Internet information is viewed as a "pure" open record and that access to it cannot or should not be denied. The web site would be maintained in its current intranet form, with search capabilities on name, site address, and parcel identification number including a statement on public records and privacy.

#### **Policy**

Any requests to restrict access would be denied and reference would be made to the *Public Records and Privacy* statement on the web site. Requestors would be referred to legal or legislative authorities if they have further concerns or questions.

#### **Technical Impact**

Since this alternative maintains the status quo within county offices, there would be no additional technical impact.

#### **Fiscal Impact**

Since this alternative maintains the status quo within county offices, there would be no additional fiscal impact.

#### **Service Impact**

This option provides great convenience for citizens and business customers who use this data. They would maintain the ability to access these records from their home or place of business, and it would maintain the staff efficiencies gained by reducing the amount of time answering questions on the phone or in person.

### ***2. Restrict the Internet search but provide full access via display results.***

Similar to the Clark County Internet site, full access to property records would be provided, however, only address and parcel number searches would be allowed, not owner name. This alternative removes the most sensitive privacy concern – the ability of global users to locate a person's address with only name information – but still provides access to the public record. The vast majority of Internet searches will still be able to be performed. In those cases where only the owner's name is known, the inquiry will need to be done via telephone, walk-in, or public terminal services.

#### **Policy**

The policy for this option would be the same as the policy for option #1.

#### **Technical Impact**

The current Intranet application would need to be modified to remove the search by owner name. For County staff, the Intranet browser or other application would still allow the name search.

**Fiscal Impact**

Four to eight hours of consultant time and staff time to modify the current Intranet application to remove the search by name option.

**Service Impact**

This option fulfills the critical needs of users and privacy concerns. Some additional County staff time would be required to assist those who only have an owner's name

**3. Restrict the Internet search and access of owner names.**

This option would allow searching by address and parcel number only and would not return owner names. This alternative is the most restrictive and does not provide full access to the complete public record. In those cases where only the owner's name is known or the owner's name is the information requested, the inquiry will need to be done via telephone, walk-in, or public terminal services.

**Policy**

The policy for this option would be the same as the policy for option #1.

**Technical Impact**

The current Intranet application would need to be modified to remove the search and display of owner names. For County staff, the Intranet browser or other application would still allow the name search and display.

**Fiscal Impact**

Four to eight hours of consultant time and staff time to modify the current Intranet application to remove the name search and display option.

**Service Impact**

This option fulfills privacy concerns but does not meet the information needs of business partners and local governments. County staff time will be required to assist those who only have an owner's name or request owner information.

**4. Develop a name and password extranet application for business partners and Government-to-Government service.**

Develop a secured access Extranet application for business partners and local governments. This option would provide full search and access capabilities to registered users. The application would be the same as the application on the county Intranet that is available within the Government Center.

**Policy**

The policy for this option would be the same as the policy for option #1.

**Technical Impact**

Establish an extranet or secured access mechanism that would provide name search and display functionality for registered business users and local governments, but not for general public Internet access. This would require the establishment and management of secured accounts.

**Fiscal Impact**

This alternative would require additional consultant and staff time to develop the secured account application and additional staff time to administer the secured accounts.

**Service Impact**

This option fulfills the critical needs of business partners and local governments. This option provides the most intense users of the data the required search and display capabilities, provides the necessary level of service, and reduces staff time providing information.

**Recommendation**

The primary mission of the County is to be a service provider and the web site has the potential of providing a significantly improved service. Transforming a resource intensive task to an efficient tool available to people and businesses in homes and offices is vital to good government. For this reason, the Land Information Office recommends policy options 2 and 4. Policy option #2 will address the most sensitive concern regarding privacy, the ability to globally search for an individual anonymously across the Internet. That search will require an individual to contact the County or municipality. Additionally, through policy option #4, the ability to search by name increases the utility of the page dramatically for private sector users listed in Attachment A. Control of that search option would remain with the County.

We also highly recommend inclusion of local officials, regular business customers and the general public into the policy-making process by holding joint governmental meetings and accepting public comment. Offer specific examples of policies and procedures for specific datasets and websites. The policy should be adopted by the County Board and consistently administered until such time as state law provides more specific guidelines.

## Attachment A

*Users of real property information, as compiled by the Wisconsin Real Property Listers Association*

<b>County Offices</b>	<b>Federal Departments</b>	
Treasurer's Office	US Marshall	
Register of Deeds	FBI	
Zoning	IRS	
Land Information Office	Post Office	
Surveyor	Farm Credit Service/USDA	
Clerk	US. Fish & Wildlife	
Mapping	Elected Officials	
GIS		
Highway Dept.	<b>Local Government</b>	
Land Conservation	Clerks	
Ag Dept.	Assessor	
Judges	Zoning Dept.	
District Attorney	Planners	
Corp Counsel	Elected Officials	
Vet. Services		
Human Services		
Commission on Aging	<b>Private Sector</b>	
Sheriff's Dept.	Tax Payer	Cemetery Association
Planning	Bankers	Churches
Emergency Planning	Surveyors	Native American Tribes
Parks	Flood Insurance Co.	Drainage Districts
Humane Society	Title Co.	Special Assessment Districts
Elected Officials	Appraisers	Credit Bureaus
	Attorneys	Billing Dept.
<b>State Departments</b>	Realtors	Hunters
Dept. of Revenue	Marketing Companies	Fishermen
Dept. of Natural Resources	Public Utilities	Foresters
Dept. of Transportation	School District	Nature Conservancy
Historical Society	Federal Express	Private Investigators
IRS	Planners/Developers	Genealogists
Elected Officials	Insurance Companies	Local Businesses