



Bob Aaron bob@aaron.ca

November 30, 2000

## There's no turning back on plan to automate land registry

Ontario's plan to automate its land registration system is more than 10 years behind schedule, and its projected cost of completion could exceed \$1 billion, says a highly critical report by provincial auditor Erik Peters.

In his Special Report on Accountability and Value for Money, tabled with the Legislature last week, Peters devotes a section to the ongoing project to convert to electronic format the title to all 4.3 million properties in Ontario.

But not all stakeholders are as critical of the conversion program as the auditor. Many of us think the conversion is running along just fine, and some stakeholders feel the conversion is going too fast.

Back in 1980, the province established POLARIS, the Province of Ontario Land Registration and Information System. Under the system at the time, all property records in Ontario were kept in paper and microfilm form at the 55 provincial land registry offices across Ontario.

The POLARIS project involves the gradual conversion of all properties from the Registry System, where titles must be searched back for 40 years to ensure they are valid, to the Land Titles system, where only the current owner and current liens are shown. Records are then automated to permit the searching and registration of real property documents through computers.

By 1991, the government was hopelessly mired in the POLARIS project and had only converted 250,000 properties to electronic format. That year, Teranet Land Information Services Inc. was created. It assumed from the government financial and contractual responsibility for the implementation and operation of POLARIS. Teranet is a joint venture between the Ministry of Consumer and Commercial Relations and Teramira Holdings Inc., a pension trust group of the Altamira financial companies.

In turn, the 45 partners of Teramira include equity, management and technology partners such as EDS Canada, Intergraph, KPMG, SHL Systemhouse, several large Canadian pension funds, a chartered bank and an insurance company.

In 1991, the POLARIS project had an original cost estimate of \$275 million, and an anticipated completion date of 1999. In June 1998, the company advised its bankers that projected costs of completion would exceed \$560 million. By April of this year, Teranet told the government that project costs could exceed \$700 million, and the new target date for completion is 2010.

As of last March, there were still 1.8 million titles yet to be computerized. The conversion rate dropped drastically after December, 1999, when Teranet terminated the contract with its principal subcontractor charged with transferring land data to electronic format.

Unfortunately, according to the provincial auditor, there are significant uncertainties in the assumptions that were used to develop the \$700-million estimate. Other less-favourable scenarios estimate total costs in excess of \$1 billion.

The auditor also advised the Legislature that the cost to convert the remaining 1.8 million properties, using existing workflows and processes, exceeds the anticipated revenues from the conversions.

Teranet has never declared any dividends to its shareholders. As of March 31, its accumulated deficit was \$44 million, and its workforce was about 800 employees.

The provincial auditor says if Teranet does not make adequate progress on automating land registration information, or if it fails to perform in other ways as required by its contract with the government, the ministry has the option of terminating the agreement.

Peters notes that unless an adequate contingency plan is in place, termination of the agreement could result in increased risk for the ongoing, uninterrupted operation of the province's land registration system.

Is the provincial auditor giving Teranet a raw deal?

Not everybody is as critical of Teranet. Its software was named Best New Product, Legal, at the Canadian Online Product Awards (COPA) in Toronto last year. It was the second commendation presented to Teranet by COPA. Other awards to Teranet include the 1998 Canada Council for Public Private Partnerships' Award for Service Delivery, the Ontario government 1998 Gold Award for Innovative Service Delivery, the '97 Canadian Information Productivity Award, and the '96 Canadian Online Product Award of Merit.

Teranet has been successful in exporting its property registration technology to such places as the Czech Republic, Lebanon, Shanghai, Trinidad, and Puerto Rico, with the potential for royalties to come in for decades.

Ontario real estate lawyers use Teranet daily. We employ it to search titles, check writs in the sheriff's offices, obtain copies of plans or registered deeds and mortgages, and order title insurance. We also use it to access the new Bar-eX, an Internet gateway to a host of legal services and tools intended to be used as a lawyer's workbench.

The problems, delays and cost overruns identified by the provincial auditor are not the fault of the current Teranet administration. The problem is two-fold.

The initial time and money estimates made in 1980 and 1991 were optimistic. They failed to take into account the volume and complexity of work to be done. They also ignored the fact that the first 60 per cent of the 4.3 million land titles in Ontario were straightforward. Of the remainder - those yet to be converted to the electronic format - many are nightmare titles saddled with decades of sloppy conveyancing and inaccurate surveying. It's no surprise that the conversion rate will slow with the completion of the easy titles and the tackling of the bad ones.

A good many of the Ontario real property bar is happy that it will take another 10 years to finish the project. After all, the system has been working for 200 years, and "if it ain't broke, don't fix it."

For them, for the rest of us who are automated and look forward to the completion of the electronic regime, and for the public who will have to simultaneously cope with paper and electronic titles for another decade, Teranet will have to be allowed to finish the job it started. No one else can do it as well.

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**Bob Aaron is a leading Toronto real estate lawyer.**

Please send your inquiries and questions to [bob@aaron.ca](mailto:bob@aaron.ca) or call 416-364-9366.