

The Economics of Recording Fees

[Note: The author, Carl R. Ernst, is CEO of Ernst Publishing Co, LLC. Ernst compiles information about recording offices nationwide and provides accurate calculations of recording fees and transaction taxes for lenders, settlement agents and others. This series of articles is intended to help land recording officials make sense to their county commissioners of the ups and downs in the recording fees (and by implication, transaction taxes) their offices collect. This series of articles is being published in the newsletters of both NACRC and IACREOT in order to get a wide distribution in the community of land recording officials. Views and conclusions presented in these articles are solely those of Mr. Ernst. He welcomes discussion of the issues raised in these articles with NACRC, IACREOT and PRIA members.]

Introduction

It all seems so simple. People buy and sell property, get mortgages, add on home equity loans, and all the essential documents are recorded in one of the 3,600 land recording offices. The offices collect recording fees (and in some states, transaction taxes) and archive the documents securely for future reference by the public.

However, certain events have created an appearance of uncertainty to the once reliable estimates of local land recording office activity and revenues. Fact is that the volume of recorded documents, the number of pages per recorded document, the value of property sales and mortgage loans—and the resulting revenues from recording land documents—are all dependent on many factors, none of which is under the control of any land recording office.

There has always been a lot of discussion about factors that would tend to reduce the number of documents or pages (such as the MERS and UCC revised Article 9 initiatives in the early 1990's), yet the biggest determinants of recording and document page volumes are economic factors, such as interest rates, population flows, asset inflation and legal requirements. In this series of articles I will analyze the impact of some of these factors and events on the volume of documents and document pages recorded and on revenue streams from 2000 through 2006. The series include the following subjects:

1. “The Refi/Housing Booms”—In the years 2001 through 2003 the volume of land documents recorded accelerated to historic levels as interest rates declined to levels not seen since the late 1970's, housing starts boomed, housing prices rose rapidly, millions of existing mortgages were refinanced and home equity loans became a standard adjunct to first mortgage borrowing. Compared to the year 2000, the 2003 volume of documents recorded grew by an average of 65% nationwide. The resulting take in recording fees and transaction taxes from this one fact was huge. This article analyzes the impact on fee revenues of the rise and fall of recording activity in those years.
2. “The Fannie Mae Effect”— From 2000 to 2006, the total volume of pages recorded in most land recording offices accelerated by more than 50% per document. Added to the surge in documents recorded, analyzed in the first article, the total take in recording fees was huger than huge. It was enormous. This article analyzes how to separate the impact of the document recording increase from the increase in pages per document, and how the combination of both constituted a truly spectacular gift to those government agencies that share in recording fee revenues.
3. “Looking Forward”—By 2004 the new housing boom continued but the refinance boom was receding, and by 2006 recording volumes were back to “normal”. This article discusses what land recording offices can expect in the current economic environment, including the history and possible impact of master mortgages in those states where they are allowed.

Methodology

The data cited in these articles comes from recording offices that responded to my request over the PRIA listserv for recording information from 2000 through 2006. More than 20 recording offices of widely varying

size responded, from Los Angeles, CA to Uinta, WY. These responses were crucial to developing my understanding of the economics of recording fees, and I thank the reorders for their participation.

The Refi/Housing Booms

Document Recording Growth—Actual and Normalized

As noted in the Introduction to this series of articles, a number of economic factors created a bubble in recording activity in the years 2001 to 2003. Chart 1 indicates the volume of documents (deeds, mortgages, assignments and releases) recorded in land recording offices nationwide for the years 1994 through 2006. I compiled this data based on an extrapolation of reports my company has received from recording offices over the years. The increase/decrease from the prior year is computed starting with the 1995 year.

For the purposes of my analysis, I started by accepting 1997 as a “normal” year, since recording volumes were relatively flat from 1994-1997, with the volume of documents recorded nationwide in both 1994 and 1997 at 61,000,000 documents. To this volume I have added an annual compound 5% growth rate, based on average growth in the real estate economy. This growth rate yields an estimate of 95,000,000 documents recorded in 2006, which agrees with my estimate of documents actually recorded in that year. The “Expected Documents Recorded” column in the chart indicates what the annual document recordation volume would have been based on taking 1997 as the base, and adding the compounded 5% rate of growth each year.

From that estimate, I was able to compute “Extra Documents Recorded,” that is, the number of documents recorded in each of the years 1998 through 2005 above the anticipated average annual growth in recordations from an expanding economy. The total of these extra documents recorded is 133,000,000 for 1998-2005.

Chart 1

Year	Documents Recorded	Increase (Decrease)	Expected Documents Recorded	Extra Documents Recorded	Extra Recording Fees (\$)
1994	61,000,000				
1995	55,000,000	-10%			
1996	60,000,000	9%			
1997	61,000,000	2%			
1998	76,000,000	25%	64,000,000	12,000,000	405,000,000
1999	81,000,000	7%	67,000,000	14,000,000	135,000,000
2000	75,000,000	-7%	70,000,000	5,000,000	(162,000,000)
2001	87,000,000	16%	74,000,000	13,000,000	324,000,000
2002	102,000,000	17%	77,000,000	25,000,000	405,000,000
2003	124,000,000	22%	81,000,000	43,000,000	594,000,000
2004	97,000,000	-22%	85,000,000	12,000,000	(729,000,000)
2005	99,000,000	2%	90,000,000	9,000,000	54,000,000
2006	95,000,000	-4%	95,000,000	None	(108,000,000)
Totals				133,000,000	\$918,000,000

The Refi Boom of 1998-1999

Of these 133,000,000 documents, the previous refi boom in the years 1998-1999, when mortgage interest rates fell to less than 7% for the first time since the early 1970's¹, account for 26,000,000 extra documents as homeowners refinanced their high cost mortgages. A decrease in actual documents recorded followed in 2000, but refinance activity still accounted for extra documents recorded of 5,000,000, for a total of 31,000,000 during those three years prior to the second explosion, the refi boom that started in late 2001.

The Refi Boom of 2001-2003

In August of 2001 mortgage interest rates, which had climbed from 7% to as high as 8¼% in the period starting June 1999, decreased again to a rate below 7%, again kicking off another refi boom. The pent up demand for lower interest rates on mortgages had been building since even before 1998 because of the long run of 7-8% mortgage interest rates prior to 2001. When rates fell again below 7% and continued to decrease to below 6% by early 2003, the refi boom became a perfect storm: mortgage lenders became more aggressive in seeking out mortgage refinancing business nationally; refinance borrowers with mortgages from 2000-2001 wanted to refinance; borrowers from all of the 1990's who had missed the 1998-1999 windows and even those who had refinanced in 1998-1999 found the below-6% rates worth taking advantage of. At the same time, the markets for new mortgage-based securities, such as Collateralized Debt Obligations, which had been invented in the late 1980's, exploded, resulting in 16% and 17% growth rates in 2001 and 2002 in documents recorded.

The Housing Boom

At the same time, the low mortgage interest rates also set off a home-building and buying boom starting in the year 2002, which has continued until recently. This increase in housing turnover contributed to the third year of double digit increases in document recorded, at 22% in 2003.

All in all, between the pre-boom year of 2000 and the high point of the boom in 2003, the number of document recorded increased by 65%, from 75,000,000 to 125,000,000. The chart indicates that 81,000,000 extra documents were recorded over the long term growth rate, two and one half times the figure for the preceding three years.

Even with the slowdown after these two booms in the years 2004-2005, there were still another 21,000,000 documents recorded in extra of the average growth in documents recorded.

The Three Point Six Billion Dollar Gift

So, what does this all add up to in extra recording fees? I need to make a couple of assumptions in order to make a couple of reasonable nationwide estimates: Recording fees of \$15.00 for the first page and \$3.00 per additional page, and five (5) pages average per document recorded. If I'm not too far off in those estimates the total gift to counties from extra recording fees for the seven years from 2001 to 2006 was \$3,600,000,000.

But, the county commissioner might say: "When I add up all the year to year changes (the "Extra Recording Fees" in Chart 1), it only comes up to less than one billion dollars, not almost four billion." You might respond: "Sure, our recording fee revenues went down by \$729 million comparing 2003 to 2004, but the normalized recording volume for 2004 without taking into account the wild swings from short term economic factors was positive by 12,000,000 documents per Chart 1, which translates into a \$324 million positive impact. Besides all the extra fees go primarily to the purchase of snowplows."

As you will find out in the next article, even the \$3.6 billion estimate wildly underestimates the full impact of the boom on recording fee revenues.

¹ Mortgage interest rates obtained in refinance transactions remained in the high 6% range into late 1999.

Transaction Taxes

All recording offices collect recording fees, but all do not collect transaction taxes. Needless to say, in the states that tax conveyances the combination of housing turnover and housing price increases sent tax receipts soaring from 2001 to 2003. In the states that tax mortgages as well, the resulting increase in the number and size of mortgages and the increasing popularity of home equity loans piled on more tax receipts. Furthermore, some states, seeing an opportunity in rising housing values, enacted special extra taxes on the sale of pricey properties.

In those states that also tax mortgage refinance transactions, government agencies received gifts that were worth billions more. The refi booms and the housing boom were gifts that kept on giving.

You may be surprised at how much recording fees plus transaction taxes to purchase a home in the United States can vary from one state to another. Would you believe 1,500 to one? In one county that has no transaction taxes the total fees for a high-value purchase transaction is \$29.00, while the same transaction in another county in another state requires \$53,000. Honest.

You may draw the conclusion that there is an opportunity for 13 states to add a conveyance transaction tax and for 40 states to add a mortgage transaction tax as significant new sources of revenue for both those states and their counties. Consider also the gift that 37 states and their counties got from the housing boom of the last decade because they assess conveyance taxes. Not only have the building of new houses and sales of houses increased dramatically, but also the historic increase in the value of residential properties during the same decade. In my city, Scottsdale, AZ, residential values have probably increased by 150- 200% in a decade, that is, a house that sold from \$350,000 in 1997 is now a million dollar property. Maricopa County has obviously shared in these gains from the resulting increases in property taxes, but imagine if Maricopa County had a 1% conveyance tax on consideration and a 1% mortgage tax on mortgage loan amounts. In one week last year, 100 houses were sold in my Zip Code at an average of about \$800,000. In that one week, the take would have raised \$1,400,000 in transaction taxes.