

MEMORANDUM

TO: Bar Association, Title Companies, Real Estate Agents and Land Records Customers

FROM: Gary M. Clemens, Clerk of the Circuit Court

RE: Actual Value of Property for Deeds

DATE: March 17, 2008

Earlier this month, my land records manager, Kevin Blatchley, posted a notice to our land records customers related to the determination of actual value of property when a deed is presented for recordation and the consideration of the deed is lower than the assessed value of the property being conveyed. The Code of Virginia places a statutory requirement on the clerk to base the recordation taxes for a deed upon the greater of the consideration or the actual value (see VA. CODE § 58.1-801.)

An opinion of the Virginia Attorney General dated March 30, 1983 states that the clerk must base the recordation tax on the actual value when the consideration is clearly less than the value of the property. One of the tools available to the clerk to determine the actual value is the real estate assessment information available from the local assessor's office. However, the real estate assessment information is not the only tool that the clerk may use to determine actual value. The clerk may use other extrinsic evidence, such as a real estate appraisal completed and certified by an appraiser. Many of our customers are not aware that a certified appraisal can be presented to the clerk for purposes of determining actual value. The appraisal will be reviewed by my staff and returned immediately to our customers during the deed recording process. My staff will make a notation on the deed indicating that the appraisal was used for purposes of ascertaining the actual value.

I trust this information will be helpful to our land records customers. Please direct any specific questions related to the use of appraisals to my land records manager, Kevin Blatchley.