

# Researching Property Law on the Internet

“The lawyer in the twenty-first century who does not effectively use the Internet for legal research may fall short of the minimal standards of professional competence and be potentially liable for malpractice.”<sup>1</sup> So wrote Lawrence MacLachlan in a discussion of the importance of lawyers acquiring competence in researching the law on the Internet.

But to what extent has the Internet improved the availability of resources for doctrinal research, especially in areas where the law is quirky or varies greatly from one jurisdiction to another? Few areas of the law are as quirky or vary as much from state to state as real property law.

To assess the range of resources available on the Internet, searches were conducted for this column across many search engines, Internet portals, and websites on a number of topics in which Michigan law varies from general American law or is in fact unique, including dower rights, special warranty deeds, joint tenancies with “right of survivorship,” easements by estoppel, limits on the duration of reversionary interests, options and the Rule Against Perpetuities (both common law and under the Uniform Statutory Rule Against Perpetuities), the formal requirements for deeds, and several areas of landlord-tenant law, including notices to terminate and the treatment of periodic tenancies as tenancies at will.

Both general search engines and those specifically focused on law tend to generate the same search results, although sometimes more effectively sorted and concentrated. *FindLaw*, which is probably the most popular and effective legal indexing and searching site, is a business unit of the West Group and is in fact powered by *Google*, as is the *Internet Legal Resource Guide* ([www.ilrg.com](http://www.ilrg.com)), another selective commercial index to websites.

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For the most part, search engines and portals can yield results that are no better than the resources available. The Internet has dramatically improved the availability of primary sources, including state codes and court decisions. But the resources available specifically on Michigan property law are so far very limited.

Numerous commercial legal research gateways are available on the Internet, but seldom do they generate anything that differs significantly from a *FindLaw* or *Google* search, unless they also have bulletin boards or discussion listservs. *LawGuru* ([www.lawguru.com](http://www.lawguru.com)), for example, generates little regarding Michigan property law other than communications from participants in a list. *HierosGamos* ([www.hg.org](http://www.hg.org)) is linked to *LexisOne*, which itself has useful links to government pages and to resources for subscribers. For Michigan law, *HierosGamos* links to the Institute of Continuing Legal Education ([www.icle.org](http://www.icle.org)), which itself links back to *HierosGamos* and to *FindLaw* for property law research.

For the most part, very little is available that specifically explores issues of Michigan property law. In fact, the same resources tend to turn up in searches regardless of the portal or search engine used, and relatively few are of much value.

One that can be useful is *DIRT* ([dirt.umkc.edu](http://dirt.umkc.edu)), the legal discussion group supported by the American Bar Association Section on Real Property and edited by Patrick A. Randolph, Jr., at the University of Mis-

souri at Kansas City. The *DIRT* archives are indexed and sometimes contain discussions about the quirks in Michigan property law, such as the unusual interpretation of a joint tenancy “with rights of survivorship.”

Another useful resource that is often generated by searches on specifically Michigan law are the John C. (Jack) Murray Reference Articles available from First American Corporation ([www.firstam.com](http://www.firstam.com)). Murray’s article on special and limited warranty deeds is one of the very few accurate accounts to be found on the Internet concerning the illegality of special warranty deeds in Michigan.

Forms for real estate transactions are widely available on the Internet, but few are specific to a state and most are unreliable (they do carry extensive disclaimers). The most popular source for state-specific legal forms appears to be *U.S. Legal Forms, Inc.* ([www.uslegalforms.com](http://www.uslegalforms.com)). Links to this site are provided, for example, by *Rominger Legal* ([www.romingerlegal.com](http://www.romingerlegal.com)), by *LawLinks* ([www.lawlinks.com](http://www.lawlinks.com)), and by *Megalaw* ([www.megalaw.com](http://www.megalaw.com)). *U.S. Legal Forms* sells a large number of forms specifically designed for use in Michigan, most at a cost of around \$20.

For example, a warranty deed conveying separately or jointly owned property to joint tenants is available for Michigan from *U.S. Legal Forms*. Formally, the deed does comply with a number of requirements of Michigan law. It has a 2½-inch margin at the top of the first page, and contains a footnote warning that the marital status of any male

grantor must be written after his name. But even formally it has problems: the deed is in 12-point type despite the requirement of 10-point type in MCL 565.201(1)(f)(iii) and omits the name and address of the scrivener as required by MCL 201a. Even though the deed employs the statutory language (convey and warrant) of MCL 565.151, which makes specific warranties of title unnecessary, the deed goes on to provide for the three present covenants of title and a future covenant of general warranty. But the future covenant goes beyond the statute, which only requires that the grantor defend against "all lawful claims," by stating that the grantor will defend the title "against all claims whatever."

Even more curious is the fact that the granting clause conveys the property to the grantees "as Joint Tenants and not as Tenants in Common," which creates a traditional joint tenancy, but the lengthy habendum clause states: "Grantees, TO HAVE AND TO HOLD as joint tenants, with right of survivorship and not as tenants in common, their heirs, personal representatives, executors, and assigns forever . . .," which in Michigan creates not a traditional joint tenancy but a joint life estate with indestructible alternative contingent remainders. Since the rule is fairly well established that in the case of conflicts between the granting clause and the habendum clause, the former is controlling unless a contrary intent is evident, the deed probably would be construed as creating a traditional joint tenancy, which may or may not be what the grantor intended.

In short, the resources available for researching property law on the Internet are still extremely rudimentary and often unreliable and out of date. All of the issues searched for this column are thoroughly and authoritatively analyzed in John G. Cameron's *Michigan Real Property Law* (ICLE). The forms available in John G. Cameron's *Michigan Real Estate Forms* (LexisNexis), in Nyal D. Deems and James M. Tervo's *Michigan Real Estate Practice and Forms* (ICLE), and in *Michigan Legal Forms* (LexisNexis) greatly exceed in scope and quality most of the forms available on the Internet. Even the *Michigan Basic Practice Handbook* (ICLE), while necessarily of much more limited coverage because of its scope, contains accurate discussions of the

topics included. *Midwest Transaction Guide* (LexisNexis) contains much material on Michigan real estate law (as well as that of Illinois and Indiana), and, perhaps because of the multijurisdictional coverage, contains less specific information on some of the quirks in Michigan law (for example, in Section 358.42[2] on joint tenancy, there is no mention of the special Michigan type).

The Internet has transformed legal research in many areas, notably in providing access to primary resources and official websites. But it has yet to contribute much of substance to researching the law of property in Michigan. ♦



*Byron D. Cooper is Associate Dean and Law Library Director at the University of Detroit Mercy School of Law, where he also teaches property and other courses. He is a member of the Libraries, Legal Research & Publications Committee of the State Bar of Michigan.*

#### FOOTNOTE

1. Lawrence Duncan MacLachlan, "Gandy Dancers on the Web: How the Internet Has Raised the Bar on Lawyers' Professional Responsibility to Research and Know the Law," 13 *Geo. J. Legal Ethics* 607, 608 (2000).