OLD LAW, NEW TRICKS: HOW BLOCKCHAIN COULD INNOVATE THE REAL ESTATE INDUSTRY

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Tag: Alexa Hemphill

Last week members of Capes Sokol's Business and Real Estate Practice Group attended a CLE webinar co-sponsored by the American Bar Association Real Property, Trust and Estate Law Section and the American College of Real Estate Lawyers.

The webinar entitled, "Blockchain and Real Estate – An introduction in the language of Real Estate Lawyers," discussed the potential use of blockchain technology in real estate transactions.

During the presentation, Justin Earley from First American Title did a great job laying a foundation of knowledge regarding the complexities of blockchain technology. Mr. Earley's co-presenters were Alexandra Cole from Perkins Coie LLP and Michael Hamilton from DLA Piper LLP.

Historically, the real estate industry has been hesitant to adopt technology that would support the recording of real estate in an exclusively digital manner. However, after attending the webinar, I believe blockchain technology could present innovative opportunities in this area. Below are my takeaways from the presentation.

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Blockchain and Real Estate

An introduction in the language of Real Estate Lawyers

What is Blockchain?

To understand these opportunities, you must first understand the technology. Blockchain is a digital method of recording transactions. The technology creates a digital ledger within a distributed network that validates transactions through encryption, thereby eliminating the need for third-party intermediaries or processors.

The digital records stored in the blockchain are available to all users through the distributed network and require a consensus before any data can be altered. This creates a modernized recording system that is transparent and virtually immutable.

Blockchain's use of a type of encryption, sometimes referred to as "PKI", authenticates the transaction by using a pair of "keys." The first key is public, like a username, while the second key is private, like a password. The public key is available to the network and can be used to access account history. The private key, which is not publicly available, is linked only to a single person and is required to authorize a transaction.

What role could Blockchain play in Real Estate?

Blockchain technology is usually associated with cryptocurrency. However, blockchain technology could potentially revolutionize more traditional transactions, such as those involving real estate.

The digital ledger created by blockchain transactions could be the next generation chain of title in real estate. The blocks represent transactions that when stacked creates a historical record of a property's ownership that is equivalent to its chain of title. In utilizing this technology, the real estate industry would not only be digitizing property records, but it would also be improving its efficiency and transparency.

In addition, the reliability and security created by the decentralized system and encryption would decrease the risk of fraud and costs associated with title insurance.

What are the issues of using Blockchain in the Real Estate Industry?

Unfortunately, in order for the technology to be utilized effectively in the real estate industry, the historical property records from all municipalities would have to be transitioned onto a blockchain. This task would be difficult, time-consuming, and costly, requiring significant public and private funding to succeed.

Another concern in adopting blockchain is that the system's security may be relatively short termed. Blockchain is virtually immutable as a result of the distributed network which requires the consensus among users to alter any block. Someone who wanted to fraudulently change the blockchain would

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need a device capable of overriding all of the devices in the network. At present there is not a computer in existence that can timely perform this task to make this a viable threat. However, theoretically, such computing power could eventually be developed.

Only time will tell if blockchain technology can become an acceptable method of recording real estate transactions, but the fast-paced changes in technology may prove to be too much for an industry as old as dirt.

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