ADMINISTRATIVE OFFICE OF THE COURTS

MARYLAND JUDICIAL CENTER
580 TAYLOR AVENUE
ANNAPOLIS, MARYLAND 21401

Pamela Harris
State Court Administrator
410-260-1295

December 27, 2016

Honorable Edward J. Kasemeyer, Chair
Senate Budget & Taxation Committee
3 West, Miller Senate Building
Annapolis, Maryland 21401

Honorable Robert A. Zirkin, Chair
Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

Honorable Maggie McIntosh, Chair
House Appropriations Committee
Lowe House Office Building, Room 121
Annapolis, Maryland 21401

Honorable Joseph F. Vallario, Jr., Chair
House Judiciary Committee
Lowe House Office Bldg., Room 121 Annapolis,
Annapolis, Maryland 21401

Re: Circuit Court Real Property Records Improvement Fund

Dear Chairpersons:

In accordance with Chapter 556, Acts of 1995, as amended by Chapter 10, Acts of 1996, and Section 2-1246 of the State Government Article, this annual report covering Fiscal Year 2016 is submitted respectfully to account for the condition of the Circuit Court Real Property Records Improvement Fund (the Fund).

Twenty-five years ago, the General Assembly enacted legislation creating the Fund in response to the deteriorating conditions and the state of operations in the land record departments of the Clerk of the Circuit Court offices throughout the State. Through the assessment of a $5.00 surcharge, the legislation established a non-lapsing fund. The Fund, when created in 1991, had an original sunset provision that was lifted in 1995 and was thereafter extended on three occasions. In 2003, the surcharge was increased from $5.00 to $20.00. In 2005, the General Assembly mandated that all General Fund expenditures related to land records operations, support and salaries of over 256 employees would no longer be supported by the General Fund, but rather, would be appropriated from the Fund. Thereafter, in November 2007, during the Special Session, the General Assembly passed the Budget Reconciliation and Financing Act (HB 1/SB 1, Ch. 2). This Act repealed the sunset provision, made the $20.00 surcharge permanent, and expanded the scope of the Fund to include all the Judiciary's major information technology development projects for Fiscal Years 2009 and 2010.

In the 2010 Budget Reconciliation and Financing Act, the General Assembly removed the sunset provision for the support of the Judiciary's major information technology projects and made permanent that expenditures for all major information technology projects of the Maryland

Judiciary would be paid through the Fund. In addition, all interest on the Fund's balance was diverted to the General Fund.

In 2011, through the Budget Reconciliation and Financing Act, the General Assembly increased the Fund surcharge to $40 effective July 1, 2011, in an attempt to address a structural deficit and to sustain the Fund through Fiscal Year 2015 in anticipation of a real estate market recovery. In 2015, the General Assembly extended the sunset provision through 2020.

A Fund Oversight Committee was created in 1995 to serve as an advisory body to the State Court Administrator. The five member committee consists of representatives from the Maryland Land Title Association, the Maryland State Bar Association, the Maryland State Archives, the Conference of Circuit Court Clerks and the Administrative Office of the Courts. Last year, the Fund Oversight Committee and the State Court Administrator agreed to move forward with the e-Recording initiative for the recordation of the land records by linking local and state agencies and providing a secure web portal to move documents through county Finance Offices, Clerk's offices, the Maryland State Archives, and to assist the State Department of Assessments and Taxation with updates. The overall purpose of this endeavor is to reduce processing times; increase productivity in Clerks' Offices, title companies and financial institutions; ensure security; and improve tracking and data accuracy in safekeeping official public information in accordance with local, state and federal laws. This system provides the ability to eliminate some level of paper from the land record recording process and automate time-consuming processes. In compliance with MD Rule 16-307, Judiciary Information Systems (JIS) conducted research on e-Recording products and services, worked with land record department staff, the Clerk of the Baltimore County Circuit Court, title industry representatives and Baltimore County finance offices to determine the initial requirements for a pilot e-Recording initiative. The Baltimore County pilot, which began in May 2015, was evaluated, deemed to have been successfully implemented, and moved from the pilot phase to full implementation in January 2016. Electronic recording was then implemented in Howard County in August 2016. Plans are proceeding for implementation in three additional counties (Anne Arundel, Harford, and Washington) to commence by March 2017. Discussions are currently taking place with three additional counties for continued implementation beginning in July 2017.

The 2015 Joint Chairmen's Report directed the Judiciary and the Archives to report on the Archives' expenditures of money granted to them from the Fund, and the agreement between the Archives and the Judiciary. The submission of the report, coupled with a comprehensive review of all Judiciary grants and memorandums of understanding resulted in a collaborative effort between the Judiciary, the Archives, and Legislative leadership to identify a reasonable timeline over which funding for maintenance of mdlandrec.net, the land records public retrieval system administered by the Archives, could be adjusted. As a result, funding through the MOU between the Archives and the Judiciary is $5 million for Fiscal Years 2016 and 2017; $2 million

for Fiscal Year 2018; $1 million in Fiscal Year 2019; and to $500,000 beginning in Fiscal Year 2020.

During the 2015 session, the General Assembly also enacted legislation authorizing the State Court Administrator to assess a surcharge on cases filed in the appellate courts and civil cases filed in the circuit courts. The legislation also authorized the Chief Judge of the District Court to assess a surcharge on civil cases filed in that court. The surcharges must be deposited into the Fund and be used to cover costs related to e-filing hosting services for the statewide case management system, including system modifications to enhance electronic filing capabilities, and other expenses specific to the jurisdictional rollout of the electronic filing capabilities statewide. During Fiscal Year 2016, the surcharges generated approximately $5.4 million for the aforementioned purpose. It is projected that the surcharges will approximate a comparable amount of revenue in each of the five succeeding years.

Current Fund Conditions

The Circuit Court Real Property Records Improvement Fund Collections, Chart 1 below, indicates that collections from Fiscal Year 2005 through Fiscal Year 2016 fluctuated greatly from only $15,820,528 in Fiscal Year 2011 to $38,370,016 in Fiscal Year 2013. This fluctuation is apparent as can be seen from the Chart 2 below, due to the variability in the real estate market. Fund collections for Fiscal Year 2016 were $35.7 million, which represented a significant increase of approximately $6.8 million over Fiscal Year 2015. However, it is important to note that $5.4 million is attributable to the new surcharge that was mentioned above and went into effect in Fiscal Year 2016.

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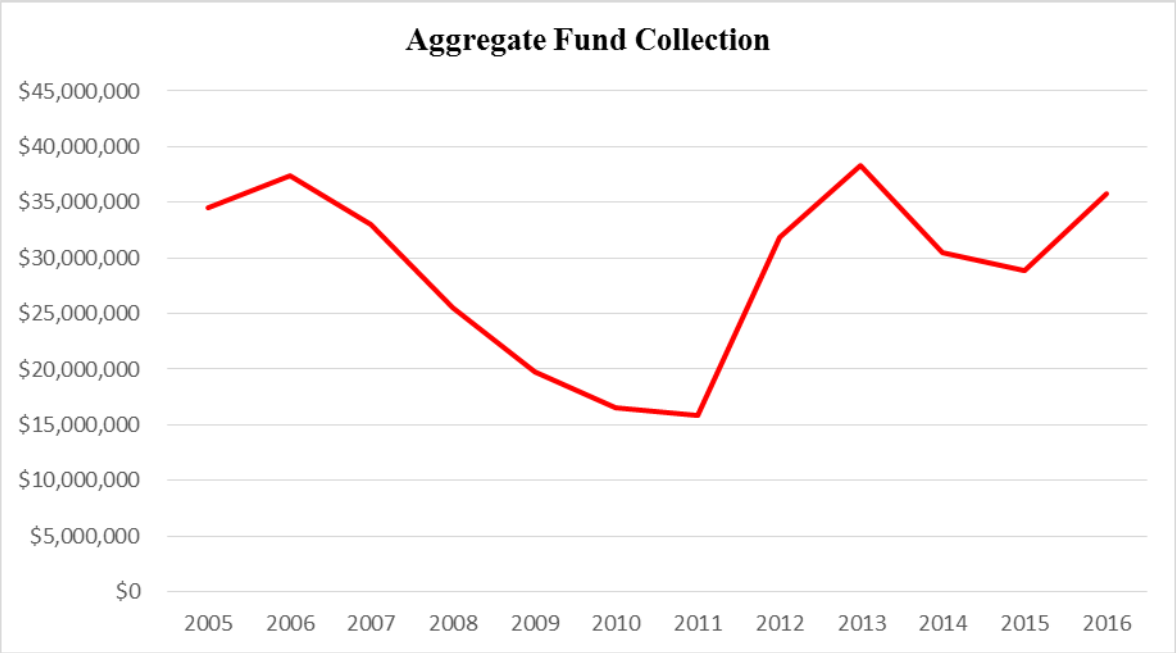
Chart 1

Circuit Court Real Property Records Improvement Fund Collections					
Fiscal Year	**Surcharge**	**Copy Fees**	**Interest**	**e-File Fee**	**Total**
FY2005	31,007,605	2,469,471	1,046,727	-	**$34,523,803**
FY2006	32,291,633	1,961,261	3,088,274	-	**$37,341,169**
FY2007	28,049,949	1,132,130	3,804,311	-	**$32,986,390**
FY2008	20,944,174	796,303	3,747,098	-	**$25,487,575**
FY2009	16,430,433	703,286	2,624,747	-	**$19,758,467**
FY2010*	16,033,336	488,862	-	-	**$16,522,199**
FY2011	15,350,066	470,461	-	-	**$15,820,528**
FY2012**	31,392,458	443,025	-	-	**$31,835,483**
FY2013	37,979,669	390,347	-	-	**$38,370,016**
FY2014	30,112,239	385,353	-	-	**$30,497,592**
FY2015	28,467,020	438,502	-	-	**$28,905,521**
FY2016***	29,846,531	492,241	-	5,428,196	**$35,766,968**

* Per 2010 BRFA, interest was reverted to the General Fund
** Land Record Surcharge was increased from $20 to $40
*** Appellate, Circuit and District Court case filing surcharge collection began

Chart 2



Due to the lack of reliable trend data to establish a predictable direction, the Judiciary has maintained a conservative position with respect to our projected revenue estimates by using a three year average of collections from Fiscal Years 2014 through 2016 to forecast future revenues through Fiscal Year 2021. As delineated in Circuit Court Real Property Records Improvement Fund Projection, Chart 3 below, revenues are anticipated to approximate $35.3 million per year from Fiscal Year 2017 to Fiscal Year 2021. Projected expenditures over the next five years include reinforcing the Judiciary's cyber security, which includes bringing critical elements of the security infrastructure in line with accepted standards of operations; enhancing information technology service management; integrating all attorney oversight functions in Maryland under one system, thus providing a central portal for attorney interaction with the Judiciary; implementing CaseSearch Version 2 to better accommodate rule and legislative mandates; and developing an infrastructure for mobile computing technologies for court users.

As noted below, there seemingly is a brief respite in the structural deficit during Fiscal Year 2020; however, the deficit reappears in Fiscal Year 2021 and is even more pronounced if the sunset is not lifted.

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CHART 3
Circuit Court Real Property Records Improvement Fund Projection

	FY 2016 Actual	FY 2017 Estimated	FY 2018 Estimated	FY 2019 Estimated	FY 2020 Estimated	FY 2021 Estimated*	FY 2021 Estimated**
Revenues:							
Surcharge/ Copy Fees	30,338,772	29,914,000	29,914,000	29,914,000	29,914,000	29,914,000	14,957,000
e-Filing Service Fees	5,428,196	5,430,000	5,430,000	5,430,000	5,430,000	5,430,000	5,430,000
Total	35,766,968	35,344,000	35,344,000	35,344,000	35,344,000	35,344,000	20,387,000
Operations:							
ELROI Operations/ Maintenance***	1,896,359	3,401,238	3,612,500	3,600,000	3,600,000	3,600,000	3,600,000
e-Filing Operations/ Maintenance	-	1,080,000	3,087,734	4,194,737	5,675,678	6,453,422	6,453,422
Archives - mdlandrec	5,000,000	5,000,000	2,000,000	1,000,000	500,000	500,000	500,000
Circuit Court Offices***	14,743,281	15,500,000	15,500,000	15,500,000	15,500,000	15,500,000	15,500,000
Major IT Projects***	12,734,388	10,806,065	19,433,053	11,270,970	10,043,097	11,356,907	11,356,907
Total	34,374,028	35,787,303	43,633,287	35,565,707	35,318,775	37,410,329	37,410,329
Projected Structural Surplus/(Shortfall)	**1,392,940**	**(443,303)**	**(8,289,287)**	**(221,707)**	**25,225**	**(2,066,329)**	**(17,023,329)**
Less prior year encumbrances Spent	5,311,475						
Less open prior year encumbrances		4,208,108					
Total Fund Balance (Accrual Basis)	**36,712,343**	**32,060,931**	**23,771,644**	**23,549,937**	**23,575,162**	**21,508,833**	**6,551,833**

* Assumes surcharge does not sunset as scheduled.

** Assumes surcharge sunsets and fee is reduced from $40 to $20.

***Includes FY2016 encumbrances.

If the committees require further information, please direct all inquiries and questions to my attention at 410-260-1295. In anticipation of your cooperation, I thank you.

Sincerely yours,

Pamela Harris

Pamela Harris
State Court Administrator

cc: Honorable Mary Ellen Barbera, Chief Judge
Honorable Kathleen G. Cox, Chair, Conference of Circuit Judges
Honorable John P. Morrissey, Chief Judge District Court of Maryland
Honorable James DeGrange, Sr., Chair, Public Safety, Transportation and Environment Subcommittee
Honorable Keith E. Haynes, Chair, Public Safety and Administration Subcommittee
Timothy Sheridan, Chair, Conference of Circuit Court Administrators
Susan Branieki, Chair, Conference of Circuit Court Clerks
Faye D. Matthews, Deputy State Court Administrator
Timothy D. Baker, Maryland State Archivist
Land Records Oversight Committee
Kelley O'Connor, Assistant Administrator, Government Relations
Allen C. Clark III, Director, Budget and Finance
Mark Bittner, Assistant Administrator, Judicial Information Systems
Ben Wilhelm, Office of Budget Analysis
Matthew Bennett, Office of Policy Analysis
Matthew Jackson, Office of Policy Analysis
April Morton, Office of Policy Analysis
Elizabeth Bayly, Office of Policy Analysis
Douglas Nestor, Office of Policy Analysis