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Platting Basics From A to Z

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PLATTING BASICS

1. Platting: An Introduction

In many regards subdivision platting is the most important governmental process regarding land development, yet many times the most misunderstood in terms of purpose and application. Platting is generally triggered by development and is intended to assure that infrastructure and utilities are provided in accordance with plans for growth.

This article reviews the platting process, the purpose of platting, and the different types of plats set forth in the Texas Local Government Code (“LGC”).

2. Why Is Platting Required

The subdivision enabling legislation for Texas municipalities is set forth in Chapter 212 of the Texas Local Government Code. That chapter states that a municipality may enact subdivision regulations “to promote the health, safety, morals or general welfare of the municipality and the safe, orderly and healthful development of the municipality.” (LGC Section 212.002) Typically, the platting and subdivision requirements are imposed to assure that development has adequate infrastructure. The standards for plat approval mandate approval if the plat conforms to the general plan of the city and its current and future streets, alleys, parks, playgrounds and public utility facilities and to the general plan for extension of such facilities. (LGC Section 212.010)

In the case Lacy v. Hoff, 633 S.W.2d 605 (Tex.Civ.App.-Houston [14th Dist.] 1982, writ ref. n.r.e.), the court set forth the following purposes for platting:

1. To regulate subdivision development and implement planning policies;
2. To implement plans for orderly growth and development within the city’s boundaries and extraterritorial jurisdiction;
3. To ensure adequate provision for streets, alleys, parks and other facilities indispensable to the community;
4. To protect future purchasers from inadequate police and fire protection;
5. To insure sanitary conditions and other governmental services;
6. To require compliance with certain standards as a condition precedent to plat approval; and,
7. To provide a land registration system.

3. When Is A Plat Required

The Local Government Code sets forth the following language for establishing when a plat is required:

“The owner of a tract of land located within the limits or in the extraterritorial jurisdiction of a municipality who divides the tract into two or more parts to lay out a subdivision of the tract, including an addition to the municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared. A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this subsection does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated. (LGC Section 212.004)

The courts have liberally construed this language. In City of Weslaco v. Carpenter, 694 S.W.2d 601 (Tex. Civ. App.-Corpus Christi 1985, writ ref n.r.e.), the court upheld a city’s authority to impose subdivision regulations on a mobile home rental park located in the City’s extraterritorial jurisdiction. In finding for the City, the Court stated that “(w)e decline to hold that the legislature intended a ‘subdivision’ to be specifically a partition of property into separate lots accompanied by a permanent transfer of ownership to the occupant of each separate lot. Rather a ‘subdivision’ of property may refer simply to the act of partition itself, regardless of whether an actual transfer of ownership - or even an intended transfer of ownership - occurs.” Id. at 603.

Cities often require platting as a prerequisite to the issuance of a building permit. The Court in City of Corpus Christi v. Unitarian Church of Corpus Christi, 436 S.W.2d 923 (Tex. Civ. App.-Corpus Christi 1969, writ ref. n.r.e.), upheld the city’s authority to require the filing of a plat as a prerequisite to the issuance of a building permit. However, the court further stated that the imposition of exactions and right-of-way dedications that were not related to the development were unenforceable if the purpose of the plat was solely to obtain a building permit.

4. Process

The municipal authority charged with the duty to approve plats is the municipal planning commission or, if the city has no planning commission, the governing body of the city. The city by ordinance may require approval of plats by the governing body as well as by the planning commission. (LGC Section 212.006)

Section 212.0065 of the Local Government Code provides that the governing body of a city may delegate to one or more officers or employees of the city, or a utility owned by the city, the ability to approve:

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