

2000 MTA LAND DIVISION SEMINAR

I. Introduction

- A. Welcome
- B. Questions are okay
- C. Handout materials—I won't follow them—save for later
- D. August 1999 MTA magazine article (attached)

II. Overview of the Plat Act Amendments

- A. Effective – March 31, 1997
- B. Subdivision Control Act = Plat Act = Land Division Act
- C. 95% of the Plat Act is unchanged

Components:

- 1. When must plat (changed)
- 2. Platting procedures (unchanged)
- D. Keep in mind – the Act is procedural only!!!
 - 1. It dictates when a split must be done as a plat or site condo
 - 2. Theory – larger developments should go through a formal, comprehensive review process to review:
 - roads
 - sewer
 - water
 - drainage
 - utilities
 - 3. The Act Governs: [metes & bounds splits]
versus
[platting or site condos]
 - 4. *Local zoning regulations still apply!

- E. Likelihood of Legislative Amendments
- Maybe
 - Cameron proposal
 - Developers want to redo platting procedures
- F. Municipal Authority (Sec. 109) – Land Division Ordinances
1. Express authority
 2. *Must a township do an ordinance? No, but ...
 3. Assessor or other designated local official
 4. Must meet local zoning, local subdivision ordinance, etc.
- G. Local Ordinance Provisions:
1. Cite both the Act & MCLA 41.181
 2. Parallel zoning ordinance provision
 3. Assessor vs. Zoning Administrator vs. Planning Commission vs. Township Board
 - judgment call
 4. Define “width” and “area” and “divide”
 - include frontage, private roads, etc.
 - (delineate—must it be in the land division ordinance or is it enough to leave it to the zoning ordinance?)
 5. Apply to all resulting parcels
 - look to overall picture!
 6. Cover access easements
 7. Cover division of platted lots and site condos
 8. Application requirements
 9. Surveys? (“adequate and accurate legal description ... tentative parcel map”)

10. Decisions:
 - (a) By whom?
 - (b) 45 days
 - (c) Written
 - (d) Conditions

11. Appeal process
 - Zoning Board of Appeals
 - Planning Commission
 - Township Board

12. Permit expiration dates
 - (a) Time – 90, 120, 180 days
 - (b) Zoning changes

13. Tax I.D. number assignments
 - See Department of Treasury letter
 - Probably cannot hold up the tax i.d. number

14. Statement that it does not confer “use approval”

15. Standards – state that it must comply with:
 - (a) Zoning ordinance
 - (b) Other ordinances
 - (c) Private road regs
 - (d) 4:1 (lot width-to-depth)

16. Fees
 - Reasonable
 - Escrow

17. All taxes paid (?)

18. Non-buildable parcels
 - (a) Deed restrictions
 - (b) No variances

IV. Recommendations for Townships

- A. Enact local land division regs by ordinance and review all parcel splits
- B. Review and update zoning
 - especially re site condos!
- C. Review and update subdivision/plat regs
- D. Private road regulations
- E. Review all divisions carefully! (example: remnant parcel compliance)
- F. Put the burden on the landowner!
- G. Be conservative! Don't stick your neck out (example: number of splits)
- H. Don't be intimidated
- I. Don't rush!
- J. Don't feel bad – can always plat or do a site condo!
- K. Disclosures:
 - 1. Forms: Where?
 Application
 Permit
 Separate signed sheet
 - 2. Disclosures:
 - (a) No use approval
 - (b) Still must comply with all ordinances
 - (c) No septic permit or well permit produced
 - (d) Expiration date
 - (e) No guaranty of buildability

V. Practical Enforcement Matters

- A. Form letters
 - violation
 - you haven't applied
- B. Internal checklists

- C. React quickly!
 - 1. Send out violation letters – to all relevant parties, seller, buyer and any known attorneys
 - 2. Do follow up – if there is no compliance, prosecute or take legal action
- D. What to do if you must issue a tax I.D. number but there is no land division approval:

Problem—illusion of legality

- 1. Put an express warning in the letter issuing the tax I.D.
 - 2. Record an affidavit with the Register of Deeds records
 - 3. Let all other appropriate government officials know that there is a problem – county tax officials, building inspector, etc.
 - 4. See August, 1999 MTA article.
- E. Compare recorded deeds to the approval/permit
 - follow-up
- F. Municipal enforcement options:
 - 1. Prosecute/civil infractions
 - 2. Civil lawsuits
 - 3. No building permits, zoning permits, etc.
 - 4. No permanent parcel number, or alternately, a zero dollar tax assessment (?)
 - 5. Record an affidavit saying its illegal
- G. Work out procedures with the county ahead of time
- H. Keep good records—you'll need them in the future!

VI. “Land Division” versus “Use Approval” – See article

- A. Good news – developers generally haven't challenged procedures

VII. The Splits!

A. Key provision – Section 108.

1. First generation (*i.e* first 10 years) – Section 108(1)-(4).
2. Second and third generations (*i.e* second and third decades) – Section 108(5), (6).
 - We won't deal with these—10 years out!

B. Base line – parent parcels or tracts

1. These determine how many splits you have. Start here!
2. “Parent parcel” or “parent tract” – a parcel or tract, respectively, lawfully in existence as of March 31, 1997.
3. “Tract” means two or more parcels that share a common properly line and are under the same ownership.
4. Like a photograph as of March 31, 1997.

C. “Lawfully in Existence”

1. March 31, 1997
2. Examples of illegal parcels.
 - Used up too many splits before 1997
 - Did not meet zoning ordinance requirements before 1997
 - Violated township land division ordinances in effect before 1997
3. What about unrecorded deeds or land contracts?

D. What about bordering properties under similar ownership—when are they combined into a tract?

- Spouses – ?
- Close relatives – ?
- Same person – yes
- Related trusts or entities – ?

- E. Combining parcels into a tract—this cuts down on available splits.
1. Where one or more parent parcels adjoin each other and are in common ownership, they are deemed automatically combined for purposes of the number of splits.
 2. This “merger” or “assemblage” rule applies as of March 31, 1997, as well as any time thereafter.
 3. A parent tract or the concept of merger only relates to the total number of land divisions allowed – it does not state that individual parcels no longer remain separate for purposes of zoning, tax i.d. numbers, etc.
 4. Property owner should be careful! By obtaining an adjoining property, in the same name, a property owner could be limiting their number of splits.

F. Examples. _____

G. Miscellaneous.

1. Parcels across roads.
2. _____

