



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 474 (as enacted)
Sponsor: Senator Margaret E. O'Brien
Senate Committee: Local Government

PUBLIC ACT 117 of 2017

Date Completed: 9-20-17

RATIONALE

The Land Division Act governs the layout, division, and use of land. The Act includes provisions regarding the process of forming a preliminary plat, receiving approval for a final plat, and replatting recorded subdivision plats. Public Act 91 of 1839 was the original Plat Act, which was superseded by Public Act 172 of 1929. The Subdivision Control Act, Public Act 288 of 1967, repealed and replaced the Plat Act of 1929. The title of the Subdivision Control Act was changed by a 1996 amendment to its current name, the Land Division Act. Before Public Act 91 of 1839 was enacted, Michigan Territorial Laws regulated the process of platting land.

These laws are relevant to a situation in Kalamazoo County involving the county courthouse. Kalamazoo County wishes to transfer the courthouse to a developer and build a new courthouse that suits the needs of the community better. Apparently, before the transaction could be finalized, it was determined that the courthouse is positioned on land that was platted on three separate occasions: twice under the Territorial Laws (in 1831 and 1834), and once under Public Act 91 of 1839 (in 1844). Evidently, the three plats are materially different, and Public Act 91 of 1839 did not specifically state that it was the controlling law for land platted under it. To address this situation, it was suggested that a provision be included under the Land Division Act to specify that a plat under Public Act 91 of 1839 controls over an earlier plat.

CONTENT

The bill amended the Land Division Act to specify that a plat recorded under former Public Act 91 of 1839 supersedes an earlier plat to the extent of any conflict or inconsistency regarding the dedication of a parcel restricting or limiting its use for a court house in the earlier plat.

The bill took effect on July 27, 2017.

MCL 560.292

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Kalamazoo County plans to consolidate facilities and build a courthouse that is more accessible, safe, and spacious than the current courthouse. However, concern over which of the three plats controlled prevented the county from conveying the courthouse property. In addition, the three different plats have substantive differences, and the 1834 plat specifies that the land is for courthouse purposes. The 1844 plat is the most logical plat to control because the county recognizes it as the base plat, and Public Act 91 of 1839 stated, "Be it enacted by the Senate and House of Representatives of the State of Michigan, that whenever any lands shall be

hereafter laid out within the State...". This language suggested that plats laid out under the Act should control over those laid out under earlier laws.

Although the Land Division Act allows a replat of a recorded subdivision, the undertaking requires court action to vacate the original plat, subject to certain exceptions. Creating a provision in the Act under which the 1844 plat controls is more expedient and less expensive than taking a court action involving all the owners of lots which would be a part of the replat, while accomplishing the desired result. Without the provision, the County would have had few options besides engaging in costly and time-consuming legal action.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.