

THE IMPACT OF HB 3697 PASSAGE ON PLAT APPROVAL

How to Move Forward

AN OVERVIEW....

Plats

- Collaborative documents that (1) establish agreements between developers and public agencies, and (2) allow for the design of infrastructure that protects the welfare, health, and safety of the public.
- Plats must be submitted when a landowner divides property into lots and supporting facilities.

Developer / Public Agency Challenges

- What will be constructed
- Who will pay
- How soon can we agree

“They (the Texas Legislature) have taken away our authority to regulate subdivisions”

NOT EXACTLY....

THE GOOD....

A SUMMARY OF WHAT HAS CHANGED

SECTION 2. Subchapter A, Chapter 232, Local Government Code, is amended by adding Sections 232.0012 and 232.0022 to read as follows:

Sec. 232.0012. CONSTRUCTION OF SUBCHAPTER. This subchapter may not be construed to restrict a county from establishing a submittal calendar to be used by an applicant to facilitate compliance with the approval process described by Sections 232.0025, 232.0026, 232.0027, and 232.0028.

Sec. 232.0022. DELEGATION OF APPROVAL RESPONSIBILITY. (a) The commissioners court of a county or the court's designee may designate to one or more officers or employees of the county the authority to approve, approve with conditions, or disapprove a plat.

(b) An applicant has the right to appeal to the commissioners court or the court's designee if the designated person or persons disapprove a plat.

SECTION 3. The heading to Section 232.0025, Local Government Code, is amended to read as follows:

Sec. 232.0025. APPROVAL PROCEDURE: TIMELY APPROVAL OF PLATS ~~[AND PLANS]~~.

SECTION 4. Section 232.0025, Local Government Code, is amended by amending Subsections (a), (b), (c), (d), (f), (g), (h), and (i) and adding Subsection (f-1) to read as follows:

(a) The commissioners court of a county or a person designated by the commissioners court shall issue a written list of ~~all [the]~~ documentation and other information that must be submitted with a plat application. The documentation or other

This change:

- *Allows Commissioner Court Authority to be delegated to staff.*

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(a) The commissioners court of a county or a person designated by the commissioners court shall issue a written list of all [the] documentation and other information that must be submitted with a plat application. The documentation or other information must relate to a requirement authorized under this section or other applicable law. An application submitted to the commissioners court or the person designated by the commissioners court that contains all [the] documents and other information on the written list is considered complete. The commissioners court shall post and continuously maintain the most current version of the list on the county's Internet website.

(b) If a person submits a plat application to the commissioners court that does not include all of the documentation or other information required by Subsection (a), the commissioners court or the county authority responsible for approving plats [court's designee] shall, not later than the 10th business day after the date the commissioners court receives the application, notify the applicant of the missing documents or other information. The commissioners court shall allow an applicant to timely submit the missing documents or other information.

(c) An application is considered complete when all

This change:

- **REQUIRES** Commissioner Court Authority to post the list of requirements for all documentation and other information that must be submitted with a plat application on the County website.

THE BAD....

A SUMMARY OF WHAT HAS CHANGED

AN ACT

relating to county regulation of subdivisions and approval of subdivision plans or plats.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 232.001, Local Government Code, is amended by amending Subsection (a) and adding Subsections (g) and (h) to read as follows:

(a) The owner of a tract of land located outside the limits of a municipality must have a plat of the subdivision prepared if the owner divides the tract into two or more parts to lay out:

- (1) a subdivision of the tract, including an addition;
- (2) lots; or

~~(3) streets, alleys, squares, parks, or other parts of the tract intended by the owner of the tract 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].~~

(g) A plat is considered filed on the date the applicant submits the plat, along with a completed plat application and the application fees and other requirements prescribed by or under this subchapter, to:

- (1) the commissioners court; or
- (2) the county authority responsible for approving plats.

(h) The commissioners court or the county authority responsible for approving plats may not require an analysis, study, document, agreement, or similar requirement to be included in or as part of an application for a plat, development permit, or subdivision of land that is not explicitly required by state law.

This change:

- *Eliminated accountability of IRRESPONSIBLE DEVELOPERS to their buyers.*
- *Empowers IRRESPONSIBLE DEVELOPERS to maximize their profits.*
- *Creates long term problems that will drain County & Municipality budgets in the future.*

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This change eliminates the ability to require prerequisites for filing a plat unless specifically forbidden by State law.

THE UGLY....

A SUMMARY OF WHAT HAS CHANGED

(1) the commissioners court shall refund the greater of the unexpended portion of any application fee or deposit or 50 percent of an application fee or deposit that has been paid;

(2) the application is granted by operation of law;

[and]

(3) the applicant may apply to a district court in the county where the tract of land is located for a writ of mandamus to compel the commissioners court to issue documents recognizing the plat application's approval;

(4) the applicant shall recover reasonable attorney's fees and court costs incurred in bringing an action under Subdivision (3) if the applicant prevails; and

(5) the county may recover reasonable attorney's fees and court costs incurred in an action brought under Subdivision (3) if the county prevails and the court finds the action is frivolous.

SECTION 5. Section 232.0026(a), Local Government Code, is amended to read as follows:

(a) A commissioners court or county authority responsible for approving plats [designee] that conditionally approves or disapproves of a plat application under this subchapter shall provide the applicant a written statement of the conditions for the conditional approval or the reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval.

SECTION 6. Sections 232.0027 and 232.0028, Local Government Code, are amended to read as follows:

This change allows the winner in a lawsuit related to the submittal of plats to recoup their legal expenses.

Why are these changes
happening?

What are our options?

Keep Doing the Same Thing

- React to pending bills that would be “bad” for Counties and good for Developers. By that time in the legislative process, it is almost too late. If the bill dies, then great; but it is likely that a very similar version will be back again for the next session (SB 2037).

Try A Completely Different Approach

- Establish trust by following the law.
- Respond proactively and collaborate with those who are drafting legislation to create meaningful change

Texas Land Development Association

Lunch meeting on August 31, 2023