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ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

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FILE NO. S-1143

**COUNTIES:**  
**Power of County Board**  
**To Regulate Plats**

Honorable Richard R. Wilder,  
State's Attorney  
County of Grundy  
Courthouse  
Morris, Illinois 60450

Dear Mr. Wilder:

This responds to your letter wherein you ask several questions regarding the power of the Grundy County Board to regulate plats. You first ask whether the board can adopt an ordinance which requires a land owner to submit a plat of a proposed subdivision of his land for county approval even in those situations in which "AN ACT to revise the law in relation to plats" (Ill. Rev. Stat. 1975, ch. 109, pars. 1 et seq.) does not require that a plat be made. In my opinion the answer to

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this question is that the county board may not adopt such an ordinance.

Section 25.09 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1975, ch. 34, par. 414) states that the county board has the power:

"To prescribe by resolution, reasonable rules and regulations governing the location, width and course of streets, highways and storm or flood-water runoff channels and basins, and the provision of necessary public grounds for schools, parks or playgrounds, in any map, plat, or subdivision of any block, lot or sub-lot or any part thereof or any piece or parcel of land, not being within any city, village or incorporated town, which rules and regulations may include such reasonable requirements with respect to water supply and sewage collection and treatment as may be established by the Environmental Protection Agency, and such reasonable requirements with respect to street drainage and surfacing as may be established by the Superintendent of Highways of the county and which by resolution shall be deemed to be the minimum requirements in the interest of the health, safety and convenience of the public of the county; and to provide by resolution that the map, plat or subdivision shall be submitted to the county board or to some officer to be designated by the county board for their or his approval. \* \* \*

Section 25.09 gives to county boards the power to make rules regulating certain aspects of plats and requiring county approval of those plats. It does not, however, give the board the power to determine when a plat is required. That

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matter is provided for by section 1 of the Plat Act.

Section 7 of article VII of the Illinois Constitution of 1970 provides that a non-home rule county has only those powers provided it by law. Since neither section 25.09 nor any other provision of "AN ACT to revise the law in relation to counties" confers upon county boards the power to determine when a subdivision plat is required, it is my opinion that the answer to your first question must be No. My predecessor reached the same conclusion for somewhat different reasons in his opinion No. F-927. 1963 Ill. Att'y. Gen. Op. 129.

You next ask whether a county board, pursuant to the authority granted it by section 25.09, may adopt reasonable rules and regulations defining when "a new street or easement of access is involved" within the meaning of sections 1(b)(1), (2), (4), (5) and (8) of the Plat Act. Once again it is my opinion that the answer to your question is No.

Section 25.09 is very specific in setting forth the legislative power to be granted to county boards in this area. Nothing in this or any other provision of "AN ACT to revise the law in relation to counties" indicates that the legislature intended county boards to have the power to provide their own

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definitions for statutory terms used by the legislature.

Furthermore, the fact that section 1 of the Plat Act does not expressly define the phrase "new street or easement of access", does not mean that the legislative intent is uncertain. It has been held repeatedly in Illinois that in the absence of an express statutory definition, the words used in a statute are to be given their ordinary or popularly understood meanings. Bowman v. Armour and Co., 17 Ill. 2d 43.

Your last two questions concern section 1(b) (9) of the Plat Act (Ill. Rev. Stat. 1975, ch. 109, par. 1(b) (9)), which provides that:

"(b) The provisions of this Act do not apply and no plat is required in any of the following instances:

\* \* \*

9. The sale of a single lot of less than 5 acres from a larger tract when a survey is made by a registered surveyor; provided, however, that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration of the larger tract on October 1, 1973."

You note first that section 1(b) (9) does not explicitly require that the survey spoken of there must be filed with the recorder and you ask whether the recorder may accept deeds

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purported to come within this exception if they are not accompanied by the survey. In my opinion the answer to your question is Yes.

As you point out in your letter, section 1(b) (9) does not require that the survey be recorded. It simply requires that the survey be made. The meaning of the statutory language is, in my opinion, plain and unambiguous and therefore, the rules of construction may not be resorted to in order to enlarge that meaning. (Nordine v. Illinois Power Co., 32 Ill. 2d 421.) Since the statute does not require that the survey be filed, it follows that a deed purported to come within the exception contained in the statute may be filed even if it is not accompanied by the survey.

You further inquire whether the recorder may require that the survey be recorded. In my opinion he may not. Nothing in "AN ACT to revise the law in relation to recorders" (Ill. Rev. Stat. 1975, ch. 115, pars. 1 et seq.) authorizes the recorder to impose additional requirements for filing not found in the pertinent statutes.

Very truly yours,

A T T O R N E Y   G E N E R A L