



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

July 13, 1998

Jim Ryan
ATTORNEY GENERAL

FILE NO. 98-012

REAL ESTATE:
Plat Act

The Honorable William R. Haine
State's Attorney, Madison County
157 North Main Street, Suite 402
Edwardsville, Illinois 62025

Dear Mr. Haine:

I have your letter wherein you inquire regarding the proper construction of subsection 1(b)(1) of the Plat Act (765 ILCS 205/1(b)(1) (West 1996)), as it relates to the division or subdivision of land into parcels in excess of the statutory minimum acreage but which involve new streets or easements of access. For the reasons hereinafter stated, it is my opinion that subsection 1(b)(1) does not constitute an exception to the general requirement that a plat be filed for any subdivision of land which involves new streets or easements of access.

Section 1 of the Plat Act (765 ILCS 205/1 (West 1996)) provides, in pertinent part:

"(a) Except as otherwise provided in subparagraph (b) of this Section, whenever the owner of land subdivides it into 2 or more parts, any of which is less than 5 acres, he must have it surveyed and a subdivision plat thereof made by an Illinois Registered Land Surveyor, which plat must particularly describe and set forth all public streets, alleys, ways for public service facilities, ways for utility services and community antenna television systems, parks, playgrounds, school grounds or other public grounds, and all the tracts, parcels, lots or blocks, and numbering all such lots, blocks or parcels by progressive numbers, giving their precise dimensions. * * *

* * *

(b) Except as provided in subsection (c) of this Section, the provisions of this Act do not apply and no subdivision plat is required in any of the following instances:

1. The division or subdivision of land into parcels or tracts of 5 acres or more in size which does not involve any new streets or easements of access;

* * *

Nothing contained within the provisions of this Act shall prevent or preclude individual counties from establishing standards, ordinances, or specifications which reduce the acreage minimum to less than 5 acres, but not less than 2 acres * * *.

* * *

"

(Emphasis added.)

Section 9 of the Plat Act (765 ILCS 205/9 (West 1996)) provides, in part:

"Whenever any highway, road, street, alley, public ground, toll-road, railroad, reservoir or canal is laid out, located, opened, widened or extended, or its location altered, it is the duty of the commissioners, authorities, officers, persons or corporations, public or private, laying out, locating, opening, widening, extending or altering the same, to make a plat, showing its width, courses and extent, and making reference to known and established corners or monuments.
* * *

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You have stated that Madison County, as permitted by the final paragraph of subsection 1(b) of the Act, has reduced the statutory acreage minimum from five acres to two for exemption from platting requirements. Therefore, in your circumstances, subsection 1(a) generally provides that a plat will be necessary whenever land is subdivided into parcels any of which is less than two acres in area. Subsection 1(b), however, in excepting from that requirement the subdivision of lands into parcels which are two acres or more in size where no new streets or easements of access are involved, implies that a plat is necessary, even when lots exceed two acres, if new streets or easements of access are laid out in conjunction therewith.

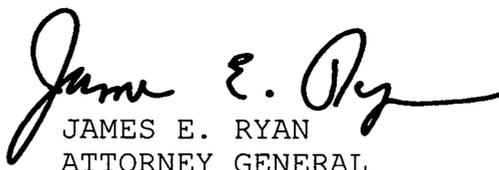
The implication that a plat is necessary whenever new streets are involved is reflected in section 9 of the Plat Act, which requires that a plat be recorded whenever a highway,

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street, road or alley is laid out, located, opened, widened or extended. Section 9 necessarily includes those streets which may be located or laid out in connection with a subdivision, without regard to the size of parcels in the subdivision.

It is my opinion, therefore, that subsection 1(b)(1) of the Plat Act does not except from the general platting requirements subdivisions of land into parcels of at least two acres if the subdivision includes the laying out of new streets or easements of access.

Sincerely,


JAMES E. RYAN
ATTORNEY GENERAL