LICENSING AND REGULATORY AFFAIRS
CUSTOMER DRIVEN. BUSINESS MINDED

Amended Plats
February 21, 2014 - Manistee, MI

Nicholas J. Clever, P.S.
Office of Land Survey and Remonumentation

Amended Plats

1967 PA 288, MCL 560.221-229

Sec. 222a	Relinquishment of PUE's
Sec. 221	Vacation, correction, revision of a subdivision
Sec. 222	Complaint Filing
Sec. 223	Complaint Contents
Sec. 224a	Joinder of parties
Sec. 226	Trial, order, etc.
Sec. 227a	Vesting of title
Sec. 228	Recording of judgment
Sec. 229	Preparation of new plat

Common platting problems

Sec. 222a - Relinquishment of PUE's

- **Public Utility Easements which are part of a recorded plat may be relinquished without the necessity of a circuit court action if a written agreement for that purpose is entered into by:**

  - **Each public utility or municipality having the right to use the easement**
  - **Owners of record of each lot affected by the easement**
  - **2/3's of owners of land in the subject subdivision**
  - **Governing board of the municipality in which the plat lies**

Sec. 222a - Relinquishment of PUE's (cont.)

- Agreement must be in recordable form and is effective upon recording and filing with our office (OLSR).

Sec. 221 - Vacation, Correction, Revision

- A recorded plat may be amended (vacated, corrected or revised) pursuant to Sections 221-229 of the LDA through the Circuit Court of the county in which the plat lies.

Sec. 222 - Complaint Filing

- Amended plat process begins with a complaint being filed by the plaintiff.

- Plaintiff may be:

  - Owner of a lot in the subdivision
  - Person of record claiming under an owner of a lot in the subdivision
  - Governing Body in which the subdivisions lies

Sec. 223 - Complaint Contents

- **Complaint needs to indicate relief sought by plaintiff.**

  - **Part or parts of plat to be vacated**
  - **Other correction or revision sought by plaintiff**
  - **Reason(s) for seeking plat amendment**

<u>Sample Complaint</u>

Sec. 224a - Joinder of Parties

- **Plaintiff must join as defendants:**
  - **Owners and persons of record claiming under those owners of Lots in the plat within 300 feet of the portion of the plat described in the petition.**
    Caveat--owners of lots in a plat must be joined as party defendant if the streets and/or roads in said plat are dedicated to the use of the lot owners (private).
  - **Municipality**
  - **Executive Order 2011-04 changed the name of the Department of Energy, Labor and Economic Growth to the Department of Licensing and Regulatory Affairs.**

Sec. 224a - Joinder of Parties (cont.)

- County Drain Commissioner
- Chairman of the County Road Commission
- Each public utility known to have any of the following which may be affected:
  - Installations
  - Equipment
  - Easements or franchise rights
- MDOT and MDNR if <u>any</u> of the affected plat borders or includes a state highway or federal aid road

Sec. 224a - Joinder of Parties (cont.)

- **MDNR (and township if the plat is located within a township) if the requested relief will result in the vacation of a public road bordering, crossing, lying adjacent to or ending at a lake or general course of a stream which would result in the loss of public access to the water body.**

Sec. 226 - Trial, Order to Vacate, etc.

- **Sub Sec. 1:**

The court can order a plat, or portion thereof, to be amended with the following exceptions:

- **Part of a state highway or federal aid road must (also) be vacated, corrected or revised by the MDOT.**
- **Part of a county road must (also) be vacated, corrected and revised by the county road commission pursuant to 1909 PA283, sec. 224.1-224.32.**

(Reason CRC cannot solely vacate a platted road)

Sec. 226 - Trial, Order to Vacate, etc. (cont.)

- **Sub Sec. 1 (cont.)**
  - **Part of a street or alley under the jurisdiction of the municipality and part of a public walkway, park or public square or any other land dedicated to the public must be vacated by both a resolution or other type of legislative enactment adopted by the governing body of the municipality and by court order.**
  - **The act of a municipality to vacate a street or part of a street in a recorded plat pursuant to MCL 560.256 serves only to vacate the municipalities interest in said street and does not serve to vest the fee. Upon vacation of a platted street by the municipality the street is rendered private for the use of the lot owners in the plat.** ***(Discussion)***
    - **Land Title Standards -13.4**
    - **OLSR vac. article**
    - **AG bar article**
    - **AG St vac. letters**

Sec. 226 - Trial, Order to Vacate, etc. (cont.)

- **Sub sec. 3:**

  A private easement for public utilities shall be reserved in any street being vacated which was dedicated to the public in a recorded plat and is being used by a public utility for public utility purposes and may be reserved in other cases.

Sec. 227a - Vesting of Title upon Vacation

- **Sub sec. 1**

  Upon vacation by the court:

  - **Any part of a plat, with the exception of a street or alley, shall vest in the rightful proprietor (owner) of that part.**

  - **Street or alley, full width of which is vacated, vests in the rightful proprietor of abutting lots in the affected plat.**

  - **Public highway or portion thereof, which is bordering, adjacent to or ending at a lake or general course of a stream, may vest in the municipality or State of Michigan pursuant to Sec. 226(2) of the LDA.**

Sec. 227a - Vesting of Title upon Vacation (cont.)

- **Sub Sec. 2**
  - Street or alley, of which same proprietor owns on each side, vests in that proprietor.
  - Street or alley, of which different proprietor's own on opposite sides, title up to the centerline vest in the respective proprietor's on of each abutting lot in the affected plat *(standard principal of reversion being perpendicular to the centerline of the vacated street)*
- **Sub Sec. 3**
  - Street or alley, if only vacated in part, not beyond the centerline, vests in the proprietor of the lots abutting the vacated portion.
- **Sub Sec. 4**
  - After vacation and vesting of title of a street or alley, <u>any</u> future legal descriptions of the abutting lots <u>must</u> include the part of the vacated alley or street.

Sec. 228 - Recording of Judgment

- **Plaintiff is required to record the judgment within 30 days after its entry with the court.**

Sample Consent Judgment

Sec. 229 - Preparation of New Plat

- **Sub Sec. 1**
  - **Upon order of the court to vacate, correct or revise a plat, a new plat (amended plat) shall be prepared, either of part or of the whole of the original plat.**
  - **Plat must be in the form required by the LDA and Administrative Rules 2008 MR10, R 560.101-135**

- **Sub Sec. 2**
  - **Caption of the new plat must indicate that it is a corrected or revised plat of all or part of the original plat ("Amended plat of .....").**

- **Sub Sec. 3**
  - **LARA (OLSR) reviews plat for compliance with the court judgment and platting requirements of the LDA and, upon approval, distributes required copies to:**
    - **Register of Deeds (original for recording)**
    - **Municipal Clerk**
    - **County Treasurer**
    - **County Road Commissioner**

Common Amended Plat Problems

- **Common issues found when reviewing amended plats:**
  - **Easements of Record:**
    - **All recorded easements are required to be shown, labeled and located by dimension on an amended plat pursuant to the administrative rules 2008 MR10, R 560.112(2)(ee).**
    - **Certain easement documents may create blanket type easements or may not sufficiently describe in detail the area in the amended plat encumbered by said easement. In this case, an easement of this type will either need to be released in its entirety or partially released to only the area required by the grantee for its purpose and described in a manner which can be properly depicted and located by dimension on the amended plat.**

Common Amended Plat Problems (cont.)

- **Easements of Record:**
  - Surveyor neglects to provide copies of all easements of record encumbering the land in the proposed plat.
  - Record easement search and surveyors statement of record search not provided.
  - Easements not properly shown, labeled and located by dimension on plat drawing.

  Problems with easements can be avoided if the easements encumbering the land in the plat are identified up front prior to the entry of the final Judgment ordering the amended plat. If found early, many issues which can cause delay in the amended plat may be resolved.

Common Amended Plat Problems (cont.)

- **Access pursuant to MCL 560.186(1)(e)**

  Each lot and outlot shown on a plat shall have direct access to a platted road or assured permanent access in accordance with a local subdivision control ordinance or a zoning ordinance with subdivision control provisions.

  Problems with access may occur if a portion of a platted road is vacated and the plat revised resulting in other lots or unplatted lands being isolated. All surrounding lands should be considered when seeking to vacate, correct or revise a plat so that possible isolation issues can be identified and addressed.

Common Amended Plat Problems (cont.)

- **Title Work**

  Problems and delays may arise where upon filing of the final amended plat, portions of the lots ordered to be made by the Judgment are encumbered by a recorded road right of way. These right of way areas are required to be shown as areas separate from lots (MCL 560.135 and 137), thus requiring the Judgment to be amended to confirm this road right of way over the portion of the amended plat which it lies. A thorough review of the title of the land in the amended plat performed prior to the filing of the final judgment would reflect these encumbrances so that they can be addressed prior to the filing of the final Judgment and making of the final amended plat.

Common Amended Plat Problems (cont.)

- **Old Judgments Amending Plats**

  Occasionally it is brought to our attention that an old order exists where an amended plat was ordered but no amended plat made as a result. These old orders, unless proven otherwise either by language in the judgment or other legal means, have been found to still have standing and be in affect, and an amended plat may be made to fulfill the portion of the judgment ordering the amended plat.

Common General Platting Problems

- Minimum text height 0.10" [R 112(2)(b)]
- Provide a forward traverse closure sheet of plat boundary. [R 112(2)(j)]
- Proper government corners located on plat, LCRC's provided [R 112(2)(j&k); MCL 560.136(a,g)]
- Proper dimensioning of lots [R 112(2)(x)]
- Properly showing the status of adjacent lands [R 112(2)(aa)]
- Including minimum legend contents (a, c, d, e, f) [R 111]
- Vicinity maps [R 112(2)(h)]
- Proper dimensioning of plat boundary, interior and exterior [R 112(2)(x)]

Common General Platting Problems (cont.)

- Prop (wing open permanent water [R 112(2)(cc); R 114; R 120; R 133; MCL 560 140; MCL 560.141; etc]
- Properly showing, labeling and locating of 100 Year flood plain contour line established by MDEQ and flood plain area [R 112(2)(ee); MCL 560.138; MCL 560.194]
- Cross reference restriction notes [R 112(2)(v); Bulletin No. 5]
- Label front of lot [R 112(2)(t); MCL 560 140(e)]
- Permanent assured access to plat and lots [R 112(2)(aa); MCL 560.186(1)(e)]
- Include proper bearing references [R 111(2)(c);MCL 560.126]
- Monument all private and public grounds [R 113]
- Description – call for abutting recorded plats and condominiums [R 114; R 120; R 133]
- Recorded as (data) [MCL 560.136(c)]
- Surveyor Certificate Forms [R 114; R 120; R 133]

Common General Platting Problems (cont.)

- Provide certified true copies of final plat provided to reviewing agencies for simultaneous approval pursuant to MCL 560.161(2) [R 115]
- Proof of ownership (current and description cover all land in plat [MCL 560.245]
- Surveyor seal/signature on all sheets [R 112(2)(w)]
- Proper Captions [R 112(2)(i); MCL 560.133]
- Proof of ownership (description covers all land in plat) [MCL 560.245]
- Corporate limits [R 112(2)(q)]
- Municipal Certificate (lot size waiver, construction permits provided) [R 121]
- Amended plat - provide copy of recorded court order [MCL 560.228]

Common General Platting Problems (cont.)

- Amended plat - sequential new lot numbering [MCL 560.132(e); MCL 560.140(a); MCL 560.186(1)(a); court order]
- Amended plat - Include all affected land, time frame allotted to file amended plat set in court order [court order/amended court order]
- Assessor plat - Provide documentation (how each lot qualifies, resolution, tax rolls, etc.)
- Assessor Plat - Assessor Certificate [R 131]
- Proper acknowledgment form [R 107]
- Proprietor Certificate forms - Limited liabilities [R 108]
- 3 inch by 5 inch LARA space on last sheet [R 112(2)(e)]
- Copies of preliminary plat approvals, final plat processing sequence issues [MCL 560.112-120, 131]

Common General Platting Problems (cont.)

- **Restrictions - recordable form, original signatures, agree with plat (easements and private dedications), address MDEQ preliminary plat approval [R 103; Maata case; Martin case; MCL 560.194]**

Website Links

- **OLSR Homepage**

  Here you can find the link to the LDA, Admin. Rules and useful information

  http://www.michigan.gov/lara/0,4601,7-154-35299_10575_17394_17565---,00.html

- **Michigan Land Title Standards**

  http://www.michbar.org/realproperty/LTS6/Index.pdf

- **Michigan Courts**

  http://courts.mi.gov/

- **Michigan Court of Appeals**

  http://courts.mi.gov/courts/coa/

- **Attorney General Opinions (Numbered)**

  http://www.ag.state.mi.us/opinion/opinions.aspx

- **Plat submittal forms**

  http://www.ag.state.mi.us/opinion/opinions.aspx

Questions ???

LARA
LICENSING AND REGULATORY AFFAIRS
CUSTOMER DRIVEN. BUSINESS MINDED

LARA/Bureau of Construction Codes
Office of Land Survey & Remonumentation

Nicholas J. Clever, P.S.
(517) 241-6323
clevern@michigan.gov