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ATTORNEY GENERAL  
STATE OF ILLINOIS

July 27, 1993

FILE NO. 93-016

REAL ESTATE:  
Plat Act Requisites on Subdivision  
of Unsold Lots in Previously  
Platted Subdivision

Honorable Dennis Doyle  
State's Attorney, Monroe County  
Monroe County Courthouse  
Waterloo, Illinois 62298

Dear Mr. Doyle:

I have your letter wherein you inquire whether, under section 7 of the Plat Act (Ill. Rev. Stat. 1991, ch. 109, par. 7; 765 ILCS 205/7 (West 1992)), a vacation plat must be filed when a developer proposes to subdivide unsold lots in a previously platted subdivision without changing any easements, building lines, rights of way or other encumbrances created by the original plat. For the reasons hereinafter stated, it is my opinion that the filing of a vacation plat is not required in these circumstances.

Section 6 of the Plat Act (Ill. Rev. Stat. 1991, ch. 109, par. 6; 765 ILCS 205/6 (West 1992)) provides that a plat may be vacated prior to the sale of any lot therein by the

filing of a written instrument by the owner and the approval thereof by the appropriate county or municipal authorities.

Section 6 further provides:

" \* \* \* Once recorded or filed the instrument operates to destroy the effect of the recording of the plat vacated and to divest all public rights in the streets, alleys and public grounds and all dedications laid out or described in the plat and to render effective any reservation set forth in the instrument as provided in this Section.  
\* \* \*"

Once lots have been sold, all owners thereof must join in the execution of the declaration of vacation.

Section 7 of the Plat Act provides:

"Any part of a plat may be vacated in the manner provided in the preceding section, and subject to the conditions therein prescribed: Provided, such vacation shall not abridge or destroy any of the rights or privileges of other proprietors in such plat: And, provided, further, that nothing contained in this section shall authorize the closing or obstructing of any public highway laid out according to law."

Section 7 does not expressly or impliedly require the filing of a vacation upon the subdivision of previously platted lots. In the circumstances you have described, the developer does not desire to divest the public of any right to streets, alleys or public lands which were dedicated by the original plat, but rather has stated his intent that no changes are to be made to such rights or interests. The effect of the vacation of a plat is to simply withdraw a proposed dedication.

(Littler v. City of Lincoln (1883), 106 Ill. 353, 370.) In my opinion, when no such withdrawal is either necessary or intended, no vacation plat is required to be filed.

Further, I note that subsection 1(b) of the Plat Act (Ill. Rev. Stat. 1991, ch. 109, par. 1(b); 765 ILCS 205/1(b)) specifically addresses the circumstances which you have described, and excepts them from the requirement of filing a plat. Subsection 1(b) provides, in part:

" \* \* \*

(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:

\* \* \*

2. The division of lots or blocks of less than 1 acre in any recorded subdivision which does not involve any new streets or easements of access;

\* \* \*

"

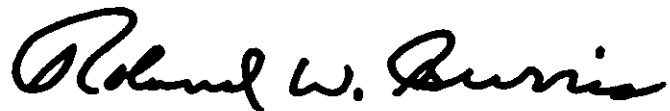
There is nothing in the language of subsection 1(b)(2) which implies that the vacation of a previously-filed plat is a prerequisite to the redivision of existing lots. The purpose of the Plat Act is to insure that adequate provision is made for streets, alleys, parks and other public facilities which are indispensable to the community affected. (Gricius v. Lambert (1972), 7 Ill. App. 3d 716, 720.) If a redivision of lots in a previously platted subdivision will not require additional public facilities, no further plat is required.

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Moreover, a further division of platted lots will not necessitate the vacation of public facilities which have been previously provided for.

Therefore, it is my opinion that a vacation is not required to be filed where a developer further divides previously platted lots in a subdivision without changing any easements, rights of way or other dedications.

Respectfully yours,

A handwritten signature in black ink, reading "Roland W. Burris". The signature is written in a cursive style with a large, prominent initial "R".

ROLAND W. BURRIS  
ATTORNEY GENERAL