

# ATTORNEY WRITES



By Clifford H. Bloom

Law, Weathers & Richardson, P.C.  
333 Bridge Street, N.W.  
Suite 800  
Grand Rapids, Michigan 49504

Riparian property owners should be aware of certain recently enacted statutes and current issues as follows:

## The New Michigan Land Division Act

Effective March 31, 1997, the Michigan Land Division Act became law. Actually, this legislation constituted various amendments to the existing Michigan Subdivision Control Act of 1967, but the legislation also mandates that the old statute (also sometimes referred to as the "Plat Act") would thereafter be known as the "Michigan Land Division Act."

For the first time, any land division (except for a plat or site condominium project) *must* be approved *beforehand* by the local municipality involved – that is, by the city, village or township government where the property is located. Therefore, no land can be divided, parcel or lot created or boundary lines reconfigured without prior local governmental review and approval. Although local ordinances regarding the land division review and approval process will vary, one constant will remain – a land division cannot lawfully occur without prior local governmental approval. This applies wherever land is split, divided or subdivided, whether the split or transfer occurs by deed, land contract or other device, and whether or not the document which effectuates the split or transfer is recorded or unrecorded.

If you are planning on dividing land, you should consult with your attorney and local municipal officials early on. Waiting until the last minute to apply for a land division permit could greatly delay matters. Additionally, there are quite often zoning approvals which must be obtained first, which could further delay the process. If you are concerned about another area property owner or developer dividing land without complying with the Michigan Land Division Act, you should also consult with your attorney and the local municipality involved.

Unfortunately, the new legislation is every bit as ambiguous and complicated as the old Plat Act (perhaps more so!). The legislation governs how many "splits" a property owner is permitted without having to plat the property or do a site condominium.

The new legislation also requires that all deeds for unplatted parcels include an express disclosure stating that the property may be located in an agricultural area and informing prospective purchasers or transferees that there may be unpleasant odors, noises and other activities associated with agricultural operations. The statute specifies the disclosure statement's exact wording. Interestingly enough, that disclosure must be placed in all deeds after March 31, 1997, even if no land division is involved and even if the property is located within an urban area! The legislation also includes requirements regarding width, area and depth specifications for new lots or parcels.

## New Recording Requirements

New legislation also became effective on March 31, 1997, regarding recording requirements for real estate documents such as deeds, memoranda of land contract, easements, mortgages and other devices. Before a document can be recorded with the local

county register of deeds records, such documents will have to meet certain requirements regarding minimum margin sizes, size of type, headings and similar requirements. If the new requirements are not met, the local register of deeds office will refuse to record any offending document.

## Township Zoning Referendums

If a rezoning, new zoning ordinance or an amendment to an existing zoning ordinance occurs or is enacted, township residents have long had the right of referendum where they disagree with such zoning actions. Although rarely used in the past, referendums are becoming increasingly popular devices utilized by township residents who oppose a particular development, new zoning ordinance or an amendment to an existing zoning ordinance. The procedure triggering a referendum in townships was recently changed. *See MCLA 125.282; MSA 5.2963(12)*. In order to initiate a referendum, a township resident must file a Notice of Intent to file a referendum petition within seven days of ordinance publication. Thereafter, the requisite number of signatures must be obtained on a referendum petition and the same filed no later than 30 days after ordinance publication. If that occurs and the minimum number of signatures are validated, the zoning action complained of is automatically "stayed" (i.e., cannot go forward or into effect) until a referendum election can be held.

Many cities and villages also have referendum procedures, but the particular city or village charter must be consulted regarding the provisions.

## Real Property Taxes

The enactment of Proposal A several years ago has had a dramatic impact upon real property taxes for riparian parcels. As most people know, a parcel's property tax assessment cannot increase in any year by more than 5% or the rate of inflation, whichever is less. This "cap" is lifted (and the valuation is redone at 50% of fair market value) when the property is sold or transferred. Furthermore, adjustments can be done to the assessment if certain events occur, such as building new buildings on the property, adding onto existing buildings or dividing the property.

If you own your residence, you can get a tax break if it is your homestead and you file the appropriate homestead exemption form with the local tax assessor.

Due to the complexity of the Proposal A legislation, many questions remain unanswered. If you have questions, you should consult with your local tax assessor or an attorney who specializes in that area.

## Vacation of Road Ends at Lakes

As I mentioned in the Attorney Writes column in the August 1996 issue of *The Riparian*, Public Acts 217-219 of 1996 went into effect last year and make it much more difficult to get lake-end roads vacated or abandoned. One possible way of getting around that legislation involves situations where the road ends at issue were never formally "accepted" by any governmental unit or entity (i.e., the public dedication "lapsed") and the roads were not formally improved or utilized by the public.