

HOUSE BILL REPORT

HB 1264

As Passed House:

February 26, 2003

Title: An act relating to mineral rights.

Brief Description: Defining "nonmineral ownership interest" with respect to dedicating plats and subdivisions.

Sponsors: By Representatives Sump, Bush and Mielke.

Brief History:

Committee Activity:

Local Government: 2/3/03, 2/13/03 [DP].

Floor Activity:

Passed House: 2/26/03, 96-0.

Brief Summary of Bill

- Defines "nonmineral ownership" as any ownership interest in a parcel of land that is not exclusively limited to the ownership of the parcel's mineral rights.
- Limits the consent required for final or short plats of subdivisions or short subdivisions filed for record to the owners of all nonmineral ownership interests.
- Limits the signatures required for certificates or instruments of dedication for plats or short plats to all parties having nonmineral ownership interest in the lands.
- Limits the signatures required for applications for the vacation of any or all of a subdivision to all parties having nonmineral ownership interests in the land.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 11 members: Representatives Romero, Chair; Upthegrove, Vice Chair; Schindler, Ranking Minority Member; Jarrett, Assistant Ranking Minority Member; Ahern, Berkey, Clibborn, Edwards, Ericksen, Mielke and Moeller.

Staff: Ethan Moreno (786-7386).

Background:

Current law provides for dividing and redividing land for the purpose of sale, lease, or transfer of ownership. "Subdivision" is the division or redivision of land into five or more lots, tracts, parcels, or divisions. "Short subdivision" is the division or redivision of land into nine or fewer lots, tracts, parcels, or divisions.

"Dedication" is the deliberate appropriation of land by an owner for any general and public uses reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses for which the property has been devoted.

"Plat" is a map or representation of a subdivision, showing the division of a tract or parcel of land into lots, blocks, streets and alleys, or other divisions and dedications. "Short plat" is the map or representation of a short subdivision. "Final plat" is the final drawing of the subdivision and dedication that adheres to all legal requirements. Final plats are filed for record with county auditors.

Short plats and short subdivisions granted pursuant to local regulations must be filed with the county auditor and are not deemed "approved" until filed. Final plats approved by the legislative body of a city, town, or county must be filed for record with the county auditor. A copy is also filed with the county assessor, and paper copies are provided to other agencies as required by ordinance.

Recorded final plats or short plats of subdivisions or short subdivisions must contain a certificate giving a description of the lands divided as they appear on the plat or short plat, and a statement that the subdivision or short subdivision has been made with the consent of the owner or owners.

If the plat or short plat is subject to a dedication, the certificate or instrument of dedication must contain the dedication of all streets and other areas to the public, individual or individuals, religious society or societies, or to any corporation, public or private, as shown on the plat or short plat. The certificate or instrument of dedication is also required to include a waiver of all claims for specific damages against any governmental authority, as provided for in law. Additionally, the certificate or instrument of dedication also must be signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided and recorded as part of the final plat.

Persons interested in the vacation of any or all of a subdivision, or other area designated or dedicated for public use, must file an application for vacation with the legislative authority of the city, town, or county in which the subdivision is located. The application must set forth the reasons for vacation and must contain the signatures of all parties having ownership interests in the portion of the subdivision subject to vacation.

Summary of Bill:

"Nonmineral ownership interest" is defined as any ownership interest in a parcel of land that is not exclusively limited to the ownership of the parcel's mineral rights.

All final plats or short plats of a subdivision or short subdivision filed for record with a county auditor are required to include a statement that the subdivision or short subdivision has been made with the consent of the owner or owners of all nonmineral ownership interests.

Plats or short plats subject to dedication must contain a certificate or instrument of dedication signed and acknowledged before a notary public by all parties having any nonmineral ownership interest in the lands subdivided and recorded as part of the final plat.

Applications for vacations of any or all of a subdivision, or any area dedicated for public use, must describe the reasons for vacation and must contain the signatures of all parties having a nonmineral ownership interest in the portion of the subdivision subject to vacation.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Mineral rights are separate and distinct from surface rights. The Superior Court decision regarding this issue was an extreme departure from existing case law. The judge legislated from the bench.

Testimony Against: None.

Testified: Representative Sump, prime sponsor.