A COMPARATIVE ANALYSIS OF MICHIGAN'S SUBDIVISION CONTROL ACT AND CRITIQUE

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ABSTRACT

A COMPARATIVE ANALYSIS OF MICHIGAN'S
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AND CRITIQUE

By

Ronald F. Nino

The regulation of land divisions for purposes of ensuring a harmonious street pattern constituted the first attempts of concerned city dwellers to try and plan their urban environments. Almost every large city is paying the costs for its failure to establish controls over the subdivision of land. Examples of this neglect is evidenced by the inconsistent street alignments which prevent a system of through streets adequate to serve motor circulation in most major cities. Much of this neglect has been overcome by the outlay of huge sums of money and the incidence of a great deal of social discomfort.

The increasing rate of urbanization after World War II made it all the more imperative that the States in the Nation provide their municipalities with the necessary enabling legislation to intelligently handle this problem. Recognition of this problem after considerable tardiness on

the part of Michigan became apparent in the mid sixties and resulted in the adoption of a new Subdivision Control Act in 1967.

Subdivision controls have historically been one of the most important tools utilized by local governments to promote and ensure desirable urban environments. All fifty (50) states have provided their municipalities with enabling legislation as a legal framework for local regulation of new subdivisions of land. While legal precedents and procedures have evolved over the years, little is available in literature nor is there general public consensus on desirable standards which should be incorporated within state enabling laws for land subdivision.

This research study attempts to outline suggested standards and guidelines for Michigan's subdivision enabling legislation and undertakes a comparative analysis of the Subdivision Control Act of 1967 with contiguous states to determine the adequacy of the Michigan regulations for preserving the public health, safety and welfare. To make such an evaluation more meaningful, the history and purposes of subdivision regulations are reviewed and put into perspective relative to contemporary land development problems. A description and review of subdivision legislation of comparative states along with a determination of desirable subdivision standards served as a framework for the development

of twenty-one variables which, in turn, were utilized to compare and evaluate Michigan's Act with those of adjacent states.

As a consequence of this evaluation numerous conclusions were drawn relative to the Subdivision Control Act of 1967. The definition of what constitutes a subdivision of land and the inclusion within that definition of leased land and "building development" comes under criticism as being either confusing or detrimental to the fundamental concept of subdivision regulations. A critical area of deficiency in the Michigan Act was the lack of language that clearly defined the relationship of the local planning process with procedures related to review and approval of new plats. An additional procedural question was the lack of a specified maximum time period for various approving authorities to review and dispose of a proposed subdivision.

The thesis concludes by outlining numerous ways in which the present Michigan Act could be amended to improve its funtion as a viable framework for state-wide and local control over land subdivisions. These recommendations include changes in administrative review and responsibilities at the state level, the inclusion of minimum subdivision design standards, a clear statement of local approving procedures as it relates to a community's development plan, and changes in format and language of the Michigan Act to alleviate problems of interpretation and location of relevant information.

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CHAPTER I

INTRODUCTION

The purpose of this thesis is a comparative analysis of the Subdivision Control and/or Regulation Acts of the States of Michigan, Ohio, Indiana, Wisconsin and the Province of Ontario, Canada. All of these states were chosen because they are contiguous to the State of Michigan. The specific objective was to determine whether or not the State of Michigan, which had instituted a new Subdivision Control Act in 1968 (Act No. 288 of the Public Acts of 1967), was more restrictive than the comparative states. The author went one step further in order to justify conclusions that certain modifications to the Michigan Act may be desirable by attempting to show how subdivision regulations can adversely affect the land development process to the detriment of the public interest by way of needlessly increasing the costs of developed land and consequently the cost of providing housing. On the other hand, the absence of enabling legislation, or at best minimal legislation permitting member municipalities to regulate the subdivision of land, can also adversely affect the general consumer public. Both of these elements as they applied to the various comparative state statutes was given recognition.

To merely take at face value the content of the various legislative acts, unless equated with the public interest and protection, would serve no useful purpose other than as a lobbying force for certain vested interest groups. It was determined that it would be necessary for the author to make certain conclusions based upon historical and contemporary perspectives as to what kind of substantive matters should be included in subdivision control regulations to adequately serve the public interest without encumbering the process of land development. Every attempt was made to remove subjective factors, to support and justify these criteria.

The main framework for the development of judgment criteria rests upon the police power as the legal basis for subdivision regulation. Some regulations have been sustained by the courts on the concept of a plat-recording privilege.[1] One could justifiably state that such a process has pitfalls because a determination of the public interest is largely in the domain of subjective evaluation. Naturally one who is engaged in the land development business would have a different concept of the public interest as opposed to one whose avocation is that of an urban planner. The emphasis upon environmental protection has shifted the

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[1]Donald H. Webster, Urban Planning and Municipal Public Policy (Harper Brothers, New York, 1958) Chapter 9.

public interest question into a meaningful and judicially acceptable area. The evidence would seem to suggest that the highest court of the land is opening its ear to questions of social costs, resulting from developmental decisions affecting the quality of our environment. No one can deny that there are negative effects to urbanization which involve a cost to the general public in the affected ecosystem. This cost includes increased flood frequencies, contaminated air, physiological upheaval and general inconvenience. In view of this, it would appear that rational man would want to avoid the externalities of social costs through regulation of the environment. Subdivision regulations provide a vehicle for reducing the negative effects of urbanization and as such is an institutional framework for protecting the public interest. However, it must be recognized that this is not an area which can be objectively quantified and therefore the arbiter must be a responsible public decision maker. With due consideration to objectivity, every effort was made to weigh the constraints which act upon the land development industry consistent with that which is necessary to protect the public interest, and, just as importantly, to insure that land development processes will produce the most desirable environments.

The efforts made to include a wider community of viewpoints included the circulation of questionnaire survey

forms to home builders and land developers in Michigan.[2] Unfortunately the response was not worth noting, as only two questionnaires were returned out of twenty (20). However, this lack of response was offset in very large measure by personal interviews with several of Michigan's largest land developers.

A central concern of this research which appears throughout the thesis is the relationship of the subdivision process to the general developmental plan of the community. The author was particularly concerned over the apparent lack of any identification of this consideration in the Michigan Act and consequently the legal question which arose over the role of the planning commission vis-a-vis Act 285, the Planning Commission Act, which charges the local planning commission with review powers over the subdivision of land.

Lastly, in order to bring this research effort into perspective and accomplish the objectives of the assigned task seven study elements were identified. They are as follows and form the basis for the chapter format: (1) Introduction, (2) the history and purposes of subdivision regulations, (3) overview description of comparative states, (4) comparative analysis based upon 21 variables, (5) relationship to land development problems, (6) critique of the

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[2]Sample of questionnaire is included in the Appendix.

Michigan Plat Act, and (7) Summary of Recommendations. Briefly these study elements attempt to accomplish the following purposes.

The history of subdivision regulations establishes a historical raison d'etre for the regulation of land subdivision. More specifically this chapter relates how in Michigan there was an appreciation of the need to regulate land divisions as early as 1821. The growth of subdivision regulations legislation is traced up to the present together with the expanding philosophy of such legislation.

The purpose of subdivision regulation attempts to identify why it became necessary to regulate the division of land. Questions of legal recordation, protection of the public interest, relationship to the development plan and environmental improvement through design are all matters which are the subject of this chapter.

The next two chapters provide a framework for comparing the statutes of the designated states. This chapter analyses the comparative states for the philosophy implicit or explicit in each Act, the definition of what constitutes a subdivision, questions of review time, plat circulation, role of the planning commission and required public improvements. These items were deemed to be the major concern of responsible subdivision legislation. Having identified the characteristic aspects of concern for each state, the next step was to draw upon a wider range

of comparative variables and to analyze what each of the states were doing vis-a-vis one another in regard to each variable. This is the central concern of Chapter IV, comparative variables and analysis. To make the study element of Chapter IV more meaningful, a matrix table was designed with a weighted score given each state as it related to each of the twenty-one (21) comparison variables.

Chapter V, relationship to land development problems, points up the problems inherent in poorly conceived subdivision regulations and the detrimental effects these may have upon the consumer public. This discussion is of paramount importance in providing a basis for recommendations to amend the Michigan Act. The chapter also provides introductory support to the following Chapter VI which is a critique and recommendations of the Michigan Subdivision Control Act, Act 288, P.A. 1967. This chapter seeks to pay special attention to the broad imperfections of the Michigan Act which emerged from the analysis of Chapters IV and V in particular. Chapter VI also attempts to focus sharply upon the broad area of difference between the Michigan Act and those to which it was compared. Together with the standards and philosophy which emerged from previous chapters a number of specific recommendations are made for amending the Michigan Subdivision Control Act. Lastly, Chapter VII, presents a summary of recommendation and new directions which may be taken.

CHAPTER II

HISTORY AND PURPOSE OF SUBDIVISION REGULATIONS

History

Land subdivision regulations are based upon a desire to promulgate uniform standards and methods for dividing and recording land divisions. Land subdivision legislation to accomplish these ends were required of land subdividers as early as 1821 in the State of Michigan.[1] Subdivision regulations, however, predated this by many years and in fact were handed down to North Americans by way of early colonial powers. The earliest of new towns in this country were laid out according to instructions contained in royal directives, charters granted by colonial assemblies and later charters issued by the newly formed state legislatures.[2] The Western territories were subject to regulations guiding the surveying and disposition of land by an ordinance adopted in 1785.[3]

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[1]Paper, author unknown, "History of Plat Legislation in Michigan," received from State Treasurer's Office, 1969.

[2]William I. Goodman and Eric Freund, Principles and Practice of Urban Planning (Institute for Training in

Following these early beginnings, the 19th century witnessed an unprecedented boom in land subdivision activity. This boom was accompanied by many abuses and around this activity there were created many uncertainties in land titles.[4] As a consequence of these title problems, many states saw the wisdom of requiring proposed land subdivisions to be accurately surveyed and platted with verification by a local engineer, and properly recorded before any sales were made. In addition to platting and recording aspects of land division, there was a concern that new streets created by the subdivision process would tie into existing street systems and that alignments and road widths would be maintained and dedicated to the public.[5] Thus, very early in the history of subdivision activity there was a concern, however implicit, with the urbanization implications of land development and subsequent problems. It was not until 1928 that this relationship was made more clear. The City Planning Enabling Act, published by the U.S. Department of Commerce, made subdivision regulation a part of a comprehensive and continuing program of planning and guiding the

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Municipal Administration and The International City Manager's Association, Washington D.C., 1968), p. 443.

[3] Ibid., p. 444.

[4] Ibid.

[5] Ibid.

growth of cities.[6] The City Planning Enabling Act initiated the concept of transferring the responsibility of subdivision approvals and regulations to the planning commission. This approach received widespread endorsement. A 1934 survey indicated that some 425 American cities had empowered their planning commissions as the principal subdivision regulatory agency.[7] Each of the 50 states have now adopted enabling legislation under which local units of government are empowered to deal with the regulation of land subdivisions.

Many of these earlier abuses resulting from speculative and unregulated subdivision practices are evident to this day. In most cities there are many subdivisions in which streets are laid out with little or no thought to safety or topography and houses are built on narrow and crowded lots, often without adequate utilities. Excessive platting and the bust of the 30's left in it's wake thousands of paper plats or lots which became the responsibility of the cities through tax delinquencies. The above practices have resulted in a weakening of the economic stability of the community and eventually made it necessary to engage in urban redevelopment.[8] Speculative

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[6] Ibid.

[7] Ibid., p. 445.

[8] Webster, op. cit., p. 439.

subdividing, together within minimum utility provisions, not only results in depreciated property values and tax delinquence, but also greatly increases the per capita costs of police, fire, and health protection and of completing the deficient utilities necessary to curtail the problems described. Subdivision development in an environment of oversupply means marginal and sparse development which is reason for the increased costs described above. These kinds of practices provided the catalyst that inspired concerned public officials at all levels of government to adopt sound and sensible regulations which could be enforced by any municipality wishing to do so.

Other problems resulting from the unregulated introduction of urbanization in fringe areas was the fragmentation of municipal government. The desire for suburban living made possible by a highway technology, and every family with an automobile, has resulted in numerous subdivision developments outside the core city boundaries. The problems of some of these subdivisions were assumed by the core city through annexation. Such was the case in the City of Lansing when the area generally south of Jolly Road and east of Pennsylvania was annexed to the City. The many subdivisions in this area were only partially developed, lacked minimum utilities and generally constituted health

hazards to their residents.[9] Even though the territory remains permanently outside the corporate limits of the city, the ills of poor planning are nevertheless problems of the whole community, since the causes of disease, influences of blight, and unfavorable environment are not confined within political boundaries.[10]

The history of Michigan laws relevant to platting could be traced as follows. The sequence of amendments to those laws obviously reflects a concern centering on subdivision practices which resulted from problems described above. In the State of Michigan, the 1821 Uniform Methods Of Recording Act continued to be amended until 1929 at which time a more comprehensive Act was enacted.[11] The first Act required that whenever a town was to be laid out, the proprietors of such a town were to cause a true map or plat to be recorded in the registry of the county where it was located before any sales were made. It is perhaps significant to note that land subdivision in those early times was equated with a town scheme reflecting the fact that subdivisions by and large were rather small as compared to the large housing tract projects characteristic of today's land

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[9] Author's personal experience while employed by the Lansing City Plan Commission.

[10] Webster, op. cit., p. 440.

[11] The Michigan Plat Act, Act 172, P.A. (1921).

development schemes. These early subdivision statutes were concerned with the question of recordation, vacation of plats, penalties and the like. The earliest Michigan Acts did not provide for any local approval and it was not until 1891 that notice was to be personally served at least 20 days before the hearing upon the application to the mayor of the city, the president of a village, or the supervisor of a township where such lands were situated. It was not until 1909 when the basic 1839 Act was again amended that the local unit of government was given the authority to approve plats before they could be recorded. A later revision in 1915 required the local unit of government to approve or reject the plat within 10 days after delivery to the clerk. The next major revisions occurred in 1925, which revision changed the requirements for having the plat approved or recorded, and the proceedings to obtain the approval by the local municipal authority. The proper governing bodies were empowered to determine the suitability of lands for platting and the conditions under which streets, roads, etc. were to be constructed with limitations described in the Act. The governing body of the municipality could require surety bonds to insure the performance of contracts relating to platting. The approval period given local governing bodies was extended to 30 days after filing with the clerk.

Act No. 172, Public Acts of 1929, replaced all the older plat laws which basically were modifications of the 1839 Act. This Act was primarily an attempt at consolidation and did little to change the basic content of the laws which developed over 100 years of modification.[12]

This Act was to survive until the present comprehensive revision resulted in the passage of Act No. 288, Public Acts of 1967 effective January 1, 1968. It is Act No. 288 to which this thesis is directed, which shall be analyzed in considerable detail.

Purpose

Subdivision regulations particularly in the State of Michigan are primarily concerned with the question of assuring that the process of converting raw land into building sites is executed in a manner which makes possible the creation of equitable title in land divisions. In order to accomplish this the Act specifies the methods to be employed in the surveying of land and it's recordation in a local office of registry (or county recorders office). It has been determined that this is best done by referencing land sales to land plats or subdivisions as opposed to "metes and bounds" description of lots. Historically, and this perspective has carried over to the most recent subdivision

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[12]Unpublished papers, op. cit..

control measures, the State of Michigan only incidentally recognizes a relationship between land division and the comprehensive planning process which was one of the primary objectives of the 1928 City Planning Enabling Act. More about this relationship will be discussed later.

It should be fairly obvious that subdivision regulations transcend the question of proper surveying and recording techniques. This suggests that subdivision regulations more importantly are means for regulating land development so that it is consistent with the community's adopted development plan, which plan having emerged after due study and consideration of an area's growth potential. The plan should emphasize a concern for balanced and orderly growth within the financial means of the community based upon acceptable standards of land use distribution. Subdivision regulations also serve to allow those at the local level charged with an area of municipal concern such as public health, tax records, city engineering and utilities, protective services such as police and fire, schools, parks, etc., to review and require the employment of standards relevant to satisfying the above areas of concern.

To the urban planner subdivision regulations are perhaps most important because (1) they enable him to coordinate the otherwise unrelated plans of a great many individual developers, and in the process to assure that provision is made for such major elements of the land development

plan as rights-of-way for major thoroughfares, parks, schools and so forth, and (2) make possible the coordination of the internal design of each new subdivision so that it's patterns of streets, lots and other facilities will be safe, pleasant, and economical to maintain.

Finally, subdivision regulations through their design implications, permit the planner to put to the test certain social theories of neighborhood heterogeneity, the neighborhood unit plan as a service area, and generally as a tool for providing order to the urban environment.

Legal Basis of Subdivision Control

The legal basis for subdivision regulation rests primarily upon the police power. Some regulations have been sustained by the courts on the concept that plat recording is a privilege. However, this is merely a means of effectuating the police power.[13]

Most of the legal attacks on the power to control subdivisions have come from persons contending that they have been deprived of their property without due process of law. Some have argued that the provisions of subdivision regulations requiring the dedication of land for streets and the installation of utilities and their subsequent dedication to the public constituted a taking of property

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[13]Webster, op. cit., p. 440.

without payment or just compensation. The courts have held the reverse contending that this was an exercise of the police power and not the use of eminent domain.

The weight of judicial opinion has now solidified the legal basis of subdivision regulations and have contended that the only sound basis for upholding subdivision regulations is the exercise of the police power of government to establish reasonable controls for promoting health, safety, morals, convenience and the general welfare.[14]

The authority by which local municipalities exercise the police power is derived from state enabling statutes. Each state must enact state enabling statutes relative to subdivision regulations. Constituent municipalities can then exercise control over subdivisions to the extent allowed under the state statute within the police powers of the state.

State statutes are generally of two types: One type of statute is mandatory in that the state act requires that all plats must be approved by certain governmental agencies before they are recorded. The other type is enabling and permits the municipality or other unit of government to adopt subdivision regulations and provide for the approval

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[14]Allen V. Stockwell, 210 Mich. 488, 178 N.W. 27(1920). Ridgefield and Co. v. City of Detroit, 241 Mich. 217 N.W. 58(1928).

and recording of plats which have complied with the standards of the municipal ordinance.[15] The Michigan Act is a combination of the two.

Summary

The ills resulting from excessive, premature, unwise and poorly planned subdivisions can be prevented only through adequate area wide subdivision regulations. Proper subdivision control will help assure that land will be developed for the highest possible use, with all the necessary protection against deterioration and obsolescence. In this manner, the basic goal of public regulation, namely the protection of the public health, safety and welfare, will be preserved. Historical evidence provides a sound basis for today's concerns. Judicial support is firmly established, and state governments are concerned as evidenced by enabling legislation.

Chapters I and II should have established a basis for justifying the conclusions which emerge from a comparative analysis of the subdivision control Acts of Michigan, Wisconsin, Indiana, Ohio and the Province of Ontario, Canada. Any further documentation and description of why it is necessary in modern urban society to require subdivision regulations should not be required. Chapter III will draw

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[15]Webster, Ibid., p. 442.

upon an overview comparative analysis of the said States from the following points of comparisons: (1) philosophical relationship of subdividing to planning, (2) definitional content, (3) length of review time, (4) agency circulation of plats of subdivisions for review and approval, (5) role of the local planning agency and finally, (6) the extension of improvements required by each state. These six substantive elements of subdivision requirements are chosen because they have been, as evidenced by surveys and the literature on this subject, the key areas of concern and debate. All land developers and home builders interviewed in the process of this research confirmed these areas of concern.

CHAPTER III

OVERVIEW DESCRIPTION OF COMPARATIVE STATES

This chapter provides the basis for a summary overview of the key elements of the Subdivision Control Acts of four different contiguous political states. These are the States of Wisconsin, Indiana, Ohio and the Province of Ontario. The reasons for choosing these political units is because of their geographic proximity they should constitute a similar climate for land development, and because their contiguous nature justifies the assumption that approaches to subdivision regulation should not vary substantially between closely related geographical areas.

Each of these substantive areas of subdivision public policy, for they are areas of public policy by the very nature of their public interest, health and welfare relationship, shall be discussed for each state. What may appear to be subjective positions hopefully will be accepted as prognostications based upon precedence of subdivision law and historical policy. Pursuant to these objectives an overview of each of the enabling Acts is given as follows:

State of Wisconsin

Chapter 236 of the Wisconsin Statutes provides the legislative basis for regulating the subdivision of land by local political subdivisions in the State of Wisconsin. This Act became effective on January 1, 1957 and is titled Platting Lands and Recording and Vacating Plats. This point is emphasized because in reality the Act far exceeds the limitations implicit in the title. This is made clear at the very outset of the Act in it's statement of purpose which includes therein the following points:

(i) to prevent the overcrowding of land,

(ii) to lessen congestion in streets and highways,

(iii) to provide for adequate light and air,

(iv) to facilitate adequate provision for water, sewage and other public requirements.

While the above are basic considerations in the application of the police power, the point being made is that the title of the Wisconsin law implies a far less consideration than the purposes which actually appear in it's statement of intent. Michigan's Act, on the other hand, does not contain in it's statement of intent these related aspects of urbanization, except in a broad manner, by which the statement includes therein, as purpose, the promotion of the public health, safety and general welfare. It is not unreasonable to conclude that the State of Wisconsin is more cognizant of the wider urbanizing ramifications of the subdivision

process than is Michigan. This point emerges rather clearly in a comparison of the statements of intent in the Wisconsin and Michigan laws.

The definitional question of what constitutes a subdivision of land was viewed as the next area of major concern. As seen by the drafters of subdivision control regulations, and those affected by their passage, the most sensitive issue has been the determination of what constitutes a subdivision of land thereby bringing into play all of the requirements of the Act with respect to platting and the provision of utilities. The importance attached to this substantive area telegraphs the viewpoint that platting should be a kind of last resort. In other words, many land developers would prefer to use the system of metes and bounds as the principal way of conveying land. It is recognized that the definition is also important in that there must be some point at which the size of parcels do not constitute a danger to the public health, safety and welfare. Parcel size also serves to distinguish between rural-agricultural land divisions and suburban-urban divisions. Responsible legislators have been hesitant to infringe upon this bastion of laissez-faire to any serious extent.

The State of Wisconsin appears to be somewhat sensitive to this issue as it requires platting of land only in the event a proprietor wishes to create five or more lots each of which is 1 1/2 acres or less in area in any five-year

period. In areas of high urban activity where land costs have soared and utilities must be provided, this regulation can be effective simply on the basis of market realities; however, in the more suburban or small town environments, lots of 65,000 square feet would not be uncommon and circumvention of platting requirements would be very possible. This problem is somewhat ameliorated because the Wisconsin statute permits a municipality, town or county, which has an established planning agency, to adopt ordinances governing the subdivision or other division of land, which are more restrictive than that provided in the statute definition of what constitutes a subdivision.[1] For example, Madison, Wisconsin has adopted regulations requiring the platting of land where the act of division creates two or more parcels of land.[2] There are also administrative codes which grant certain review powers which have an effect upon this area. For example, Chapter H65 of said code grants to the State Board of Health clear and definite guidelines for the development of lands in areas not served by public sewage systems.[3] Wisconsin's unique shoreline protection

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[1]Wisconsin statute, Chapter 236, subsection 236.11.

[2]Wisconsin statute, Footnote to Chapter 236.

[3]Wisconsin Administrative code, Chapter H65. (Contained in Wisconsin Platting Manual).

legislation further restricts land division activity.[4] It would be difficult to assess the effect of conveying this power to a local governing body without undertaking a survey of Wisconsin municipalities. It is suggested that one would find a direct relationship between the degree of restrictiveness and the influence which land developers enjoy in certain areas of the State. If conclusions were possible at this point in time one might say a uniform state requirement is a positive factor in overcoming local prejudice and variance. A strict interpretation of the Wisconsin and Michigan definition would weigh most favorably on Michigan's side. Michigan's definition permits four lots, each of which is 10 acres or less in area, without platting. This must obviously be more restrictive than Wisconsin which permits four lots of 1 1/2 acres each and moreover, which leaves to municipalities of the first class a certain degree of arbitrariness.

The plat approval process in Wisconsin is a two step process, one involving a preliminary plat, the other the final plat. The total review time provided by the Act in this two step process is 100 days, 40 days for the preliminary plat, and 60 days for the final plat.[5] In this

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[4]Laws of 1965, Section 55, Subsection 236.13 (2m), Chapter 614.

[5]Wisconsin Statute, Chapter 236, Subsection 236.11.

era of large scale land developments this aspect of review time is considered to be rather critical with those in the business of developing land. Procrastination of approving authorities is not possible because failure to respond means automatic approval; however, agreement can be made for extending consideration time. Other review agencies are provided for in the Act and they have 20 days in which to review the plat and respond. These considerations are all concurrent. Responses are directed to the agency from which the plat was received which is the clerk or secretary of the approving authority, or in certain cases, the Director of the Department of Resource Development. Responsibility for plat circulation lies with the responsible approving authority or the Director of the Department of Resource Development.

In the Wisconsin statute, specific provision is provided for determining the role of a local planning agency. In particular, the authority to approve or reject preliminary plats may be delegated to the planning commission of the approving governing body. Approvals, moreover, are conditioned upon compliance with any local master plan, and the opportunity to achieve regional coordination is provided by the necessity to refer the plat to a regional planning commission for consideration and approval. In other words, a specific and viable role is provided for

the conduct of a local planning commission, and again it should be noted that there is a recognition of the interrelationship between land use planning and platting.

The Wisconsin statute provides for the installation of public utilities and improvements in accordance with a local ordinance and for providing adequate financial guarantees to insure that such improvements are made. The act does not establish a minimum level of service except when the State Health authority is involved. Extent and kind of utilities are left to local determination. Lastly, the Act contains the usual recordation and surveying requirements, including provisions for penalties, vacations, minimum lot sizes and certifications. The Wisconsin Act provides for a minimum lot area of 6,000 and 7,200 square feet for counties containing populations of 40,000 or more and for counties of less than 40,000 respectively. Lot sizes may be reduced if public sewers are available and provided the municipality adopts a subdivision control ordinance. In comparison to Michigan where the minimum lot size provision is 12,000 square feet, unless otherwise provided by ordinance, this evidences considerable divergence. As a convenience to the public a manual has been published in which is contained a copy of the Act and the platting rules and regulations of the various state review agencies.

State of Indiana

Burns Chapter 53-745 of the Indiana statutes contains the enabling legislation pertaining to the approval of plats of subdivision.[6] These provisions are part of the 1947 City and County Planning Legislation and the later 1957 Area Planning Legislation. At a very early date it would appear that Indiana was able to draw the distinction between the recordation and surveying requirements of platting as opposed to the physical land use and urbanizing aspects of subdivision activity. This assumption is based upon the fact that the 1947 City and County Planning Act in no way addresses itself to the recording and surveying aspects of platting, but rather is based upon subdivision approval procedures, required provisions and other regulations related to land divisions from a land use point of view. It is assumed that there are recordation requirements, however, but these must be contained in a separate Act and pertain only to land title and surveying considerations. The relationship between the comprehensive planning process and land subdividing or planning is made clear at the very outset of Chapter 745, which states the following:

> After a master plan and an ordinance, containing provisions for subdivision control and the approval of plats and replats, have been adopted and a certified

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[6]Statutes of Indiana, Burns 53-745.

> copy of the ordinance . . . shall not record it unless it has first been approved by the plan commission. . . .[7]

No other state so clearly emphasizes such a positive role for the planning commission and the relationship to the master plan.

The sensitive role which exists between unregulated land divisions and urban problems is clearly identified by the position which Indiana takes relative to the definition of what constitutes a subdivision. Indiana provides that

> any subdivision of a parcel of land for purposes other than agricultural use shall be reviewed by the plan commission having jurisdiction over the area involved and the determination shall be made that such division shall be in accordance with the master plan.[8]

One could claim that in reality the degree of restrictiveness in Indiana is directly proportional to the zealousness with which the local planning commission approaches its job. The more important fact, however, is that the state has provided the tools to local planning agencies to use this provision to achieve desirable urbanizing goals. One must assume that planning commissions in Indiana's political subdivisions have matured, as has the planning profession, towards a more critical recognition of the need to use subdivision regulations as a master plan implementing tool to

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[7] Ibid.

[8] Ibid.

achieve the most desirable urban goals. This would automatically exclude unregulated "metes and bounds" divisions. However, given this discretionary power there is no certainty that in fact "metes and bounds" land divisions in Indiana are less frequent than in the comparative states. The more often poor performance of planning commissions, as evidenced by Walker, Craig, et al., leaves this entire matter in Indiana in doubt. Without extensive research it is not possible at this time to make the assumption that land divisions are more restrictive in Indiana than elsewhere.

Procedures for plat approval are simple enough in Indiana in that it is only a one step affair in which application is made to the planning commission that is charged with the setting of a hearing, providing for notification in writing and publication to those having interest, holding the hearing, and within a reasonable time, approving or disapproving the plat. There are no time limit provisions, other than reasonable time, therefore, is is not possible to determine through reading the statutes how long it takes to complete platting approval procedures.

Presumably only the planning commission receives a copy of the plat and the statutes allow the commission to require the installation of public utilities, review fees and guarantee installation of improvements. The Act

does not require the installation of a minimum level of services. The extent of utilities are left to local discretion. In those instances where utilities are not installed prior to recordation, the local planning commission may require a performance bond.[9]

The role of the planning commission is emphatic as the caption of Burns Chapter 53-752 so describes when it says:

> Plan Commission's exclusive control over approval of plat; transfer of harmonious prior control over plats to plan commission; repeal of provisions for platting control.[10]

State of Ohio

Chapter 711 of the Ohio statutes provides the enabling legislation pertaining to the approval of plats of subdivisions.[11] Ohio, like Indiana, is concerned with the relationship between platting and urban processes as evidenced by the relationship provided in the Act for the planning commission. Ohio, like Wisconsin, joins both aspects of urbanization and recordation together by providing regulations pertinent to recordation in the same Act as those which provide for the more urbanizing related aspects of

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[9] Statutes of Indiana, Burns 53-751.

[10] Statutes of Indiana, Burns 53-752.

[11] Statutes of Ohio, Revised Code, Chapter 711.

land subdividing. Ohio and Indiana, however, lack the statement of purpose provided by both Michigan and Wisconsin which gives a clue to the legislature's intent. Nonetheless, Ohio's approach to land subdividing and related problems is sufficiently clear so that it conveys a philosophy.

This philosophy is conveyed by the very narrowly defined word "Subdivision" and the manner in which approvals are required by the planning commission. It is apparent that Ohio recognizes the fact that land subdividing is of greater concern than that of simply guaranteeing adequate recordation procedures. Definitely one appreciates the fact that the Act recognizes the urbanizing relationship of land subdividing and all that it implies in terms of affecting the quality of our environment being consistent with the public health, safety and welfare.[12]

The basic purpose of land subdivision regulations is to insure the protection of the public health, safety and welfare. It is suggested that this is best achieved when land is platted in a recorded subdivision and adequate provision is made for public review and compatibility with the goals expressed above. If the foregoing statements are true, then those regulations which make it impossible to circumvent the considerations previously

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[12]Statutes of Ohio, Revised Code, Chapter 711.05.

described should be the best of regulations in their degree of restrictiveness, particularly in the basic definition of what constitutes a subdivision. The State of Ohio, by it's very definition of what constitutes a subdivision, has taken this most restrictive direction, for it provides as follows:

> The division of any parcel of land . . ., into two or more parcels . . ., any one of which is less than five acres for the purpose. . . .[13]

For all practical purposes it can be assumed that any division of land will require a plan of a subdivision to be recorded in accordance with the Act. As a consequence all land development must be consistent with local requirements. The degree of sophistication which the planning process is embellished with is dependent upon the quality of the local planning commission.

In terms of subdivision review time the best estimate that can be provided is 30 days which is the statutory requirement.[14] Section 711.09 provides that the Planning Commission will have 30 days to review the plat from time of receipt. Presumably this time is concurrent with that provided in Section 711.05 in reference to the board of county commissioners. In both situations failure to act within the specified time period, unless it has been

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[13]Statutes of Ohio, Revised Code, Chapter 711.001, (1) (2).

[14]Statutes of Ohio, Revised Code, Chapter 711.05.

extended as the applying party may agree, confers automatic approval to the plat.[15] Without further investigation it is not possible to determine if in fact the spirit of the Act is being supported in Ohio for it does seem that this review time is hardly adequate to insure the protection of the public health, safety and welfare. A cursory check revealed that, in fact, the review process was much longer than 30 days. It would seem that it requires some four months to finally complete subdivision procedures in Ohio.[16]

Platting procedures in terms of circulation to approving agencies is not spelled out in the Act, nor are the relationships between the various review agencies, such as the Board of County Commissioners, Platting Commission, Municipal Engineer or legislative authority and Planning Commission. Principal approving authorities are the Planning Commission, Platting Commissioner and legislative authority. Presumably the proprietor, or his agent, is responsible for submitting the plat to each approving agency. Under Section 713.03 the Planning Commission is the Platting Commission and the Director of Public Services is the Platting Commissioner.

The role of the planning commission is best described by Section 711.09 which in many respects is similar

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[15] Ibid.

[16] Information furnished by Development Department, State of Ohio, Division of Planning, January 1970.

to Act 285, Planning Commission Act in the State of Michigan. This section provides that

> whenever the city planning commission adopts a plan for the major streets or thoroughfares and for parks . . . then no part of such territory of land falling within such city or territory shall be recorded until it has been approved by the city planning commission.[17]

This provision is guilty of the long standing opinion in the planning profession that the piecemeal adoption of a comprehensive development plan is encouraged. It should be noted at this juncture that Indiana on the other hand provides that no approval of a subdivision is possible without there first being a "Master Plan." A master plan must be a plan of land use, community facilities and transportation and is therefore a more viable relationship than that encouraged in the Michigan and Ohio Acts.

The planning commission may adopt rules and regulations governing the recordation of plats, and the installation of utilities.[18] The actual extent of utility installation is not spelled out in the Act, but is broad enough to allow the planning commission to require a full compliment of municipal utilities. This delegation of authority for determining the kinds of utilities to be installed is to the governing body of the municipality. The effect of the

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[17]Statutes of Ohio, Revised Code, Chapter 711.09.

[18]Statutes of Ohio, Revised Code, Chapter 711.05.

Ohio legislation is to place in the hands of the planning commission, who should be more sensitive to environmental quality, a viable tool for improving the livability of neighborhoods.

Province of Ontario

The philosophical basis for land development decision-making departs drastically from that characteristic of the Acts in the four states reviewed. The concept of local home rule or grass roots decision-making in land development controls is absent in Ontario practices. All municipal jurisdictions below that of the State are truly its creatures and subordinate thereto in all spheres of decision making. An appreciation of this philosophy is basic to an understanding of the methods employed for regulating land usage in the Province of Ontario.

The basic framework for land development decision-making at the local level is first by approval of the Province, which is represented by the Minister of Municipal Affairs. Statute authorization is contained within the Municipal Act while Chapter 296 sets out provisions under which all land development decisions are made.[19] In order to appreciate the manner in which land development decisions are

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[19]The Planning Act, Revised Statutes of Ontario, 1960, Chapter 296, Section 28.

regulated one must appreciate the role played by the "Master Plan" in Ontario (Official Plan in Ontario). Unlike American experience the Master Plan is a kind of joint undertaking in the sense that its approval is dependent upon the Minister of Municipal Affairs whose planners play a significant part in directing what it considers good planning philosophy. While legally it is drafted and designed by the local jurisdiction to which it shall apply, nevertheless, its enactment into law requires the consent of the Province (Minister). The Master Plan thereafter is a legal, living document, unlike American practice, where it assumes the role of an advisory document without any real legal foundation except insofar as the Planning Board's adoption of the plan and the provisions of Act 285 in Michigan apply. This important difference is further supported by the necessity for all land development regulations having to comply with the Master Plan. Unlike American experience, there is a direct tie between what are supposed to be implementing regulations and the Master Plan. Much confusion over this point exists in American practice. In Ontario there is, therefore, a direct relationship between the Master Plan and those regulations which ordinarily control land development, such as zoning and subdivision regulations. Furthermore, all implementing regulations have to be approved by the Province who insure that this implementation is in fact supported.

With respect to subdivision laws and procedures, the Province, and not the local municipality, process and approve subdivision plans. Legally a proprietor of a plat submits the plan (in the required copies) to the Province (Minister of Municipal Affairs) who then refers the plan for comment and advisement to any affected agencies, including the local municipality and local planning body. In fact, however, the proprietor is encouraged to discuss his plans with local agencies prior to submission to the Province. The Province assumes the responsibility and final decision whether or not to approve the plan. This decision is in large measure based upon the provisions of the Master Plan. The Province requires that it is given assurance that the proprietor is required to fulfill the city's requirements and has met the conditions imposed by the Province. Finally, the Province, through its Minister of Municipal Affairs, certifies the plat, which may then be recorded at the district or county recording office in whose jurisdiction the plat lies. The district or county recording office (known as registry offices) insures that the plat satisfies the provincial registry act. This act is strictly a recording act and has no land use or other planning significance. The registrar's responsibility is to certify title, proper surveying and recording of land. A plat may not, however, be recorded until it has been certified by the Minister of Municipal Affairs and other approving agencies (the municipality).

A prerequisite to platting requirements is the designation of an area as an area of subdivision control. In organized municipalities, the local municipality requests the Minister to declare the city, or a part thereof, as an area of subdivision control. Thereafter no person shall convey any land contrary to Section 26 of the Planning Act.[20] This section requires that no division can be made unless it is within a plan of subdivision or unless the consent of the local Board of Appeals is obtained. In some respects, therefore, the creation of parcels of land by "metes and bounds" is a matter of local concern through the Board of Appeals. To determine the extent to which "metes and bounds" parcels are permitted is not within the scope of this study, and no doubt varies from place to place. The important point is that total exclusion of "metes and bounds" parcels are possible. In an organized territory the Minister may himself impose upon the area an order under which he assumes total control of any land division activity.

A matter of great concern to the land developers is the time involved in the completion of a plan of subdivision from inception to development. Ontario's experience is that this time varies from six months to one year in duration.[21]

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[20] Ibid., Chapter 296, Section 26.

[21] Author's experience in Ontario (1954 to 1965 Planning Director, Sault Ste. Marie and Suburban Area Planning Board).

To a large extent it matters considerably whether or not a proposed plan of subdivision is located within an urban area, complete with a complimentary basis for urban regulation, as opposed to a suburban area where availability of municipal utilities are uncertain. In Ontario the prevailing point of view is that subdivision activity should be permitted in the cities where municipal utilities can be provided. Subdivisions on the basis of private systems are no longer tolerated except in rare instances, and in resort subdivisions. If there are no municipal utilities available the review process is lengthened, perhaps because the tendency to deny is by its nature a delayed one. When utilities are available, and a good plan is in effect, the approval time is considerably shortened. The prevailing practice in Ontario has been for municipalities to require a full compliment of utilities, however, the extent and kind are left to local determination. Sanitary sewers and water are usually mandatory and required by the Province.

The local planning commission, even though it may not appear to do so, plays a viable role in subdivision approval, since it and the Minister establish the basis upon which subdivisions thereafter must conform, namely, the Master Plan. To appreciate this fact one must recognize the legal effect of the Master Plan in Ontario. The local planning commission, and particularly those agencies with professional staff, enjoy a rather unique rapport with the

"Minister" through his professional planners, and in this way it is possible to direct the developer to the point where he is forced to achieve a high standard of urban excellence. Local political pressures are also of minimal effect upon the planning commission and professional planner since it is the Province who in the final analysis coordinate the approval.

Local legislative bodies are responsible for requiring the subdivider to fulfill the conditions imposed by the Minister as conditions of draft approval. These invariably include the provision of utilities and the guaranteeing of the same, plus 5% dedication for open space or cash-in-lieu thereof. There can be little or no doubt that in Ontario total control is exercised over subdividing processes by the Province.

Summary

The above descriptive analysis indicates the fact that each of the comparative states reflect a unique kind of philosophy and exhibit relative degrees of comprehensiveness in providing a legislative basis for constituent local municipalities to impose subdivision regulations. The actual grain with which they differ is difficult to determine by a strict interpretation of their Acts. Indiana appears to have established the closest relationship between land use environmental planning and the subdividing

process, in spite of the fact that its Act does not provide a great deal of guidance to a potential land developer. Ohio provides more direction and has widened the approval base to include more than just the planning commission. Compared to Wisconsin, however, it falls short of its level of detail and participation in the approval process. All of the states require the installation of utilities, but the extent and kind are left to local determination.

The broad comparative study elements described in Chapter III fall short of providing a definite sense of the real differences between the Michigan Act and those of the comparative states. They do, however, provide a basic overview understanding of the comparative states. Moreover, the study elements can provide a reasonable basis for establishing a detailed set of consideration variables which incorporate the basic concepts of Chapter II insofar as what are desirable components of land subdivision regulations consistent with the public health, welfare and safety.

To achieve this goal and provide the kind of insights necessary to determine the relative merits and deficiencies of Michigan's Subdivision Control Act, twenty-one variables have been identified for comparative purposes. Chapter IV identifies these variables and applies them in a comparative analysis to all of the states under consideration in this research work.

CHAPTER IV

COMPARATIVE VARIABLES AND ANALYSIS

Using the basic comparative elements established in Chapter III, namely (1) philosophical relationship of subdivisions to planning, (2) definition and content of the word subdivide, (3) length of review time, (4) plat circulation and agency approvals, (5) role of the local planning commission and (6) improvements, plus the historical and contemporary justification for subdivision regulations, it was possible to develop a more comprehensive framework for determining the component considerations that ought to be a part of a good subdivision law. Consequently, twenty-one variables were defined as to the most desirable components of subdivision regulations. Comparing them to the States provided an in depth methodology for determining the relative merits of each State and finally through a weighing procedure made it possible to rank each state on a continuum of good and bad.

Table 1 presents in summary form a matrix comparison of these variables and their optimum conditions with each of the States. The last column is the weighed score column. Unfortunately, a certain amount of subjectivity is reflected, particularly in the score weighing of each

TABLE 1

EVALUATION OF EXISTING PLAT ACTS
STATES OF MICHIGAN, WISCONSIN, INDIANA, OHIO
AND THE PROVINCE OF ONTARIO

	REVIEW ELEMENT	OPTIMUM CONDITION	MICHIGAN	WISCONSIN	INDIANA	OHIO	ONTARIO	RATING SCORE Michigan	Wisconsin	Indiana	Ohio	Ontario
1	Definition of the word "subdivision". What constitutes a subdivision in the various states?	Metes and bounds divisions of land should not complicate future subdivision of land particularly in areas to be urbanized in the near future.	Division in ten (10) acre parcels can create future problems in terms of assembling this land to bring about best subdivision practices.	Future assembly of areas presently rural is less complicated by smaller lot size.	Any division other than for agricultural purposes constitutes a subdivision. No definition as such. Optimum condition would appear to be satisfied.	Any division of 2 or more lots in definition, however, minor subdivision of 5 lots permitted. Optimum condition is not satisfied.	Metes and bounds divisions permitted on approval by Board of Appeals. Number not limited. Optimum condition is not satisfied.	2	3	4	2	3
		Minimum size to qualify for division without platting by itself is an insufficient deterrent. A width to depth ratio is necessary to facilitate future development.	Division of land in ten (10) acre parcels is permitted. There is no depth to width ratio concept.	Smaller lot size reduces the assembly problem and width to depth ratio is less important a factor.	No minimum size provision for metes and bounds parcels.	Division into 5 acre parcels would less likely produce difficult depth to width ratio. Optimum condition is satisfied.	Approval not required for divisions over 10 acres. No depth to width ratio consideration. Optimum condition is not satisfied.					
		Divisions without platting requirement should not exceed three lots.	Up to and including 4 lots of lessor size than ten (10) acres is permitted without platting.	4 lots each containing 1-1/2 acres or less is permitted within a 5 year period.	Planning commission has authority to grant divisions provided they comply with Master Plan. The number of divisions allowed through this procedure is impossible to determine.	Minor subdivision provision takes away from implied restrictions of definition. Optimum condition is not satisfied.	Number of divisions depends upon Board of Appeals. Optimum condition is not satisfied.					
		Maximum size of parcel to be permitted without platting should be relative to rate of expected urbanization e.g., level of county population. Ten (10) acres in counties less than 25,000 population and twenty (20) acres in counties in excess of 25,000 population.	There is no cognizance reflected in the Michigan Act as regards this optimum condition.	There is no cognizance reflected in the Wisconsin Act as regards this optimum condition.	No relationship determinable based upon provisions of the Act.	No relationship determinable based upon provisions of the Act.	No relationship determinable based upon provisions of the Act.					
2	Substantive elements included in the definition.	The Act should regulate all land divisions.	All possible land divisions are not covered.	All possible land divisions are not covered.	The Indiana definition does not recognize the number of ways in which land may be transacted tantamount to fee simple conveyances and in this sense there is no provision for leases, mortgages or other arrangements.	Same as Indiana.	Optimum condition is satisfied.	4	3	0	0	5
		A long term lease is tantamount to division of land and should be regulated.	Leases for 1 or more years included. This is overly severe.	No lease provisions.								
		A mortgage can have the same effect as a fee, title, conveyance in the event of foreclosure.	No mortgage provision.	No mortgage provision.								
		Planned unit development or multiple buildings on a lot should not be clouded with the possibility of a one building - one lot concept.	Yes, this is possible because of inclusion of the word "building development".	Yes, this is possible because of inclusion of the word "building development".								
3	Stages or the number of steps involved in the approval process.	The number of review stages should be no more than are necessary to preserve the public interest and welfare.	Michigan has a three stage approval requirement. A potential 4th stage is optional.	Wisconsin has a two stage review process, namely preliminary and final approvals.	No review stages are provided for presumably one step review, public hearing and notice. Suggests inadequate review.	One stage approval process. Suggests inadequate to review.	Two review stages are provided, one draft and two final.	3	4	1	2	4
		Wherever possible agencies reviewing the plan should be concurrent.	Agency reviews are not concurrent with each other. This has the effect of extending total review time more than any other review factor.	Agency reviews are concurrent at local and state level.			Review agencies in concurrent appraisal.					
4	Agencies involved in the review process and the manner in which review time is affected.	All necessary agencies concerned with a public charge in land development should be involved in the approval process.	Local, regional and state agencies concerned with land development are adequately involved in the review process.	Local, regional and state agencies concerned with land development are adequately involved in the review process.	Provision is only made for review and approval by the Planning Commission. This is an inadequate review procedure.	In spite of one stage approval process, local, regional and state review is assured.	Optimum condition is satisfied.	4	5	2	3	5
		These agencies should be given sufficient time to adequately fulfill their role.	It is apparent that given sufficient manpower adequate time is given for reviews.	Review times are shorter than in Michigan, however apparently sufficient.		Insufficient time is afforded review agencies only 30 days for each of local, regional and state agency.	Time is indeterminate by referral review agencies.					
		Principal review agencies should include: a. Planning Commission b. Legislative branch c. Regional Planning Commission d. Pertinent State agencies	There is no provision in the Michigan Act for local or regional planning commission approval, however, legislative and stage agency approvals required.	Optimum condition is adequately satisfied in Wisconsin.		As near as can be determined, optimum condition is satisfied, however, greater clarity is desirable.	Optimum condition is satisfied.					
5	If there an official agency charged with plat approval?	An official agency should be charged with plat approval and co-ordinating agency reviews within each political sphere. These should include: a. Local level b. State level c. Overall approval authority	This matter is not so clearly defined in Michigan. The local governing body would appear to be the principal overall approving authority particularly in an incorporated municipality. There is no co-ordinating agency as such.	Wisconsin is somewhat more definite in this regard. In first class cities and counties the governing body is the principal approving agency otherwise the director of resource development is the approving authority. The director also assumes the duties of co-ordinating agency approvals.	Local planning agency is the principal approval agency. No provision is made for approval at regional and state level.	Local planning agency is the principal approving agency only after rules of procedure have been approved by legislative branch. Unincorporated areas are within sphere of county planning. The Act makes provision for state approval.	Optimum condition is generally satisfied, however, the principal approval agency is the state.	3	4	5	5	5
6	Responsibility for plat circulation.	Circulation should be the responsibility of government agency at: a. the local level and b. the state level	The proprietor is responsible for plat circulation at both the local and state levels.	Governing bodies at both local and state level circulate the plat.	There is no plat circulation provision since the planning commission is the only approval agency.	Proprietor is responsible for plat circulation, however, there is no specific direction.	Circulation of plat is afforded by the State to all review agencies and co-ordinated by them.	2	4	1	3	5
7	Provision for extension of review time and/or disposition of plat in event agencies fail to respond.	Provisions of total review time ought not be circumvented and failure by reviewing agencies to respond should confer automatic approval.	No provisions are made for extension of approval time and in the event of no response within time limits of review.	Approving authority may receive an extension of review time and the Act provides that in the event of failure to respond within time limits automatic approval is conferred upon the Plat.	The Indiana Act provides no direction in regards to review time, presumably the planning commission is not restrained by time requirements.	Optimum condition is satisfied.	No provision, no time limits.	2	5	1	5	0
8	Review Fees	Reasonable fees should be provided to permit local political units to review the plan, including the provision for retaining professionally competent consultant services, particularly where local political unit is not so staffed.	Governing body is empowered to establish a schedule of fees which are to be based upon "reasonableness". Litigation could only determine its limits pursuant to the optimum condition.	There is no provision in the Act for assessing fees for review purposes.	The Indiana Act provides for a uniform schedule of fees for checking and verifying. Presumably optimum condition is satisfied.	There is no provision for assessing fees for review or other purpose.	There is no provision for assessing fees for review or other purpose.	5	0	5	0	0
9	What is the role of the Planning Commission?	The planning commission should be given a viable approval role recognizing that land development is an urbanizing process and as such affects the planning process for which the planning commission has principal responsibility.	No provision is made in the Act for local review and approval by the planning commission.	Provision is made for delegating approval powers to the planning commission related to master plan. Optimum condition is satisfied.	Planning Commission is the sole approving agency when a Master Plan and ordinance have been adopted.	Planning Commission plays viable role more nearly satisfying optimum condition.	Planning Commission plays viable role in advisory capacity only.	1	4	3	3	2
		A state level planning agency should be created to insure desirable standards of land development, to guard against abusive land development practices, to bring about good design and to promote quality urban environments.	No provision is made for a state level planning agency with powers commensurate with optimum conditions.	The director of resource development is a close parallel to that condition suggested by the optimum condition.	There is no provision for state level approving agency.	There is no provision for State level approving agency.	Optimum condition is satisfied.					
10.	Role of Local Legislative Body	The local legislative body should be given a mandate to establish review procedures and demand the installation of services and to delegate this authority to the planning commission.	Optimum condition insofar as power of local legislative body is concerned is satisfied, however, delegation provision providing for local planning commission to administer these powers is absent.	Optimum condition is satisfied.	There is no role prescribed	Optimum condition is satisfied.	The position of the local legislative body is advisory to the State in the same manner as the planning commission.	2	4	0	4	4
		Approval role of planning commission should be co-equal to those of legislative body.	Such is not the case in Michigan.	Powers not co-equal political unit has final approval power.			In a sense, the planning commission is co-equal to the local legislative body.					
		Overlapping political jurisdictions must be overcome, example: city versus county jurisdiction as in the case of county roads.	This problem is inadequately handled in the Michigan Act and local political unit and county have separate and equal powers.	This is not considered a problem local political unit in which subdivision activity occurring has final approval power. Regional advisory role provided for.			There is no overlapping jurisdictional problems.					
11.	Provision Enabling the Installation of Utilities	Subdivision control enabling legislation should provide that local government will require adequate utilities to be installed in subdivisions rather than may permit certain utilities to be installed.	The Michigan Act permits local government to require the installation of a complete range of utilities but the number and type is left to discretion of local unit to government.	Same as Michigan	Local utilities may be required according to the requirements of planning commission.	Same as Indiana.	Determination of the type and level of local utilities is at the discretion of the State (Province). Imposed as conditions of approval to be guaranteed by the local legislative body.	4	4	2	2	3
		The number, type and level of utilities should be commensurate with the kind of environment, whether urban, suburban or rural.	The Michigan Act does not satisfy the optimum condition, there is no relationship between type of environment and level of utilities.	Same as Michigan	Determination by planning commission performance cannot be determined.	Same as Indiana.						
		Private sewer systems should be discouraged in areas now or in the near future will be characterized as urban.	No provision in the Act would provide this kind of direction except that State Board of Health could disapprove of such asubdivision. The record however is very poor.	Same as Michigan	There is no way of determining the actual performance of the planning commission.	Same as Indiana.						
12.	Requirement for Guarantee of Utilities	The provision of local utilities should be guaranteed by some acceptable financial means or pre-installed. The method should be left to the discretion of the proprietor.	The Michigan Act satisfies the optimum condition.	The Winsonsin Act is less definite in that it states that a local unit of government may require a portion of the improvement costs to be paid in advance, other guarantees are not spelled out in the Act.	Optimum condition is satisfied.	Optimum condition is satisfied.	Optimum condition is satisfied.	5	4	4	4	5

TABLE 1 (Continued)

EVALUATION OF EXISTING PLAT ACTS
STATES OF MICHIGAN, WISCONSIN, INDIANA, OHIO
AND THE PROVINCE OF ONTARIO

13.	Per Cent of Improvement Guarantees	Those utilities not installed prior to the recording of the plat should be guaranteed for 100 per cent of their estimated improvement costs.	Presumably this matter is left to the discretion of the local unit of government.	There is no provision of this nature in the Act.	Left to the discretion of planning commission.	Left to the discretion of local legislative body.	100 per cent of required utilities must be guaranteed.	4	1	3	3	5
14.	Types of Financial Guarantees	The Act should provide that all legally accepted means of guaranteeing in advance utility installment costs should be made available to proprietors.	The Michigan Act satisfies the optimum condition by providing for letter of credit, cash surety bond, certified check or other means of legal assurance.	There is no provision of this nature in the Act.	Type of securities acceptable are not spelled out. The matter is left to discretion of planning commission.	Same as Indiana.	Provides that any legally recognized security is acceptable.	5	1	2	2	4
15.	Provision for Lot or Parcel Size Relative to Availability of Utilities	The Act should permit local government to require lot sizes only if it has enacted a zoning ordinance which bears a reasonable relationship to a Comprehensive Development Plan.	The Michigan Act establishes a minimum lot size for local units without an approved subdivision ordinance. Generally, the scope of the optimum condition is not satisfied.	Relative to population of political unit certain minimums are provided for in the Wisconsin Act. Generally the scope of the optimum condition is not satisfied.	No provision in the Indiana Statute relative to minimum parcel or lot size. Subdivision control ordinance must be adopted.	There are no provisions in the other statute relative to the optimum conditions.	Optimum condition is satisfied.	3	3	0	0	5
		The Zoning Ordinance and Comprehensive Development Plan should be on file in responsible state agency who also reviews and approves plats.	No requirement to establish this relationship and coordinative arrangement.	Same as Michigan.								
		Where local unit of government fails to do this the State should establish minimum lot sizes for areas with utilities and without bearing a density relationship.	No provision of this type.	Same as Michigan.								
16.	Provision for Local Subdivision and Zoning Ordinances	The Act should specifically provide for the adoption of subdivision and zoning ordinances based upon a Comprehensive Development Plan. To participate in subdivision activity, the above should be pre-requisite.	Adoption of subdivision ordinance is left to discretion of local unit of government. No mandatory requirement, therefore, optimum condition is not satisfied.	Same as Michigan.	Subdivision Control Ordinance must be adopted, however, there is no provision for adoption of zoning ordinance. There is an implied relationship between the Master Plan and Subdivision Regulations.	There is no provision for adoption of subdivision control ordinance and zoning. Local legislative body must adopt procedural rules and requirements.	Local legislative body can adopt subdivision rules and zoning ordinances however, there is no specific requirement in the statute law.	3	3	2	0	5
17.	Non-Statute or Ordinance Rules - Adoption and Modifications	All review agencies should adopt administrative rules and publish them free of charge to insure understanding of the operating decision-making process of review agency.	The Michigan Act provides for the adoption of administrative rules but does not provide for their dissemination.	Same as Michigan.	There is no provision for adoption of administrative rules outside the scope of subdivision ordinance. State agencies not involved. Not applicable in view of absence of administrative rules. Provision relative to who is charged with plat preparation is absent.	Local political unit must adopt rules of procedure, however, there is no indication of administrative rules relative to agency. No provisions relative to change.	Administrative rules are published from time to time. Their scope and content is at the discretion of the State (Province).	3	3	1	2	3
18.	Plat Preparation - Qualification of Surveyor and Monumentation	Plat preparation should be the responsibility of a professional registered surveyor, who may also be a civil engineer or other discipline provided requirements for registration as a surveyor have been completed.	The Michigan Act provides that a plat may be prepared by a registered civil engineer or registered land surveyor. Civil engineer need not be necessarily registered as a land surveyor.	Optimum condition is satisfied.		Same as Michigan with local platting commission assuming responsibility for accuracy of plats.	Plat must be prepared by a registered land surveyor.	4	5	1	3	5
		Monumentation should be postponed until after physical development of streets, however, their post installation should be financially guaranteed.	Optimum condition is satisfied.	Optimum condition is satisfied including penalties for disturbing or failure to monument.	No provisions relative to survey requirements in the Act.	Monumentation is required and may be postponed until land is improved. Optimum condition is satisfied.	Planning Act makes no provision for survey requirements. This is included in a special statute law relative to land surveying.					
19.	Certification Procedures and Requirements	Anyone with a proprietory interest in the plat should be required to sign the plat.	Optimum condition is satisfied.	Optimum condition is satisfied.	The Act does not provide for any recordation procedures.	Optimum condition is satisfied.	Recordation and certification procedures are a part of a special statute relative to land surveying.	4	4	0	5	5
		Local legislative body through representative (Clerk and President of the Council or Mayor).	Optimum condition is satisfied.	Optimum condition is satisfied.		Optimum condition is satisfied.	Certification required by proprietor, local political unit, the state (province) and recording agency.					
		Affected State Agencies and Surveyor	Optimum condition is satisfied.	Owners certificate testifies to fact that approving agencies have reviewed the plan and county register of deeds cannot record plat until certified by town clerk.		Optimum condition is satisfied.						
		Planning Commission	No provision for certification of planning commission.			Optimum condition is satisfied.						
		Recording Agency	Optimum condition is satisfied.			Optimum condition is satisfied.	Optimum Condition is satisfied	5	5	0	5	5
20.	Monetary and Criminal Penalties for Violation	Violation of the Act should demand payment of a fine and/or possible prison term for non-compliance.	Optimum condition is satisfied.	Optimum condition is satisfied.	No provision for penalties upon violation.	Optimum condition is satisfied.	There is no provision relative to review time in Ontario. This is entirely at the discretion of the State (Province).	3	5	0	1	0
		Criminal action must be instituted by responsible state agency or local governing body.	No direction provided for initiation of legal action against non-compliance.	Same as Michigan.								
21.	Maximum Legal Review Requirements and Provision for Non-Compliance.	The Act should provide for maximum review time by all agencies who have approval responsibility.	Optimum condition is satisfied.	Optimum condition is satisfied.	No provision relative to review time.	Optimum condition is satisfied.						
		Failure to respond with review period should automatically confer approval.	Michigan Act does not provide for automatic approval in event of silence by review agency.	Optimum condition is satisfied.		The Ohio Act provides for 30 days review. This review time is insufficient.						
		Total time should be consistent with the public interest.	The Michigan Act provides a minimum of 145 days to a maximum of 195 days. This appears to be longer than necessary based upon comparative analysis with other states.	The Wisconsin Act provides for 100 review days which appears more reasonable.								
							TOTAL	71	74	37	54	78

variable against a particular state's performance. The degree of subjectivity is reduced as much as possible by the definition of the following criteria:

- A state satisfies the comparative variable with a reasonable degree of completeness, 70% to 100%, relative weighing of optimum conditions, 4 to 5.
- A State only partially satisfies the comparative variables, 40% to 70%, relative weighing of optimum conditions, 2 to 3.
- A State fails to satisfy the comparative variable and is below 40% of satisfaction, relative weighing of optimum conditions, 0 to 1.

While this methodology is still dependent upon subjective weighing it nonetheless establishes an equal measuring base for all the comparative States. Table 1 by itself cannot do justice to any comparative analysis, consequently, each variable will be exposed to each of the comparative States for narrative exposition. Finally, the variables represent what in the authors opinion should be optimum requirements of a subdivision law which satisfies the goals of preserving the public interest, welfare and health. These optimum conditions have precedence based upon historical philosophy and earlier statutes such as the 1928 Planning Enabling Law and are supported by contemporary judicial decisions as evidenced in Chapter II and are therefore within the police power. The fact that modern contemporary urban society is becoming more susceptible to environmental pollution only further supports the need for public regulation of its physical development. While the list of

variables and their optimum conditions is not exhaustive, it is believed they represent those principal areas of public and private concern.

The following listing of these variables provides an overview of the key elements of subdivision control measures while Table 1 further defines the variables to include a set of optimum requirements.

1. By definition what constitutes a subdivision therefore establishing a basis for platting procedures?
2. What kinds of substantive matter are included in the definition?[1]
3. How many review stages are there in the approval process?
4. How many agencies are involved in the review process?
5. Is there an official agency charged with principal plat approval?
6. How is the plat circulated to review agencies and who is responsible for circulating the plan?
7. Are there provisions for extending review time or does silence provide for automatic approval?
8. Are fees provided for the review of plats?[2]
9. What role does the planning commission play?
10. What role does the local legislative body plan in the review process?

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[1]Substantive matter includes number of lots, leases, duration of lease, mortgage, etc.

[2]Fees are important to the private sector because they can be confiscatory in nature or a penalty to function in a community.

11. Are there provisions and standards for the installation of utilities and other improvements?

12. Does the Act enable local municipalities to require the guaranteee of utility installations and to what extent?

13. What percent of the improvements need to be guaranteed?

14. Does the Act provide for specific forms of financial guarantees?

15. Does the Act require minimum lot or parcel sizes relative to the availability of utilities?

16. Does the Act permit local subdivision and zoning ordinances to regulate on behalf of the local municipality?

17. How do administrative rules apply? Are they provided for and what provisions apply to their modification?

18. Who is charged with responsibility for plat preparation? Is a registered land surveyor required and how is monumentation regulated?

19. What are the certification procedures?[3]

20. Are monetary and criminal penalties provided for violations?

21. What maximum legal limits are provided for review time?

Variable 1, Definition

Michigan.--Act 288, P.A. 1967 permits the division of up to four lots prior to the necessity to plat and an unlimited number of parcels over ten acres in size. The definition does not recognize that three or four lots can

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[3]Certification procedures if overly extensive can affect approval time.

create a considerable amount of subdivision activity to the effect that the purpose of platting is effectively circumvented. This matter was of greater severity prior to the amendment which removed the provision that four or less lots or parcels could be created within a ten-year period and the next decade would permit a repeat of this kind of activity.

Another aspect of land division activity which poses a serious problem in a great many urbanizing areas is not reflected in Act 288. For example, lots or parcels of land in excess of ten acres can and have presented serious future land assembly problems. Areas, perhaps a decade removed from urbanization forces, are first divided in large acreage parcels (those in excess of ten acres), which at the time of ripe urbanization are then made difficult to assemble because of the multiple ownership characteristics of these areas. Even if the hurdle of assembly is overcome, it will come as a consequence of a more expensive solution which undoubtedly will be passed on to future purchasers of homes. One only has to inspect the plat ledgers of many Michigan counties to determine the authenticity of this condition. Most areas lying on the fringes of urbanizing areas consist of a quiltwork of narrow, deep, ten acres or more parcels. Parcels of 330 feet by 1320 feet are typical of much of this activity. A further review of the plat maps of many cities will reveal that these areas

have been passed over in the intensive land development process in favor of large one ownership parcels farther removed from the urbanized parts of the city. Such parcels have been the catalyst for many zoning cases at variance with a community's Comprehensive Development Plan, on the grounds that the planned use did not allow appreciable use of the large surrounded parcels of land. Therefore overall size by and of itself is not a sufficient deterrent to impede the platting process. Moreover, more than just the platting of lands are involved in this issue as is evidenced by the above.

Wisconsin.--All of the shortcomings of Michigan's definition likewise apply to the State of Wisconsin. In one respect the problem is more severe because Wisconsin permits an unlimited amount of divisions, if the lots or parcels are over 1 1/2 acres in size, while up to four lots or parcels are permitted of a lesser size than 1 1/2 acres before platting is necessary. On the other hand the Wisconsin statute provides that cities of the first class may choose to be more restrictive than the State Act. The history of local responsibility to solve its environmental problems suggests that this delegation of power is not advisable. Therefore any appraisal of the Wisconsin Act in this regard would not suggest that it is acting in a more responsible manner.

Indiana.--The Indiana law on the surface appears to be the most restrictive of all the Acts for it provides that any division except for agricultural purposes may constitute a subdivision of land. There is, however, one flaw in a strict interpretation of the Act because it further provides that the planning commission can grant approval to a "metes and bounds" conveyance if that conveyance conforms to the master plan. A master plan rarely provides any direction to deny "metes and bounds" applications. Without further investigation it would be difficult to draw any conclusions other than those which present themselves in a literal interpretation of the definition which does not permit any divisions for urban purposes by the "metes and bounds" method.

Ohio.--The Ohio statute provides that any division of two or more lots, any one of which is less than five acres in area constitutes a subdivision of land. This regulation for all practical purposes in urban areas would require platting because of its limited division aspects and size.

It is not economically feasible to create lots of five acres or more, and in this respect five acres is as effective as ten acres. However, what this provision fails to recognize is the multiple ownership characteristics of land on the fringes which this creates just as in the case of Michigan. In one respect it may bring about a more complicated situation than Michigan because a lesser frontage is possible while achieving the minimum acreage requirement.

For example the owner of a 40 acre parcel (1320 x 1320) would be able to create eight parcels, each 165 feet wide. This could create enormous future land assembly problems in the future. Therefore, this definition cannot be treated as the ideal state, whether or not it is an improvement over the Michigan definition is difficult to determine. It probably is more effective in the urbanizing areas and less effective in rural areas.

Ontario.--The Province of Ontario delegates to a local board of appeals the power to grant "metes and bounds" conveyances as a consequence of the area under consideration being declared an area of subdivision control. The Minister of Municipal Affairs can declare an area as an area of subdivision control at his own initiation or as a result of request by a local legislative body. In the event there is no board of appeals, consents must be given by the Minister himself. A board of appeals must have adopted rules of procedure which likewise have been approved by the Minister. These rules provide the basis for determining whether a consent is granted or not. Moreover the board of appeals is empowered to determine the size and configuration of any granted conveyance. The extent to which "metes and bounds" divisions of land are permitted would depend upon local boards of appeals and their approved rules of procedure. On the basis of the author's experience in Ontario it is possible to conclude that "metes and bounds" divisions are

becoming increasingly difficult and many boards of appeal do not permit more than two or three divisions and further require them to be of such a size that they can be included in a future subdivision of the balance of the land. The effect of this action is that it makes possible temporary "metes and bounds" divisions which later are included in any subdivision of contiguous unplatted lands.

Summary.--It would appear that Ohio is the most restrictive of the comparative states in terms of land parcelation that is permitted without platting while Wisconsin would appear to be the least restrictive. The validity of a minimum parcel size of ten acres is questioned even though it would appear to satisfy the goals of public health, safety and welfare. It is suggested that there is a broader question involved here, namely, the relative degree of difficulty caused to future land assembly efforts by permitting unlimited parcelation of ten acres or more. Perhaps this problem cannot be solved given a strong heritage of American property rights but it is one which ought to be considered. On the other hand, a solution may be possible by zeroing in on the fringes of urban areas.

Variable 2, Substantive Inclusions

Michigan.--The Michigan Act, in addition to the normal fee simple sale of land, provides that a lease in excess of one year constitutes a division of land and therefore

requires platting. Another aspect of the definition is the provision that land for a building development may also constitute a division of land. This language is not unique to Michigan for it is likewise included in the Wisconsin statute. It's meaning is, however, unclear and can be confusing. For example, would each of the buildings in a planned shopping center constitute a building development and therefore require platting? It is suggested that a literal interpretation of the Act could result in this interpretation. What would it accomplish to require a single owner of a planned project to plat his land into separate blocks? In regard to the question of leases, leasing can be an effective method of circumventing the intent of the Act and therefore should rightly be a substantive matter for inclusion in the definition. However, a lease of one year's duration is perhaps overly restrictive and again could lead to unnecessary subdivision activity and expense. The Ontario law which provides that a lease is a division when it is for a period of 21 years or more makes more sense. The Michigan Act does not provide for such an evantuality.

Wisconsin.--The Wisconsin statute provides for fee simple sale, and for purposes of a building development. The same problems arise with respect to the question of building development as described in the case of Michigan. Wisconsin is not cognizant of the division potential and

consequently possible circumvention of its Act through mortgage and lease arrangements in view of the fact that it is silent in regard to these elements.

Indiana.--The Indiana statute definition contains no similar direction and provides only that any division of land constitutes a subdivision. Presumably this would have to be a fee simple arrangement. This definition like Wisconsin permits one to circumvent the provisions of the Act by lease and mortgage arrangements.

Ohio.--The Ohio statute presumably provides that a division of land is that which results from a fee simple arrangement and therefore fails to fully attack the problems of land division by other than the platting process.

Ontario.--The Ontario statute provides not only for fee simple arrangements and leases, but mortgages and other charges on land. Its coverage is the most comprehensive while at the same time realistic in that its intent is to block purposeful circumvention. That it manages to do by providing that leases and mortgages of land in excess of 21 years or more are in fact divisions of land. The historical bases for the provision of 21 years is not known except that it seems like a reasonable duration upon which to consider the conveying effects of leasing. It seems unlikely that anyone would make a substantial investment in property improvement if the period of the lease were for less than 20 years.

Summary.--Ontario's definition is the most inclusive of all the comparative states in that it recognizes that land divisions can be created in more ways than the fee simple method. Michigan is likewise alert to the more inclusive notions of land division; however, Michigan may have created a situation which is detrimental to the public interest if the effect of the Act is to needlessly increase the costs of providing housing. Wisconsin would appear to be most suspect to circumvention of platting requirements by means of leases and mortgages. Even though Ohio and Indiana are likewise suspect the greater control exercise by the planning commission may afford a means of averting circumvention.

Variable 3, Review Stages

Michigan.--The Michigan Plat Act requires three distinct approval stages, namely tentative preliminary, final preliminary and final approval. In reality, however, there are innumerable required approvals from various review agencies within each formal approval stage. A pre-preliminary review procedure has now been made voluntary and at the discretion of the proprietor.

The tentative preliminary stage is a 90-day review period primarily for the purpose of review by the local governing body and its agencies. Presumably the planning commission's review is executed during this time but

no specific delegation is granted the planning commission. Tentative approval gives the proprietor a one-year period in which to conclude a final preliminary plan. The flow chart included in the Appendix as Illustration 1 more fully describes this procedure.

Michigan, to a greater extent than any of the comparison states has established a specified delegation of review procedures. Important as it relates to total review time, these reviews are not all concurrent.

Wisconsin.--The Wisconsin statute provides officially for a two tier approval process, one, a preliminary approval stage (which is not mandatory) and, two, a final approval stage. In Wisconsin the Director of the Department of Resource Development holds approval powers in cities not of the 1st class and unincorporated land in counties in excess of 500,000 persons. This review stage presumably is in addition to that allowed the local governing body and is for a 30-day period. Likewise in Wisconsin there is specific provision for the delegation of review powers to various State agencies. They run concurrently and for periods not to exceed 20 days.

Indiana.--The Indiana planning statutes which address themselves to subdivision control measures do not provide a specific direction for review of a proposed plat by other than the planning commission. The planning commission is required to hold a pulbic hearing and give

notice thereof. All the evidence indicates that the submission of a plat is a one step procedure unlike Michigan and Wisconsin.

Ohio.--The Ohio statute basically provides for a two stage plat approval process. The local planning commission receives the plat and has 30 days to approve the plan, reject it or require modifications. Upon disposition of the preliminary plan the proprietor then prepares a final plat for resubmission both to the planning commission and the county board of supervisors. The county board of Supervisors has 30 days to approve or reject the plan. In the event the plat is satisfactory and is signed by the planning commission, the county board of supervisor will deposit it for recordation.

Ontario.--The Ontario statute provides for a two stage plat approval. The plat is submitted to the Minister for draft approval and upon receipt of draft approval the plan may be submitted for final approval. There are no specific provisions relevant to review time. This is at the discretion of the Minister.

Variable 4, Agencies Involved in Review Process[4]

Michigan.--Local, county and state agencies are all involved in the review process and include the local governing body, the county road, drain and health commissioners, the state treasury department. Not all reviews are concurrent and consequently contribute to an extension of overall review time. It should be noted that no provision exists in the Michigan Act for review by the local and regional planning commission.

Wisconsin.--Wisconsin, as in many other points of comparison, is similar to Michigan or perhaps this statement should be made in reverse order because the Wisconsin Act predates the Michigan act. The Act in any event provides for review by local, county and state agencies. Illustration 2 in the Appendix describes the nature of the review agencies and their affect upon review time. Basically these agencies include the governing body and/or the planning commission and in certain other cases the director of resource development who in turn refers the plan to

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[4]There is some divergency in the manner in which local and state review agencies are involved in the subdivision process. It is not always possible to determine in some of the states such as Indiana and Ohio if all necessary agencies are brought into the review process as opposed to Michigan which clearly identifies the participants in the subdivision review process.

affected state agencies. Once again review time is affected by the very act of enlarging the number of review agencies. All necessary agencies are involved in the review process.

Indiana.--In Indiana, on the basis of its statute, it would appear that only the planning commission is involved in the subdivision process.[5] The following quote from the Act is indicative of the planning commission's role.

> All control over the plats granted by other statutes, so far as they are in harmony with the provisions of this act, shall be transferred to the commission having jurisdiction over the land involved.[6]

Whether or not the public interest in Indiana is adequately protected by this limited review process is difficult to determine without some kind of sampling survey of Indiana communities. The author accepts the position that there is a number of aspects of subdivision approval which are beyond the competence of the local planning commission. It would appear imperative that certain state agencies should be involved in any review process. Highways, health, and conservation departments certainly function to insure the promotion of the public health, safety and welfare. The absence of environmental input from these agencies cannot be desirable.

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[5]Revised Statutes of Indiana, Burns Chapter 53-752.

[6]Ibid.

Ohio.--The Ohio statute lies somewhere between Wisconsin and Indiana in its delegation of authority. Ohio grants primary approval emphasis to the local planning commission with adopted rules of procedures which have been sanctioned by the local governing body. Like Indiana, it is not possible to determine from the Platting Act, section 711, the role played by the State of Ohio in the subdivision process.

Ontario.--Local government and the local planning commission are involved in the subdivision process in an advisory capacity. The Minister of Municipal Affairs exercises sole responsibility for subdivision approvals (however, there is an appeal procedure). It is the Minister who circulates the plat to all agencies whom he believes to be involved. They are usually the same for all subdivisions and include all the Provincial agencies such as education, highways, health and water resources. At the local level the agencies include the local governing body, the planning commission, board of education, and utility companies.

Summary.--Michigan obviously involves more agencies in a specific delegated sense than any other comparative state. There is ample evidence in the historical analysis of subdivision activity to justify including in the review process state, local and county agencies. Each of these levels of government has a unique role to fulfill and

subdivision activity oftentimes spans the total spectrum of these agency responsibilities. Therefore, any judgment of the Michigan Act opposed to the comparative States would be weighed very high while Indiana would appear to justify a low score.

Variable 5, Official Agency Charged with Plat Approval

This question demands a determination of whether or not there are clearly defined lines of plat approval responsibility. This is important as a means of direction to the subdivider. Multi and equal responsibility is confusing and contributes directly to delays.

Michigan.--In Michigan the lines of directive responsibility and who plays the principal approval role is confused. While it would appear that the local governing body plays the predominate approval role, in certain instances this is not necessarily true. For example, in many parts of Michigan including incorporated cities the county road commission exercises considerable authority over plats. Moreover, various state review agencies also enjoy distinctive approval powers such as the Michigan water resources department and others previously cited. Perhaps the most accurate conclusion would be to say that the local governing body must approve a plat if it is to make any headway short of the judicial process and that while other agencies enjoy approval roles, these are secondary to the governing body.

Wisconsin.--Wisconsin is similar to Michigan except that it provides that the authority to approve or reject may be delegated to the planning commission. The nature of such inclusion is often sufficient to permit the planning agency to assume the predominate role in the approval process.

Indiana.--Indiana statutes leave little doubt that the planning commission has exclusive control over approval of plats. Presumably all of Indiana's incorporated and unincorporated areas have either local planning commissions or regional planning commissions.

Ohio.--Ohio is not unlike Indiana in the sense that approval of the planning commission is required. However, the planning commission shares this role with other agencies. Moreover, the rules and regulations adopted by the planning commission must first be approved by the governing body.

Ontario.--The Minister of Municipal Affairs exercises exclusive control over the approval of subdivisions short of the judicial process of appeal.

Summary.--Ohio and Wisconsin would appear to have both found a reasonable solution to this function of plat procedures. There is ample justification to conclude that some agency ought to have the responsibility to coordinate the approval process and to assume a key role in the process. While it is suggested that the planning commission should assume this role, it would appear desirable to

include a planning type agency at the state level to coordinate activities at this level which are acutely involved in the subdivision process. No State, in the author's opinion, has managed this very well. Indiana and Ohio share the weaknesses of a limited review base while Ontario is rather autocratic in its position.

Variable 6, Plat Circulation and Responsibility

This aspect of the subdivision process is important because the circulation of the plat to review agencies must be clearly identified. It is suggested that it is a hardship to require the subdivider to assume this responsibility.

Michigan.--The Michigan plat law requires the proprietor to circulate the plat to all review agencies. In view of the fact that reviews are not necessarily concurrent, this places undue burden upon the proprietor and is a contributor to the total time it takes to complete a plat to final approval in Michigan.

Wisconsin.--In Wisconsin the subdivider, planning commission and director of the department of resource development share responsibility for plat circulation. The planning commission circulates the plat to local review agencies while the director circulates the plat to state review agencies.

Indiana and Ohio.--In both of these states, in view of the predominate role of the planning commission,

one must assume that only the planning commissions receive the plat as no other circulation is spelled out except that in Ohio other local agencies have review powers such as the Board of County Commissioners, Director of Public Works and the Regional Planning Commission.

Ontario.--The subdivider submits the required number of copies to the Minister who, in turn, circulates them to review agencies. There are no specific time limitations for review.

Summary.--Wisconsin most closely approximates the ideal situation in that circulation of the plat at the local level is handled by the planning commission and at the state level by the director of the department of resource development. Michigan, on the other hand, places total responsibility upon the proprietor. The question of circulation is not relevant to Indiana and Ohio.

Variable 7, Review Time-Extension, Rejection or Approval

This provision can be a source of irritation to those involved in the land development process. If review times are not adequately spelled out in the Enabling Act, and what happens in the event there is noncompliance with these limitations, there can be abuses to the rights of the proprietor seeking a decision on a proposed subdivision.

Michigan, Wisconsin, Indiana, Ohio and Ontario.--In Wisconsin and Ohio there is a provision whereby failure to

respond within the statute time limits confers automatic approval. In Michigan, definite time limits are spelled out for review but there is no provision to indicate what happens when the review agency does not respond. Indiana provides no direction at all in this regard and, like Ontario, presumably there are no time limits. This lies solely with the discretion of the planning commission in Indiana and the Minister in Ontario.

Variable 8, Fees

The provision of fees for reviewing plats and perhaps employing specialized assistance needs to be identified.

Michigan, Wisconsin, Indiana, Ohio and Ontario.--Michigan and Indiana make provision for levying fees for review and examination purposes. Wisconsin, Ohio and Ontario make no provision for levying fees. While most Acts are not specific in regard to the matter of fees, it is felt that fee considerations should permit a local unit of government to pass on the costs of consulting services relative to the specific plan of subdivision to the proprietor.

Variable 9, Role of Planning Commission

This matter has been discussed in previous chapters in which the hypothesis was that the local planning commission should play a viable role in the subdivision process

because the act of subdividing land is, after all, one vehicle for implementing the comprehensive development plan and is the major urbanizing force in the community. These aspects far outweigh those of recordation and title guarantee which ought to be a less complex matter and hardly worth the emphasis it receives particularily in Michigan.

Michigan, Wisconsin, Indiana, Ohio and Ontario.--To capsulize what has already been discussed previously, it will be recalled that only in Michigan is there no specific provision for the role of the planning commission, whereas all the other State Acts provide for a meaningful and viable role for the planning commission.

Variable 10, Role of the Local Legislative Body

Of course it would be naive to assume that the local legislative body should be divorced from the subdivision process. Its function, however, should be of a policy making nature which should then be delegated to its constituent agencies for implementation.

Michigan, Wisconsin, Indiana, Ohio and Ontario.--In Michigan more than any other state, the legislative body is made a prime mover in the subdivision process as distinct from a policy making role. In both Wisconsin and Ohio their role is definitely one of a policy making body in view of the prerequisite that the local governing body adopt rules and regulations governing the platting of land with the

planning commission then acting as the delegated review agency. In Ontario the local governing body does not plan an important role in the review process. However, in Ontario one must remember that the local legislative body formally adopts a master plan which establishes policy for land development decisions. Therefore, the local governing body does in fact, play at least an indirect policy making role.

Variable 11, Provisions for Installation of Municipal Utilities

It has been assumed, because of historical problems previously identified in this thesis, that plat laws should make specific delegation of authority to impose conditions as to the installation of utilities. Certainly this is in keeping with the public health theme of plat regulations.

Michigan, Wisconsin, Indiana, Ohio and Ontario.-- Because this fact is so universally held it is not surprising that all of the comparative Acts make such a provision. However, it should be recalled that it was only recently that such provisions were specifically provided in Michigan over and above the provision for water and sewer.[7]

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[7]Act 177, Sec. 23, P.A. 1929.

Variable 12, Guarantees for Utilities

The history of subdivision activity abounds with evidence of a period when a gerat deal of over subdivision activity took place where the only requirement was the drawing of a subdivision and its recordation. Many of these paper subdivisions had to be developed at great public expense. Many of these were not developed until the post war period in spite of their recordation in the twenties. In many other instances, bankruptcies were common after only partial installations were completed leaving a great number of lot purchasers holding nothing but a paper lot after having been promised full utilities. These abuses were corrected in the post war period and most state Acts provided for financial guarantees to insure the installation of required utilities.[8]

Michigan, Wisconsin, Indiana, Ohio and Ontario.-- All of our comparative States permit governing bodies or the responsible approving agency to require either pre-installation or some form of financial guarantee. Michigan is somewhat different, however, in that by specific provision it may require pre-installment of utilities. This can be an onerous requirement in that it imposes certain limits on the usual methods for financing subdivisions.

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[8]American City Planning, op. cit., p. 213.

Variable 13, Percentage of Utility Guarantee and Types of Guarantee

It is important that the Act provide for the extent to which guarantees may be required. Whether they should be 100 percent or something less than that, is, of course, important to the subdivider and local administrative body. It is also desirable to spell out acceptable forms of guarantee such as cost, bonds and similar forms of guarantee.

Michigan, Wisconsin, Indiana, Ohio and Ontario.--In all states but Wisconsin this matter is left to the discretion of the local legislative body or approving agency. In Wisconsin there is no provision for requiring guarantee of improvements. However, in view of the fact that Wisconsin provides that facilities shall be provided without cost to the municipality (Sec. 236.13(2)(b) and further provides for a municipality imposing more restrictive requirements than the Act (Sec. 236.45 (2)), one is led to believe that guarantees are required.[9]

In Michigan specific forms of security are provided, namely, a letter of credit, cash security, and certified check, whereas in Indiana and Ohio this matter is left to the satisfaction of the approving authority. In Ontario any legally recognized assurity is possible, while there are no provisions for assurity or forms of guarantee in Wisconsin.

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[9]Wisconsin Statutes, Sec. 236.13(2)(b) and 235.45(2), Chapter 236.

Variable 14, Forms of Financial Guarantee

Financial guarantees can take many forms. For this reason it is important that the various state Acts should make provision for the method which utilities should be guaranteed.

Michigan, Wisconsin, Indiana, Ohio and Ontario.--Forms of guarantee in Michigan include a cash deposit, certified check or irrevocable bank letter of credit. The proprietor has the option of determining which type of financial guarantee he wants to deposit.[10] Wisconsin makes no provision for financial guarantees.[11] In Indiana and Ohio the form of guarantee is left to the discretion of the local municipality.

Variable 15, Lot Sizes and Relation to Utilities

The early emphasis upon public health aspects of subdivision activity brought about a concern over minimum lot sizes relative to availability of municipal utilities.

Michigan.--The Michigan Act provides that except in cases where a municipality has duly adopted subdivision regulations and a zoning ordinance and where the subdivision is going to be connected to a public water and a

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[10]Act No. 288, P.A. 196 (MSA 26.430(182)

[11]Wisconsin Statutes, Revised Code, Chapter 236.13 (2)(b).

public sewer system, the lot may not have an area of less than 12,000 square feet with a minimum width of 65 feet. It was determined that the Act is ambiguous because it may be interpreted to say that only in areas where a subdivision ordinance has been adopted can lots be of lesser size than 12,000 square feet. In certain instances, particularly where "snob" zoning is in effect, the State may be providing a legal basis for not permitting lots of smaller areas even though public water and sewer systems are available. This may partly explain the reason why so many municipalities have not adopted subdivision ordinances. There is no relationship between lot size and availability of utilities and density. Presumably an apartment dwelling may be constructed on a 12,000 square foot lot without public sewers and water.

Wisconsin.--The Wisconsin statute likewise has established minimum lot size requirement. It provides that in counties having a population of 40,000 or more, each lot in a residential area shall have a minimum average width of 50 feet and a minimum area of 6,000 square feet and in counties of less than 40,000, each lot in a residential area shall have a minimum average width of 60 feet and a minimum area of 7,200 square feet. In municipalities, towns and counties adopting subdivision control ordinance, minimum lot width and area may be reduced provided lots are served by public sewers. Wisconsin's Act may, on the other

hand, permit unhealthy conditions to arise; however, administrative rules do provide for percolation tests to determine satisfactory conditions for private systems. Presumably this would act as a check to development which may give rise to a health problem.

Indiana, Ohio and Ontario.--In these three States no specific provisions are made for minimum lot sizes. Presumably this is a matter for local determination in Indiana and Ohio under the review and approval powers of the planning commission and in Ontario, the Minister. Such a condition in Ohio and Indiana cannot be considered desirable particularly in those situations where there is no planning commission. It is highly possible that in the most rural, out-state areas of Ohio and Indiana that there will not, in fact, be any local planning commission. Ohio and Indiana leave themselves open to the most flagrant abuses of subdivision practices by not providing for situations where there is no planning commission.

Variable 16, Subdivision and Zoning Ordinances

The role of subdivision and zoning ordinances and their relationship to the subdivision process needs to be spelled out in subdivision control acts. It is important because many subdivision regulation acts have included

within them provisions relevant to size of lots as evidenced above. Without clarification there is a conflict with the municipality's local zoning codes.

Michigan, Wisconsin, Indiana, Ohio and Ontario.--In all instances except Ohio and Ontario there are specific provisions concerning local subdivision regulations and zoning ordinances. These basically determine standards and design. In Michigan, in spite of a provision that the minimum size lot is to contain 12,000 square feet in area, the local zoning code takes precedence in the event that the municipality has adopted subdivision regulations by ordinance. This condition is of interest because one has to question the event of a municipality which has not adopted subdivision regulations by ordinance.[12] In such cases there is an apparent conflict.

Variable 17, Administrative Rules

It is not always possible or even desirable to spell out all things in statute law. Certain matters must be left to administrative decision making. It is best, however, that such administrative decision making be based upon adopted rules of procedure and adequately published. Such rules should not be capriciously changed without public notice and the opportunity for debate.

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[12]Michigan Statutes Act 288, P.A. 1967, Chapter 560.186.

Michigan and Wisconsin.--In both Michigan and Wisconsin, the State plat manual includes the administrative rules of the various state review agencies. Authorization for such administrative rules are contained in the Act. What these Acts fail to do, however, is to provide for adequate public debate for changes in the rules from time to time. Such an oversight can be tantamount to an exercise of power over and above that envisioned by the Act.

Indiana, Ohio and Ontario.--The above three make no provision in the Act for administrative rules other than those implicit in local subdivision regulations.

Variable 18, Plat Preparation and Monumentation

Responsibility by professionally qualified persons is necessary to insure the public interest in terms of survey standards and its sensitive relationship to good title. The qualifications to conduct proper land surveys require training. Licensing requirements determine one's qualification in this area. Certainly it is in the public interest to require that surveys be done by those professionally qualified to do so. In the matter of monumentation, it has been a source of annoyance to surveyors to require the installation of the principal markers before the subdivision is developed, because in all too many situations the markers were destroyed in construction processes. The State on the other hand has been concerned with some form of guarantee

that would insure the installation and replacement of markers when destroyed or not placed in the ground immediately.

Michigan, Wisconsin, Indiana, Ohio and Ontario.--In Michigan and Wisconsin specific requirements are made relative to the preparation of plats and monumentation. Registered land surveyors and engineers must prepare plats and certify them. Monuments can be placed in the ground at a later time provided guarantees are provided. In Michigan posting of such guarantee is specific, $25.00 per monument and corner markers $10.00 per marker, whereas in Wisconsin such amounts are left to the discretion of the governing body.

Indiana and Ohio do not provide any specific direction concerning the preparation of a plat, however, in the case of Indiana other Acts specifically with respect to recordation may very well address themselves to this matter.

Variable 19, Certification

Certification procedures like plat review circulation can present certain problems with respect to time. The required signatures on a plat is an issue which needs clarification, otherwise needless delay can be created by overemphasizing this aspect of platting.

Michigan, Wisconsin, Indiana, Ohio and Ontario.--Michigan has gone much farther than any other state in this

regard and requires that all designated approving agencies sign the plan. As many as eleven certificates could appear on the face of the plat.

In Wisconsin, a much more reasonable approach seems to have been taken. A plat must contain the certificate of the owner and surveyor and an affidavit that the plan has been submitted to approving bodies before the register of deeds can record the plat.

In Indiana, no recordation directions are provided and in Ohio the act requires certification by the planning commission. In Ontario this matter is regulated by a specific registry act distinct from the powers of the Minister.

Variable 20, Penalties

Statute laws cannot be very effective unless there are penalties provided for their violation.

Michigan, Wisconsin, Indiana, Ohio and Ontario.-- Michigan and Wisconsin provide specific penalty provisions, namely, a fine or a number of days imprisonment. Indiana and Ohio make no provision for violations of their plat act. The Minister of Municipal Affairs in Ontario can take legal action against violators.

Variable 21, Legal Time Review Limits

The question of review time is no doubt the most important aspect of subdivision control in the minds

particularly of land developers. The concern of a great number of land developers in Michigan has given credence to this statement. If such is the case then obviously the provisions of each act relevant to this matter are of importance in any comparative analysis.

Michigan.--In terms of totaling up specific time provisions of the Michigan Act legal time provisions are a minimum of 145 days and a maximum of 195 days. Appendix 1 consists of statements by land development firms in Michigan which substantiates this estimate. The maximum legal time limits can be exceeded in the event the proprietor agrees to the extension provisions provided in the Act. These firms were successful in completing plat recordation in 155 days in one case.[13] It must be emphasized, however, that this is a highly professionalized organization which is geared to meet the demanding requirements of the Act. It would be doubtful if a less professional organization could, in fact, achieve this time factor. More than likely something approaching the maximum level is the rule rather than the exception.

While it is not possible to compare this with Indiana because Indiana does not spell out any time factor in

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[13]Letter of verification from Smokler, Pulte and Thompson-Brown attesting to length of time to complete platting, footnote-Appendix 1.

its Act, nonetheless, the fact that only a limited number of participants are involved in the subdivision process would seem to support the position that Michigan certainly requires a longer time period than either Wisconsin, Indiana or Ohio.

Wisconsin.--Legal statute provisions in the Wisconsin Act are 100 days. There does not appear to be any evidence at least in the Act that this is easily circumvented.

Indiana.--No statutory provisions exist in the Indiana Act relevant to review time.

Ohio.--The only provision in the Ohio statute is 30 days. Without further investigagion it is not possible to determine the authenticity of this provision. It seems highly unlikely that the subdivision process can be accomplished in this short period of time.

Ontario.--There is no provision for review time in Ontario as this matter falls entirely within the jurisdiction of the Minister. On the basis of the author's experience in Ontario it can be concluded that the subdivision process from preliminary to final plan is a period of between six months to one year.

Conclusion

This comparative analysis is further described in Table 1. On the basis of previously described weighing criteria the variables described in the foregoing lead to

the conclusion that the Michigan Act has a great many desirable elements in it. Without being redundant it should be recalled that the basis of this normative evaluation in large measure is based upon historic precedence in the use of the police power.

Table 1 suggests that the Province of Ontario provides the best form of administrative and regulatory practices necessary to insure that the public health, safety, and welfare is protected. These areas of concern automatically include the cognition that the subdivision process is an integral part of the planning process as it is an implementation tool for the purposes of bringing to fruition parts of the Master Plan. In this respect the subdivision process exceeds the mere concept of subdivision problems as recording and title problems. Indeed, they are seen as minor problems and therefore when placed in this perspective the whole business of time becomes rather meaningless. The importance of rational urban development cannot be measured by how long it takes to record a subdivision, which, when developed will have established an urban pattern of 100 years duration or more.

Wisconsin is next in line because the urban planning mechanism is interwoven into the fabric of the subdivision process within the whole context of preserving the public interest in recordation problems. This is

achieved by a combination of planning review requirements, a review process and adequate recordation and title requirements.

Michigan, while scoring higher than Ohio and Indiana, only does so because of the detail of the act in terms of providing adequate reviews, provisions for utilities and improvements, and the relationship established between zoning and subdivision laws.

Ohio and Indiana do not measure up very well because these acts leave a great many things unsaid and their very shallowness and lack of detail ignores the complexity of the subdivision process. Merely providing for local planning commission review and approval may or may not be satisfactory.

As an overall point of view not one of the four states really goes far enough in relating the role of the subdivision process to the planning and urbanization process. A greater discussion of this point will be included later in this thesis.

CHAPTER V

RELATIONSHIP TO LAND DEVELOPMENT PROBLEMS

This chapter serves as a basis for justifying some of the conclusions emanating from the study. In addition to police power concepts and the historical foundation of subdivision regulations, this discussion will help place the subdivision issue in a more contemporary setting by getting at a very basic subdivision question, namely, the impact of subdivision controls upon the costs of developing land.

Up to this point our concern has principally concerned those aspects of subdivision regulations pertinent to the protection of the public interest, welfare and safety as provided within the police power. This has been used as a basis to develop certain conclusions based upon historical precedence as to the scope of such regulations. It is desirable that one does not ignore a truly critical area of subdivision regulation, namely the dollars and cents problem which inevitably is a by-product of all regulatory devices. Our attention is directed to this area

of concern because in large measure they temper, rationalize, and make more objective the conclusions which flow from the study in its entirety.

Subdivision control acts are, of course, regulatory in their nature in that they attempt to correct the abuses inherent in a laissez-faire, buyer beware environment. These regulations are concerned with preserving the public health, safety and welfare and in the process of assuring these guarantees, delegations of power are granted local municipalities to impose conditions to satisfy the basic intent of the Act central to this thesis. Regulation of the free market has inherent in it a cost relationship.

Historically, the property rights concept was thought to endow its possessor with inalienable rights which included misuse and abuse, with one motive, the maximum of profit. Land decisions were certainly not conservation decisions nor was there any great concern over assuring future owners of a decent environment or even equitable title. Future owners looked at the land in the same light as former owners. Land was a chain of economic motivations. With increasing urbanization and evident abuses in land development (including in some cases, outright deceit and illegal practices) it became apparent that the public needed protection and municipalities would have to be granted certain powers to assure the provision

of basic utilities needed to preserve the public health, interest and safety. Typical of the subdivision boom was early Chicago, under the aegis of responsible forerunners of the planning profession. Early planners overestimated potential future population as the Chicago example clearly demonstrates. Charles Wacker estimated that Chicago's regional area population would be 18,000,000 in 1974, and as a consequence of this kind of projection, the metropolis of Chicago and its sister cities in Cook County were burdened with 894,000 unused lots at the end of the 1920's, a high proportion of which were destined to become tax delinguent in the depression of the 1930's.[1]

Land development regulations handed down to local government by state subdivision control laws made the business of developing land a more capital investment demanding operation. Intensive capital development investment opportunities have the effect of raising the initial costs of the product. In this case it was a typical residential lot. Where formerly the land developer crudely placed in a dirt road and then left the installation of basic utilities to local improvement devices through the petition vehicle, he was not required to install certain services at the outset and immediately the cost of purchasing a lot

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[1]Mel Scott, History of American City Planning (University of California Press, 1969), p. 213.

had to reflect this additional service cost. Moreover, the huge sums of money required to develop the typical residential subdivision required land developers to turn to financial institutions. Since this kind of financial assistance carried considerable risk, such a risk venture was, and is, reflected in the higher interest costs of acquiring such monies. A spill-off of this phenomena of land development financing conditions has been to create a situation of near oligarchy in many urban centers. Increasingly the land development industry has achieved a level of professionalization and know-how which has tended to reduce the number of participants in the land development process. No longer is it typical for the farmer to subdivide his land as urban pressures create a demand for subdivided lots. Usually, his land is sold to a large professional land development company sometimes on a profit sharing basis or some other financial arrangement which reduces the developer's cash equity in the land.[2] The land development industry has definitely become a capital intensive industry where the money lending institutions plan a great part, which consequently has caused a spiraling in costs. These costs have been passed on to the consumer and are reflected in the high costs of house buying.

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[2]See Urban Land Institute Manual reference to such profit sharing plans in the case of the Walter Neller Company, Lansing, Michigan.

Another characteristic of the subdivision process brought about by these Acts is the length of time it now takes to gain the various required approvals. The effect of this action makes it necessary for the large developer to develop a surplus number of lots so that he is never at any one time out of lots on which to build and market his houses. Having in reserve a surplus of lots is a costly arrangement much like the large manufacturer who requires huge inventories. Large inventories represent a great deal of locked-in capital. Considering the high interest rate characteristic of land development, this further adds to the total costs of land development, and the further paring away at potential profits. In the past decade local ordinances regulating subdivision development practices have become more and more demanding in terms of required utilities such that in most metropolitan areas the developer of residential land in particular is required to install the full range of municipal utilities including hard surfacing and curbs and gutters. Some ordinances go as far as requiring certain landscaping improvements such as street trees.[3] This practice varies from city to city and this

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[3]Survey conducted by the writer in 1968 when employed by the City of Lansing, of Michigan Cities and evidenced by current subdivision ordinances written for client cities by Parkins, Rogers and Associates, Planning and Renewal consultants, Detroit, Michigan.

fact is in itself an additional problem to the large land developer whose operations may cover an entire metropolitan area or even an entire state. The lack of uniformity, not necessarily on the types of utilities but on their sizes, is an annoying problem which confuses the whole cost accounting program of the land developer. For example, some local areas may require 3-foot sidewalks and 8-inch sanitary sewers whereas a contiguous local area may require a 4-foot sidewalk and a 10-inch sanitary sewer. Moreover, county regulations may vary from county to county and this further adds to the complexity of land development decisions.

While few would argue that the costs identified above should not be lowered by reducing the number of utilities or aesthetic accounterments now required, nonetheless, there are means short of this to effect cost savings to the land developer. It is important to advocate economies because they will help to keep down the costs of providing urban land to various types of land use consumers. The two means which hold the greatest potential without reducing the quality of land development is, one, effecting the shortest time span possible for plat approval and, two, a reasonable standardization of required services. The former will have a direct bearing on accumulated interest charges, while the latter will permit a degree of certainty which in itself aids the developer's planning program.

CHAPTER VI

CRITIQUE AND RECOMMENDATIONS, MICHIGAN SUBDIVISION CONTROL ACT

General Critique

Based upon the comparative analysis described in Chapter IV and the identifications of problems in Chapter V, the following discussion of Michigan's Subdivision Control Act is meant to reveal its weaknesses and strengths in terms of creating conditions within which the development of land for urban purposes in the State of Michigan is facilitated while at the same time the public interests, welfare, health and safety is preserved and indeed enhanced. This should be the principal focus of enabling legislation which has such a critical relationship with the development of urban environments.

In Chapter III, the discussion centered upon the comparative States from the point of view of their philosophy, review time, circulation, role of the planning commission and improvements relative to platting procedures. A discussion of the Michigan Plat Act was omitted in expectation of the detail discussion intended at this time. Our analysis, based upon the methodology employed of determining

the optimum requirements of subdivision regulations by applying the twenty-one (21) comparison variables, revealed that Michigan more closely approximates the ideal condition than Indiana or Ohio and is similar to achievements in Wisconsin. The Province of Ontario provides a different philosophical approach to the problem and is difficult to compare with the said States. Whether or not Ontario achieves the principal goals of subdivision regulations better than any of the comparative States must of necessity be an individual subjective conclusion which conveys a political philosophy. These conclusions, it should be recalled, are made less normative by their relationship to precedence, historical philosophy and the police power grant to local government.

The most serious deficiency which came to the surface in this analysis was that the Michigan Act does not reflect a recognition of the fact that subdivision development is the chief urbanization tool and, as such, it should be directly related to the community's comprehensive development plan. Therefore, the most important aspects of the subdivision process are matters of physical, economic and social import to the community. On the other hand, the Michigan Act treats this urbanization agent as a procedural and recordation problem which, while necessary, is, nonetheless, only a small part of the problem which accrues to the subdivision of land. A recognition of the relationship

herein described suggests that the community's planners should be the most involved local agency in the subdivision process. Unfortunately, this was not the case because the Act completely ignores review by the local planning agency and the Act furthermore makes no relationship between subdividing and the community's development plan. For various reasons which this author has not been able to identify, this recognition of the role of planners to the subdivision process was not included in the Michigan Act although it was discussed by various study committees. One reason given for silence in this regard was that many communities do not have a planning commission and, therefore, the delegation of authority to such a commission would not be possible throughout the State. This was particularly true in the Upper Peninsula of Michigan. Such an omission hardly appears justifiable on this basis particularly in view of the fact that the great majority of subdivision activity is taking place in southern Michigan where all communities have local planning commissions. Moreover, the Act could very easily have provided for those cases where planning commissions did not exist by either delegating authority to the local governing body as the Act does in any event or by requiring the creation of a planning commission as a prerequisite to subdivision activity. It appears on the surface that this would have been desirable in any event. Few would argue that every political subdivision involved

with guiding the destiny of its physical environment should not have a responsible planning agency. It is suggested that the State of Michigan is charged with the responsibility to require all communities throughout the State to study their problems and develop plans to guarantee desirable future environments. The mere fact of delegating review powers to the planners or the institution of a planning commission to review subdivisions by itself is meaningless unless the jurisdiction in which a subdivision is being proposed has adopted a long range development plan. Without a planning base the planners are not equipped to make relative decisions. It therefore follows that not only should a planning commission be required as a prerequisite to subdivision activity but also an adopted comprehensive development plan. This is in line with the expressed position that the subdivision process is more importantly an urbanization process which affects the quality of the environment. This, the author suggests, is certainly of equal importance to guaranteeing good and equitable title to land which is the result of recordation procedures. It is suggested that a great opportunity was lost to relate in a much more positive manner the relationship between physical land use planning and the subdivision process.

The existence of Act 285, P.A. 1931 sub-section 125.43 requires the approval of the planning commission before any plat of a subdivision of land may be recorded when

the planning commission has adopted a master plan relating to the major street system. It should be emphasized that this wording is vague and obscure. For example, is the planning commission's approval required only for major streets because this is what the Act says. The author suggests that, heretofore, and at present, planning commissions may have been acting beyond their authority if their review addressed itself to any matter in excess of major streets. Major streets are hardly the sole consideration of comprehensive development plans. Sub-section 125.36 to 125.39 does little in terms of accomplishing the goals implied herein. While these sections charge the planning commission to adopt master plans and empower their review for public works, here again public works and the more important urbanizing aspects of land subdivision are unrelated.

No other comparative State has explicitly incorporated the concepts implicit in the above discussion. However, Wisconsin, Indiana, and Ohio definitely require as part of the subdivision process the input of the planning commission. By implication it may be assumed that there is a spill-over effect in the sense that such a relationship brings about consideration of land use, and other planning related problems. Ontario is somewhat different because of the legal powers granted local communities through the vehicle of the master plan or comprehensive development plan, in that such a plan is truly a

vehicle for shaping the urban configuration and the subdivision process is detailed to promote the plan. The principal difference, however, is that the province (state) oversees this relationship.

In conclusion, the substantive approach discussed above would weigh heavily in Ontario's approach to plan and subdivision relationships. There does not appear to be any reason to assume that this concept is beyond the present police power or does not have a historical framework. The model standard planning enabling act gave testimony to these matters. Unfortunately their clarity left something to be desired. What is required is a new coalescing of various and sundry planning related Acts into a new omnibus planning law to achieve the prospects enunciated above.

In the matter of review time, a consideration which has received much attention by land developers, it can only be concluded from this analysis that Michigan takes longer to permit the recordation of a plat than all of the comparative States (excepting Ontario). However, in spite of the short review period provided by the Ohio statute recordation may take as long as four months.[1] Evidence is submitted in Appendix 1 that the professional land developer who is tooled-up and familiar with the Act can complete the

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[1]Information provided by Ohio office of Parkins, Rogers and Associates, Planning and Renewal Consultants.

subdivision process in approximately 150 days or five months. There are implications to this period of time which indirectly affect the costs of providing housing to the people of this state, which cannot be lightly passed off.

On the other hand the development of a subdivision is a permanent landmark and has serious economic and environmental consequences to the host community. These two considerations must be made as compatible as is humanly possible. Strictly on the basis of comparison with other States it would appear that Michigan should shorten its review process. In a major part of the State of Michigan, at least that part most involved in the subdivision process, the local communities should be able to complete the review process in less than 90 days.

Another aspect of review time which has been of considerable concern to land developers is the absence of a provision which provides for automatic approval in the event the responsible review agency does not accomplish its legislated review period. In both Wisconsin and Ohio, silence on the part of the review agency confers automatic approval. It is suggested that this is a reasonable proposition and one which should be included in the Michigan Act. As the matter now stands review agencies can and do, on the basis of evidence received, circumvent the provision of the Act with respect to allotted review time.

The whole task of circulating the plan can be very demanding and indirectly affects the total time necessary to complete recordation. This is particularly true in Michigan because of the very detailed manner in which review agencies are defined and the fact that the proprietor is responsible for seeing to it that each of these review agencies receive a copy of the plan. Moreover, the proprietor is responsible for keeping on top of the matter because approvals are not all concurrent. Presumably the plan could lay in the County Drain Commission's office for several days even though it may have been signed in less than the allotted time, unless the proprietor were notified of his approval. This demanding responsibility upon the proprietor is unique to Michigan among the comparative States. If the responsibility were shifted some savings could result in total review time. This shifting of responsibility could perhaps best be accomplished by placing an overall review time on all State and local agencies and designating a responsible person at both the state and local level.

The above recommendations relate in turn, to the administrative aspects of the Michigan Act which are fractionated and unclear. This is not so much a problem in the comparative States and Ontario because of the clearly defined singular authorities. If the recommendations of this paper are to be put in effect, administrative changes

will be required. For example, in the event circulation of the plat and assembly of approvals is to be lifted from the responsibility of the proprietor some agency will have to be designated to fulfill this role.

For other reasons as well as the one noted above, administrative changes in the subdivision procedures process is considered desirable. If we can accept the validity of closely aligning the comprehensive planning process and the subdivision process as the major emphasis of Subdivision Control Acts, then the next step would include the assumption that an informed and professionally competent planning agency at the State level is required to function in this regard. Ontario is a good comparative State because the Minister of Municipal Affairs charged with subdivision responsibility has a Community Planning Division advising him with respect to the full range of urban planning problems. The State of Michigan also has a division of community planning; however, its' role at the present time is extremely limited and it does not have the responsibility to relate subdivision processes with comprehensive development plan processes. There is no formal advisory link between this office and the State Treasurer's office which is the responsible State agency for recordation approval and administration of the Act. If subdivision processes are more importantly a part of the total physical planning process as suggested by this

thesis, then the responsible state agency should be a physical planning agency or in the alternative the State Treasurer's office should be staffed with physical land use planners and the review role enlarged to relate the now two distinct and separate processes.

Specific Recommendations

Finally the trail of analysis that had led us to this point and the perspective in which it has been placed permits certain conclusions to be made which it is hoped have been adequately supported throughout this thesis. The detailed recommendations which follow are necessary as a guide or framework for ultimately changing or amending specific sections of the present Subdivision Control Act which have been identified in this thesis as particular weak areas. It has been shown that while Michigan's Subdivision Control Act compares favorably with those of neighboring States, it unfortunately still does not satisfy the optimum requirements established in this thesis. To rectify this situation the following recommendations are proposed which flow from the identification of the following assumptions. These assumptions were, to the extent possible based upon the list of optimum requirements identified in Table 1.

1. (a) Critique Statement.--The definition of the word "subdivide" has inherent in it certain connotations which needlessly encumber the subdivision process. The definition

of the word "subdivide" is made overly restrictive by virture of the inclusion therein of land that is leased for periods in excess of one year. Specific provisions regulating leases are absent from the Acts of Wisconsin, Indiana and Ohio. The Province of Ontario includes leases that run for 21 years or more as constituting a division of land.

(b) Assumption.--Some recognition of the connection between leasing of land and a conveyance of land is required.

(c) Recommendation.--That the requirement stipulating a one year lease as constituting a division of land be repealed and in lieu thereof an amendment should provide for leases not to exceed a duration of more than ten years.

2. (a) Critique Statement.--The inclusion of the words "building development" in the definition of the word subdivide is ambiguous by virtue of its not being defined in the Act. Administrative interpretation may vary from time to time creating some inconvenience and perhaps harm to those in the urban development industry.

(b) Assumption.--Nothing is accomplished by including such wording in the definition.

(c) Recommendation.--The inclusion of the words building development in the definitional context of the word "subdivide" should be repealed.

3. (a) Critique Statement.--The need to assure that land at present or in the future will not be overly encumbered so as to make more difficult its future platting and

recording is not evidenced in Michigan's approach to the subdivision question. The mere act of requiring a parcel of land to be a minimum of 10 acres in size does not negate the potential difficulty of intelligent subdivision of land in the future. Multiple ownership demanding land assembly programs is a thorn in the side of many municipalities. As a consequence such areas of the municipality lie sparsely developed while land further removed from the municipal plant is subdivided. Certain diseconomies are created in this process as should be evident. The only means of overcoming this problem would be to require a depth to width parcel ratio which would not encumber future division of the land. The possibility of parcel sizes 330 x 1320 (10 acres) can only create an environment of future difficulty in land platting.

(b) Assumption.--The minimum parcel size of 10 acres prior to requiring platting will create future land assembly problems.

(c) Recommendation.--Together with a minimum parcel size of ten (10) acres it would be desirable to require a width to depth ratio of 1:2. This would reduce the number of ownerships along any given mile of street right-of-way by more than 30 percent, while at the same time increasing the deterrent force of the minimum 10 acre parcel size.

4. (a) Critique Statement.--The purpose and function of State Enabling Acts should be to provide minimum desirable standards leaving to the local municipality the decision of whether or not it may wish to be more restrictive. The Wisconsin Act does this explicitly.

(b) Assumption.--In many areas of the State where urban pressures are minimal and where agricultural uses are not economically feasible there will be a strong pressure to dispose of large land holdings by metes and bounds methods. Such municipalities should be permitted to be more restrictive than the State, should they so choose to do so.

(c) Recommendation.--The Act should be amended to allow organized municipalities to be more restrictive than the State Act in terms of the number of divisions of land required to constitute a subdivision of land. Such local regulations should be provided for in the adopted subdivision regulations of the local governing body.

5. (a) Critique Statement.--Implicit in the definition of the word "subdivide" is that a division of land only results as a consequence of sale or lease. Many land divisions are created for assessment or mortgage purposes and if one purpose of recording by way a subdivision is to accomplish ease of plat or lot description as opposed to "metes and bounds," then the definition is totally inadequate.

(b) Assumption.--Mortgaging a parcel of land (less than the whole) is tantamount to a conveyance of land.

(c) Recommendation.--The definition of the word subdivide should be repealed and a wording as follows is recommended.

> "Subdivide" or "subdivision" means the partitioning or dividing of a parcel or tract of land for the purpose of recording, sale, or lease and mortgages having a duration in excess of ten (10) years, where the act of division creates five (5) or more parcels of land each of which is ten (10) acres or less in area. Each ten (10) acre parcel created shall not have a width to depth ratio in excess of 1:2.

6. (a) Critique Statement.--Michigan's Act does not provide that review agencies failing to hand down a decision in the time period provided by the Act are automatically by their silence within said time period approving the plan of subdivision. The Wisconsin Plat Act provides specifically for automatic approval in the event of silence. The Wisconsin Act specifically provides that "failure of the approving authority or its agent to act within 40 days, or extension thereof, shall constitute an approval of the preliminary plat." This problem, it is reported, is particularly acute because some agencies of the State have insufficient manpower to review plats in the allotted thirty (30) day time period.

(b) Assumption.--Circumvention of the intent of the Act by agencies of the State is not in the public interest.

(c) Recommendation.--That the Michigan Subdivision Control Act be amended to provide in all cases of review agencies that "failure of the approving authority or its agent to act within (the allotted time) or extension thereof, shall constitute an approval of the preliminary plat." (90 days local government and 30 days state agencies.)

7. (a) Critique Statement.--Total review time in Michigan (Preliminary Plat) is 120 days (90 days for tentative approval and 30 days for state agencies). This assumes that approvals past tentative preliminary approval are a formality. The best estimate of total time to final approval is 175 days. This assumes that a number of review steps are carried out concurrently. In the case of Wisconsin total review time is estimated to be 100 days, 40 days for the preliminary plan and 60 days for the final plan. In the case of Indiana, no time limit is spelled out, whereas in Ohio it appears that 30 days constitutes the total time review. Obviously it takes considerably longer to record a plat in Michigan than in the comparative States and there are likewise more review stages. For example, there ought not to be any reason why conditional preliminary plan changes could not be provided for in the final plan thereby eliminating the tentative preliminary plan stage.

(b) Assumption.--A shortening in the total review process can be effected without doing a disservice to the overall review process.

(c) Recommendation.--That the Act be amended to delete the tentative preliminary plat stage and to reduce the review period to 75 days for a preliminary plat. Conditioned approvals by the governing body and other review agencies as provided in the Act shall be reflected in the final plan. Approval requirements under section 114, 115, 116, 117 and 118 of the Act should be reduced to 20 days and such reviews should be carried out concurrently with the governing body. Section 167 should be amended to provide a longer review period in view of the fact that conditioned preliminary approvals have to be reflected in the final plan, thus requiring a more comprehensive review. This time period should not be more than 45 days. This would provide a total review period of 120 days which is in keeping with Michigan's comprehensive review process.

8. (a) Critique Statement.--At present the State Treasurer's office is the most responsible approval agency in the subdivision review process. This relationship reflects the view that recordation and surveying are the most important aspects of the subdivision process. This viewpoint is found unacceptable. While it is agreed that the provision of good and equitable title through the medium of recording and surveying standards is a proper relationship and such protection ought to be assured by the State, nonetheless, they are not the most important considerations.

(b) Assumption.--A more comprehensive approach needs to be brought to the subdivision process by a qualified state physical planning agency.

(c) Recommendation.--The planning branch of the Department of Commerce should be designated the central state agency in charge of coordinating approvals of various state review agencies including the state treasurer's office. The planning branch should also be responsible and empowered to bring about more innovative approaches to the subdivision of land throughout the State.

9. (a) Critique Statement.--The operational procedures outlined above would make it all the more imperative that some agency at the State level be responsible for coordinating the reviews of required state agencies. At present the proprietor is required to circulate his plan to all agencies and to bring same to the local governing body. This is a hardship and an imposition on the proprietor.

(b) Assumption.--A State agency should assume the responsibility for circulating the plat and coordinating reviews.

(c) Recommendation.--The Act should be amended to provide that a certain number of copies of the preliminary plat will be deposited with a State agency who, in turn, will be responsible for its circulation to affected agencies and who shall coordinate and convey the findings and requirements of these agencies to the local governing body, planning commission and proprietor.

10. (a) Critique Statement.--In keeping with the conclusions of this study the Michigan Act should be amended to reflect the philosophy that the subdivision process is clearly a physical land use and urbanization phenomena and as such the responsible local planning agency should be an integral part of the approval process to insure conformity with the local comprehensive development plan. This distinction and relationship is made all the more imperative since the passage of the Subdivision Control Act, Act 288, P.A. 1967 which introduced an area of contradiction with the Municipal Planning Commission Act 285. As the matter now stands, there is some confusion as to whether or not the local planning commission has a review role in the subdivision process.

(b) Assumption.--The subdivision process is a means for implementing the comprehensive development plan and inadequate provision is made in Michigan statutes to satisfy the effective operation of this consideration.

(c) Recommendation.--The Michigan Plat Act should be amended to provide a distinct chapter relating the subdivision process to the planning process. Such a chapter should provide that the approval of the local planning commission is required where the commission has adopted a comprehensive development plan relating to the future distribution of land uses, goals and objectives of the community, traffic ways, determination of public uses including

schools, parks, and flood plain areas and other future considerations related to the act of bringing about improved urban environments.

11. (a) Critique Statement.--In the event the Act were amended, as recommended, the difficulties now inherent in the Act (namely that its format does not adequately separate related substantive areas such as reviews from performance and/or recordation) would only be compounded.

(b) Assumption.--Any major change in the Act should endeavor to improve its format by the provision of all related substantive areas in the same section.

(c) Recommendation.--The Plat Act should be revised to provide for five distinct chapters:

1. Administration
2. Planning relationships
3. Approval procedures
4. Performance standards
5. Recordation and surveying requirements

These substantive areas should include the following:

1. Administration--purpose, definitions, plat contents and its preparation, appeal from the decision of any approval agency.

2. Planning Relationships--Comprehensive development plan and relationship of subdivision plan, approval of local planning commission, in the absence of a planning commission governing body assumes same functions,

review time (concurrent with all agencies involved in preliminary plan approval), approval or disapproval, written reasons for rejection, authority to adopt subdivision regulations pursuant to administration, approval process, fees and design standards.

3. Approval Procedures--(a) preliminary plan review time approvals required, powers of each approving agency, and relationship to rules of procedure or administrative rules, reasons for approval or disapproval. (b) final plan, review time local governing body, planning commission and State agency (see recommendation in this regard) relative to comments and requirements of all review agencies as provided in their administrative rules.

4. Performance Standards--Enabling provision to permit the local body to adopt subdivision regulations relative to the installation of public utilities and financial guarantees.

5. Recordation and Surveying Requirements--All of those provisions of the present Act relative to recordation and surveying, replats and assessors plats, etc. This section should also address itself to the question of registering or depositing the final plat as approved and certified by approving agencies.

CHAPTER VII

SUMMATION AND FUTURE DIRECTIONS

It is the conclusion of this study that any comparison of Act 288, P.A. 1967, Subdivision Control Act with those of the States of Wisconsin, Indiana, Ohio and the Province of Ontario reveal that the Michigan Act is an extremely comprehensive piece of legislation. It provides more direction than any of the comparative States and it covers, more adequately, substantive areas of concern to the platting process. Any determination that the Michigan Act is more restrictive or onerous than the comparative States is difficult to justify if one is to first determine from a public interest viewpoint versus a private interest viewpoint the things that ought to be included in legislation of this kind. If this point of view is acceptable, then one ought to determine that Indiana and Ohio at least are negligent in their approach to this problem because so many of the decisions that have to be made are subject to arbitrary and capricious decision-making in light of the minimum direction provided by the Acts of these two states.

The Michigan Act is most similar to the Wisconsin Act; however, here again the Michigan Act has greater

clarity in terms of its procedural requirements and explicitly embraces all of those review agencies necessary to insure guarantees of the public interest. Any attempt to compare the Michigan Act with the Province of Ontario is fraught with pitfalls because of the entirely different philosophies of the two "States". Ontario obviously believes that the subdivision process is the sole responsibility of the State, while Michigan, by and large, transfers this responsibility to local governments.

The principal area of difference between Michigan and the comparative States is the specific provision in the Acts themselves whereby the physical planning aspects of the subdivision process and their relationship to the Comprehensive Plan are recognized. The planning commission in both Indiana and Ohio are the principal determinants of plan approval, whereas in Wisconsin the Planning commissions are agencies in the review process. The author is cognizant of the fact that Act 285, P.A. 1921 does provide for the recommendation of the planning commission sixty (60) days pursuant to the Master Plan. It is suggested, however, that this Act is untested and ambiguous and that it can be easily circumvented. Moreover, there is evidence to attest to the fact that the approval of a plan of subdivision without the certification of the planning commission is possible.[1]

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[1]For example, the Sunset Hills Subdivision No. 6,

From an overall comparative point of view the Michigan Plat Act, based upon the optimum criteria established, is as good or better than any comparative Act. Nonetheless, it was concluded that there were a number of areas where improvements could be made consistent with the public interest. These were identified above and consequently eleven rather significant recommendations were made, the last of which, in effect, suggests a major overhaul in the format of the Plat Act and substantial additions thereto.

This would lead one to the conclusion that the author's optimum requirements for subdivision regulations are considerably higher than responsible legislators have heretofore been inclined to establish. This assumption would, of course, be correct. However, it is suggested that there is a philosophical precedence for this higher expectation as well as a police power to support this belief. The business of land development must somehow reasonably relate to environmental and public welfare considerations. In the Province of Ontario, for example, it is possible to preserve agricultural and rural environments consistent with a comprehensive development plan. It is apparent to this author that an agency in the State of Michigan must be empowered to make a determination that certain

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City of Lansing, was recorded in 1969 without the seal and certification of the local planning commission.

lands should not be urbanized if one really expects to bring about substantially improved urban environments. Such a consideration, to be objective and realistic, will have to be based upon a comprehensive land use plan. Local planning, it is suggested, is too fragmented to support such far reaching powers. Therefore, the only alternative would seem to be a State land use plan in which areas are designated for urban, agricultural and conservation purposes. Land would be subdivided only in relationship to these categories. The State of Hawaii offers an excellent example of this type of State regulation. Certainly the State of Michigan has resources that should be preserved for similar reasons to Hawaii. A great part of Michigan's economic potential rests upon her tourist and recreation economy. If this tremendous asset is to be preserved it will be necessary to have laws which make it impossible to subdivide certain lands. The author is aware of certain constitutional limitations, and he is not suggesting that land should be condemned without just compensation. The mechanics of protecting reasonable property rights must be worked out as part of a State land use plan.

It is suggested that the above recommendations, if acted upon, would bring about a macro-improvement of the State of Michigan's total environment while the main thrust of recommended changes to Act 288, P.A. 1967, Michigan

Subdivision Control Act constitute micro-environmental improvements primarily for urbanizing areas of the State of Michigan.

APPENDICES

APPENDIX A

QUESTIONNAIRE

QUESTIONNAIRE

Please complete and return in self addressed stamped envelope.

This is important to you in the event you are not satisfied with present Plat Laws.

1. No. of lots platted since the new plat act came into effect_____
_____
_____
_____

2. Estimate of the number of days plat was in official hands.

   (1) State_____
   _____

   (2) Local_____
   _____

3. In your opinion was this time too long?

   Yes_____ No _____

   (1) Can you explain why?_____
   _____
   _____
   _____

   (2) How does this affect you financially?
   _____
   _____
   _____

4. Are the following matters causing you problems?

   (1) Varying Regulations From Area to Area--
   Yes_____ No _____

   (2) Discriminatory Practices--Yes_____ No_____
   (Give examples)

   (3) Absence of an Ordinance Setting Down Rules and Standards-- Yes____ No ____

(4) Lack of Local Understanding of Platting and Development regulations-- Yes_____ No_____

(5) Are your problems with Local Municipalities more one of land usage than platting?
Yes_____ No _____

(6) Does this concern stem from a lack of municipal finances to provide municipal services or fear of the unknown? Yes_____ No _____

(7) Do you think the State should make mandatory the adoption of subdivision regulations?
Yes_____ No _____

(8) Do you think there is merit to standardized local regulations set by the State?
Yes_____ No _____

(9) Do you believe the Planning Board should have final authority as opposed to the council?
Yes_____ No _____

(10) What would be your opinion if there were two sets of State Law--One for recording of Plats and the other covering physical land use and design matters? For_____ Against_____

5. What other kind of problems are you facing at the--

(1) State level_____
_____
_____
_____
_____

(2) Local level _____
_____
_____
_____
_____

6. What suggestions do you have for overcoming the problems which you have experienced?
_____
_____
_____
_____
_____
_____

APPENDIX B

TIME TO RECORD PLAT OF F.F.I.P. #3

May 3, 1969

To: Board of Directors
J. Wasie
E. T. Smith

From: R. J. Russell

Subject: Time to record plat of F.F.I.P. #3

The following summary is our most recent experience under the new Subdivision Control Act in recording a plat. This information is provided you so that you may authoritatively answer critics as to our experience with the act.

1. Township Planning Commission
   Preliminary Plat Approval — Nov. 19, 1968

2. Preliminary Plat Approval requested
   from County and State agencies — Nov. 20, 1968
   Sec. 113 - Oakland County Road Commission
   Sec. 114 - Oakland County Drain Commission
   Sec. 115 - Michigan State Highway Department
   Sec. 116 - Michigan Department of Conservation
   Sec. 117 - Michigan Water Resources Commission
   Sec. 118 - Oakland County Health Department
   Sec. 119 - Oakland County Plat Board
   Sec. 119 - Public Utilities

3. Township Board Preliminary Plat Approval
   Tentative - Sec. 112 — Nov. 25, 1968

4. Township Board Preliminary Plat Approval
   Final - Sec. 120 — Feb. 10, 1969

5. Final Plat - Surveyors Certificate
   Sec. 143 — Feb. 28, 1969

6. Final Plat - Proprietors Certificate
   Hickory Grove Land Company — March 4, 1969
   Manufacturers Bank — March 5, 1969
   3-M Company - Minnesota — March 10, 1969
   Selastomer Detroit, Inc. — March 12, 1969
   The Traub Company — March 14, 1969
   Sec. 144

7. Final Plat - County Treasurers Certificate Sec. 145 — March 18, 1969

8. Final Plat - County Drain Certificate Sec. 146 - 162 - 163 - 192 — March 19, 1969

9.	Final Plat - County Road Certifi cate Sec. 147-164-165-183	March 21, 1969
10.	Final Plat - Township Board proval Sec. 148-166-167-182	March 24, 1969
11.	County Plat Board Approval Sec. 149 - 168	March 28, 1969
12.	State Treasurers Office Approval Sec. 151-169-170-171	April 23, 1969
13.	Plat recorded - County Register of Deeds Sec. 172	April 25, 1969

The total elapsed time from tentative preliminary plat approval by the Township Board (Sec. 112) to the date of recording is exactly five months. This compares to an elapsed time of five months and three days for the plat of Northville Commons #3 processed under the new act last year. Northville Commons #3 is in Wayne County while F.F.I.P. #3 is in Oakland County.

It appears, therefore, that with careful expediting and coordination of meetings, etc., the platting procedure in areas with public sewer and water and adequate drainage can be accomplished in about five months from time of presentation of a preliminary plat. Also, the State Highway Department and Water Resources Commission were not involved in technical reviews of these two plats. We understand these agencies, when involved, can consume as much as six months or more in their review and approval of preliminary plats.

Also, it should be understood that in both of these plats, construction plans and installation of improvements were complete prior to commencing the platting process. In the case of F.F.I.P. #3, Engineering Plans were started on 3/15/68 and all improvements were installed and roads open for traffic on August 31, 1968, consuming about five and one half months.

The F.F.I.P. #3 represents more the exception than the rule in getting a plat approved and developed. Among other things, reasons for this include:

1. Working in a municipality where the conditions are most favorable, particularly for an industrial subdivision.

2. Municipal subdivision regulations streamlined to obtain quick approvals.

3. Extraordinary expediting in obtaining agency approvals on both plans and plat.

4. Top cooperation from our consulting engineer and surveyor.

5. Not being involved with the State Water Resources Commission.

We should not, and probably cannot, expect to obtain this efficiency on every subdivision plat we get involved in.

RJR:dk

APPENDIX C

STATEMENT OF PROCESSING TIME

THOMPSON BROWN COMPANY

Statement Of Processing Time

Thompson Brown Company

12/16/68

PROGRESS CHART

"NORTHVILLE COMMONS NUMBER 3"

ACTION	DATE	ELAPSED TIME-DAYS
1. Preliminary Plat Approval Sec. 112, Northville Township Board	July 2, 1968	0
2. Preliminary Plat Approval Sec. 120, Northville Township Board	Aug. 6, 1968	35
3. Final Plat--Surveyors Certificate	Aug. 23, 1968	17
4. Final Plat--Proprietors Certificate	Aug. 26, 1968	3
5. Final Plat--County Treasurers Certificate	Sept. 3, 1968	8
6. Final Plat--County Drain Certificate	Sept. 3, 1968	0
7. Final Plat--County Road Certificate	Sept. 5, 1968	2
8. Final Plat Approval Northville Township Board	Sept. 19, 1968	14
9. County Plat Board Approval	Sept. 30, 1968	11
10. State Treasurers Office Approval	Dec. 3, 1968	64*
11. Plat Recorded--Register of Deeds	Dec. 5, 1968	2
TOTAL ELAPSED TIME-----	156 days or 22 weeks - 3 days or 5 months - 3 days	

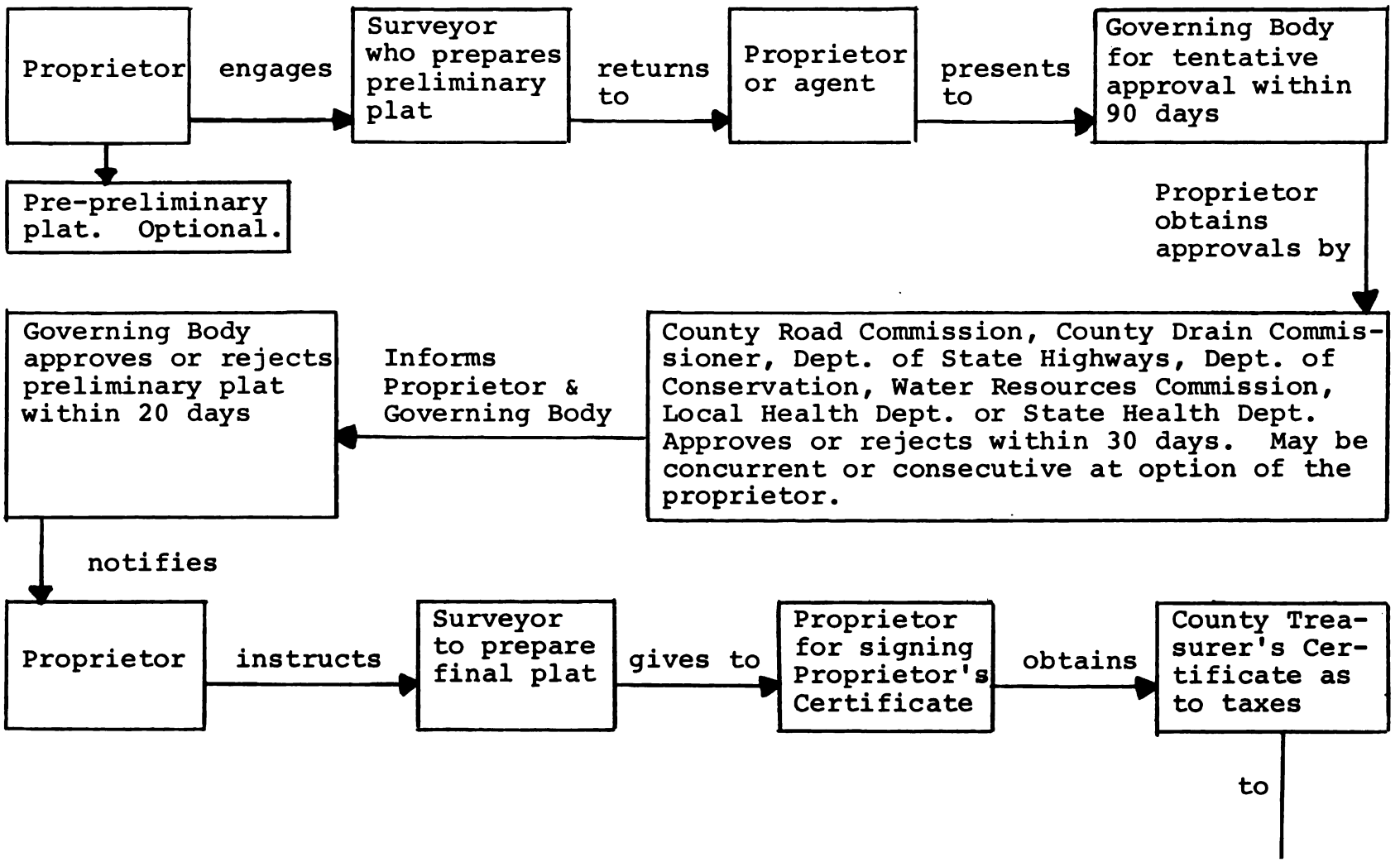
*NOTE - Of the 64 days at the State Treasurers Office, 28 of the 64 were time necessary to make corrections requested by the State Treasurer of our Surveyor.

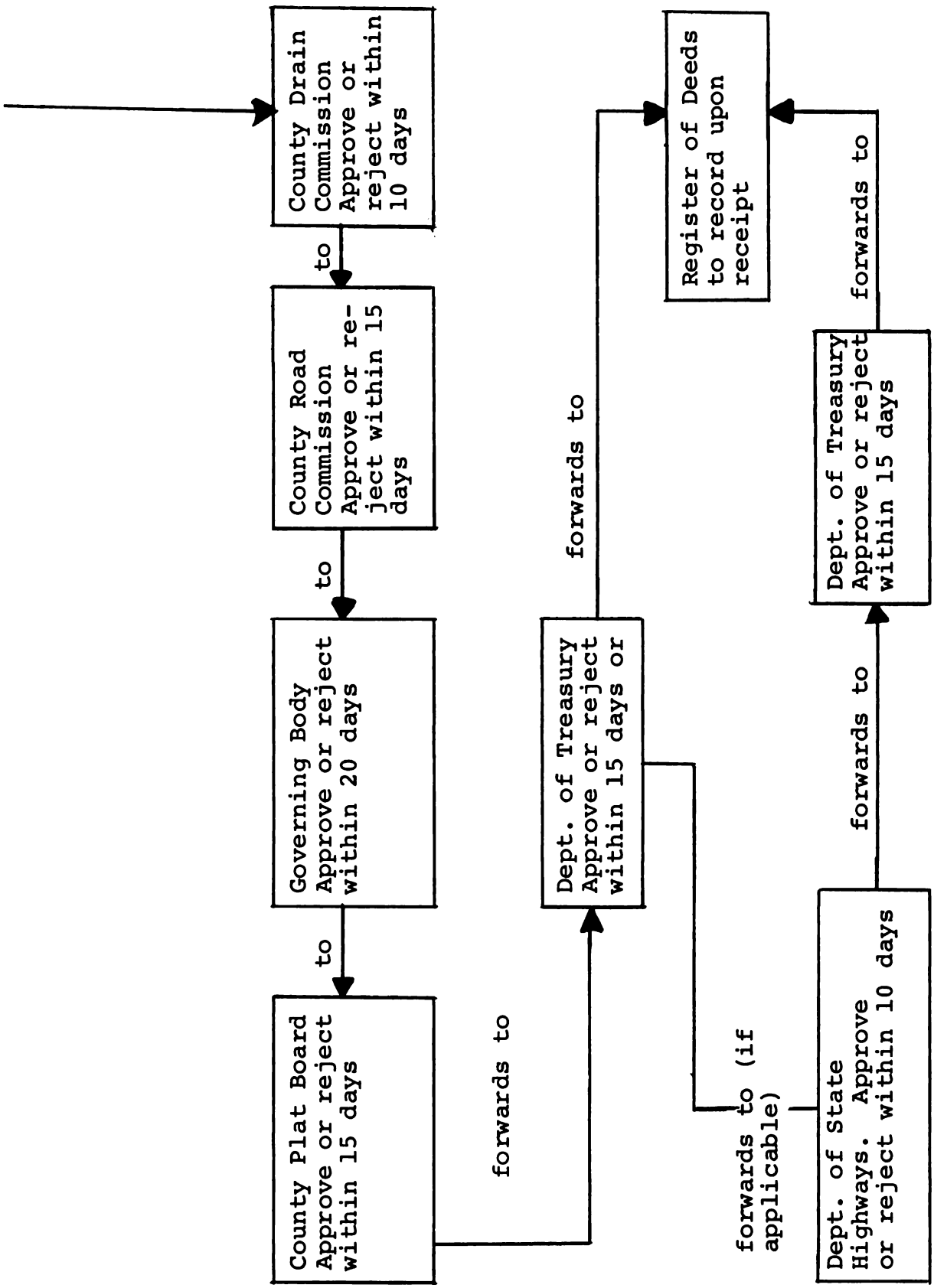
APPENDIX D

APPLICATION OF ACT 288 OF 1967 (EFF. 1/1/68)

Prepared by
Plat Section
Treasury Dept.
Mar. 31, 1967

APPLICATION OF ACT 288 OF 1967 (EFF. 1/1/68)




County Drain Commission Approve or reject within 10 days
to
County Road Commission Approve or reject within 15 days
to
Governing Body Approve or reject within 20 days
to
County Plat Board Approve or reject within 15 days
forwards to
Dept. of Treasury Approve or reject within 15 days or
forwards to
Register of Deeds to record upon receipt
forwards to (if applicable)
Dept. of State Highways. Approve or reject within 10 days
forwards to
Dept. of Treasury Approve or reject within 15 days
forwards to

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BIBLIOGRAPHY

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Webster, Donald H. Urban Planning and Municipal Public Policy. New York: Harper and Brothers, Publishers, 1958.

"History of Plat Legislation in Michigan." Unpublished paper, State Treasurer's Office, Michigan.

Indiana Statutes, Burns 53-745.

Michigan Statutes, Act. No. 288, P.A. of 1967, Subdivision Control Act of 1967.

Ohio Revised Code, Chapter 711.

Revised Statutes of Ontario, The Planning Act, Chapter 296, Section 28.

Wisconsin Statutes, Chapter 236.