

body or the electors of a city may not adopt two rates, one for firemen and one for policemen.

FRANK J. KELLEY,
Attorney General.

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PLATS: Subdivision of real property into five or more parcels.

Definition of "subdivide" and "subdivision" in § 104(d) of 1967 PA 288, the Subdivision Control Act, interpreted and discussed in various situations regarding creation of five or more parcels each of ten or fewer acres in area from a single parcel or tract of land within a given ten-year period.

Opinion No. 4804

April 25, 1974.

Honorable Melvin L. Larsen
State Representative
The Capitol
Lansing, Michigan 48901

You have requested my response to six questions regarding the interpretation of the Subdivision Control Act, 1967 PA 288, MCLA 560.101 *et seq.*; MSA 26.430(101) *et seq.* The following hypothetical facts are set forth in your letter:

- "(1) 'X' owns 160 acres of land in a single parcel that is zoned suburban farms which provides for a minimum homesite of two acres.
- "(2) He (then) sells ten parcels of 10.1 acres each to different individuals.
- "(3) (Thereafter) 'X' also sells four parcels of his remaining acreage, each of the four parcels being ten acres or less.
- "(4) Subsequently the owners of each of 10.1 acres referred to in Fact 2 above also break out their respective 10.1 acres into 2.5 acre parcels and sell same.
- "(5) All of the above sales occurred in a single ten-year period immediately after the acquisition of his original 160-acre parcel."

The six questions which you have asked will be stated and answered separately. Pertinent to each question is the following definition of "subdivide" or "subdivision" set forth in sub-section (d) of § 102 of the Act:

" . . . The partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease or more than one year, or of building development, where the act of division creates 5 or more parcels of land each of which is 10 acres or less in area; or 5 or more parcels of land each of which is 10 acres or less in area are created by successive divisions within a period of 10 years."

I.

Your first question is:

"Is 'X' subject to the Plat Act [Subdivision Control Act of 1967]?"

While X is a proprietor under § 102(h) of the Act, *supra*, based upon the facts as you have stated them, X has not violated the Act.

II.

Your second question is:

"Are any or all of the owners of the 10.1 acre parcels who broke their respective acreage into 2.5-acre parcels required to subdivide?"

We interpret "required to subdivide" in your question as meaning "required to file and record a proper plat." The answer is yes. Since X has sold 4 parcels of 10 acres or less, any or all owners of the 10.1 acre parcels who partition or divide their respective acreage into 2.5 acre parcels are required to comply with the Act.

III.

Your third question is:

"Are any of his (sic) purchasers of a 2.5-acre parcel subject to the Plat Act [Subdivision Control Act of 1967]?"

The purchasers of the 2.5 acre parcels are "subject to" the Act in the sense that, within any 10 year period, as discussed below, they could not, without first having filed and recorded a proper plat, further divide their respective ownerships.

IV.

Your fourth question is:

"Was there a fifth parcel created out of the original 160-acre parcel, when and by whom?"

This question has already been answered by my response to Questions II and III.

V.

Your fifth question is:

"When is the 10-year provision set forth in the definition of 'subdivide' in the Plat Act [Subdivision Control Act of 1967] applicable?"

The ten year restriction means in substance that during a given ten year period a parcel of land may not be divided, absent the filing of a proper plat, by the original owner, or by his successors or transferees of all or any part of the parcel, separately or collectively, in any manner such that five or more parcels, each of 10 acres or less in area, are created anywhere within the boundaries of the original parcel.

VI.

Your final question is:

"With respect to Fact 3 above, *when* can a buyer of a 10-acre or less parcel divide same into smaller parcels or a minimum of two acres so as to stay within the local suburban farms zoning classification?"
[Emphasis in original]

Zoning statutes are enabling acts authorizing local communities to adopt comprehensive zoning plans. See 1943 PA 183, MCLA 125.201 *et seq.*; MSA 5.2961(1) *et seq.*; 1943 PA 184, MCLA 125.271 *et seq.*; MSA 5.2963(1) *et seq.* Zoning acts have been upheld as a valid exercise of the police power. *Gordon v City of Warren Planning & Urban Renewal Commission*, 29 Mich App 309, 326-327; 185 NW2d 61, 69 (1971), *aff'd* 388 Mich 82; 199 NW2d 465 (1972). Proprietors are required to comply with both the Subdivision Control Act, *supra*, and local zoning ordinances.

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CABLE COMMUNICATIONS SYSTEMS: State and local governmental authority in relation to cable communications systems.

Local governmental units have authority to grant cable television franchises even in the absence of specific legislation relating to cable television.

Under current law it is permissible for home rule cities to own and operate cable television systems.

Within current state laws it is permissible for several units of local government to collaborate in writing a franchise for a cable communications system.

Within existing federal regulations, broad areas of regulatory authority may be assumed by state government.

Opinion No. 4808

April 25, 1974.

Honorable Stanley F. Rozycki
State Senator
State Capitol
Lansing, Michigan

In letters to this office, you have asked my opinion on the following questions:

1. Do local governmental units have authority to grant cable television franchises in the absence of specific legislation relating to cable television?
2. Under current law is it permissible for home rule cities to own and operate cable television systems?
3. Within current state laws is it permissible for several units of local government to collaborate in writing a franchise for a cable communications system?
4. Within existing federal regulations, what specific areas of regulatory responsibility over cable broadcasting can be assumed by the state?

I. Overview

From small beginnings, as a method of bringing clear television reception to mountainous regions, cable television has grown to the point where it