



The Attorney General of Texas

November 12, 1980

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Honorable Bill Stubblefield
Williamson County Attorney
Georgetown, Texas 78626

Opinion No. MW-269

Re: Whether conveyance of a strip of land requires vacating of an original plat and replatting under article 974a, V.T.C.S.

Dear Mr. Stubblefield:

You inquire about the application of article 974a, V.T.C.S., to the conveyance of a strip of land not effected for the purpose of laying out a subdivision or suburban lots. You inform us that the original purchasers of a house and lot in the subdivision discovered that the house had been inadvertently situated approximately one foot from a lot line, in violation of local setback ordinances. The developer owns the adjacent lot and has offered to convey a strip of land along the lot line wide enough to satisfy setback requirements. This conveyance would leave the unsold lot of adequate size for residential construction.

You ask the following questions:

1. Is there a violation of article 974a, V.T.C.S., if the developer conveys the strip of land by metes and bounds?

2. May an amendment to the plat be filed to reflect the conveyance, and, if so, subject to what procedure?

A recorded subdivision plat may not be amended except in conformance with section 5 of article 974a, V.T.C.S. Priolo v. City of Dallas, 257 S.W. 2d 947 (Tex. Civ. App. - Dallas 1953, writ ref'd n.r.e.); McCraw v. City of Dallas, 420 S.W. 2d 793 (Tex. Civ. App. - Dallas 1967, writ ref'd n.r.e.); Blythe v. City of Graham, 287 S.W. 2d 527 (Tex. Civ. App. - Fort Worth 1956, writ ref'd n.r.e.). Section 5 of article 974a requires, in cases where lots in a subdivision have been sold, that a subdivision plat be vacated, in whole or in part, before an amendment such as you propose can become effective. After a vacation, a conveyance by metes and bounds could be made and a new plat could be filed. Under the circumstances that you

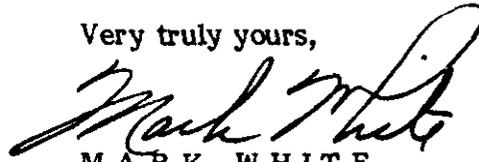
describe, a vacation of the part of the plat showing the two affected lots would require the approval of all of the owners of lots in the subdivision.

It would seem that a more practical solution to the problem of the violation of the local setback ordinance would be to apply for a variance to the setback requirement. If the variance was granted, there would no longer be a violation.

S U M M A R Y

Although a land owner may convey a strip of land by metes and bounds, the plat of the subdivision cannot be amended to reflect that conveyance. It must be vacated and replatted pursuant to article 974a, V.T.C.S.

Very truly yours,



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