

SENATE BILL REPORT

SB 5066

AS OF JANUARY 24, 1991

Brief Description: Restricting subdivision alterations that diminish dedications.

SPONSORS: Senators Rasmussen, Nelson, McCaslin and Thorsness.

SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

Staff: Rod McAulay (786-7754)

Hearing Dates: January 29, 1991

BACKGROUND:

Plats for subdivisions or short subdivisions may include dedications of land for general and public uses. Prior to filing such plats for record, a certificate which, among other things, fully describes the dedication and is supported by a title report, must be approved by the local legislative authority. Dedications on plats are considered as quitclaim deeds and are effective upon approval.

The local legislative authority may approve a modification of a plat, including the reduction in size or change of use of a dedication, upon the petition of a majority of those persons having an ownership interest in the subdivision and following a public hearing.

A court of general jurisdiction may modify a dedication as part of the relief granted in a lawsuit in which the size, use and nature of the dedication is at issue. In such lawsuits, there are no special presumptions or limitations on the evidence a court may consider with respect to the size, use and nature of a dedication.

SUMMARY:

A local legislative authority may not authorize the modification or alteration of an existing plat which changes the size or use of a dedication without the written consent of 75 percent of the owners of parcels benefitted by the dedication.

In a lawsuit in which the provisions of a plat are at issue, a plat that contains a dedication and is filed for record cannot be contradicted, impeached, or invalidated by parol or extrinsic evidence nor may such evidence be admitted for purposes of determining the size or use of the dedication. No court of general jurisdiction may, as part of any relief granted in a lawsuit, diminish the size or change the use of

a dedication without the written consent of 75 percent of the owners of parcels benefitted by the dedication.

Appropriation: none

Revenue: none

Fiscal Note: none requested