
Local Government & Housing Committee

HB 2220

Brief Description: Extending the time limitations for approval of plats.

Sponsors: Representatives Simpson and White.

Brief Summary of Bill

- Requires that the final plat meeting the requisite legal requirements must be submitted to the appropriate legislative body for approval within seven years of the date of preliminary plat approval, thus extending the deadline for submission of final plats by two years.
- Establishes that a subdivision is governed by the terms of approval of the final plat -- and the statutes, ordinances, and regulations in effect at that time -- for a period of seven years after final plat approval.
- Establishes that a final plat for a short subdivision must be submitted to the appropriate governmental body for approval within four years of the date of preliminary plat approval.

Hearing Date: 2/18/09

Staff: Thamas Osborn (786-7129)

Background:

The "Vested Rights Doctrine" in the State of Washington.

In the context of land use law, the concept of "vesting" is used to determine the point in time at which the laws and regulations controlling the division, use, or development of real property become fixed with respect to the development of a specific property, thus preventing such use or development from being subject to subsequent regulatory changes. Over the years, the determination of when a property owner's development rights become vested has been a key issue for the Washington courts, resulting in the courts' development of what is known as the "vested rights doctrine."

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In the case of *Noble Manor v. Pierce County*, 133 Wn.2d 269 (1997), the Washington Supreme Court (Court) summarized the "vested rights doctrine" as it had been developed by the courts under the common law: "In Washington, 'vesting' refers generally to the notion that a land use application, under the proper conditions, will be considered only under the land use statutes and ordinances in effect at the time of the application's submission." The court went on to note that:

"The doctrine provides that a party filing a timely and sufficiently complete building permit application obtains a vested right to have that application processed according to zoning, land use and building ordinances in effect at the time of the application. The doctrine is applicable if the permit application is sufficiently complete, complies with existing zoning ordinances, and building codes, and filed during the period the zoning ordinances under which the developer seeks to develop are in effect. If a developer complies with these requirements, a project cannot be obstructed by enacting new zoning ordinances or building codes."

This common law vesting doctrine has been codified by the Legislature, in various forms, in several chapters of the Revised Code of Washington pertaining to land use, property development, and construction permitting.

Many other states have adopted vesting doctrines which are much more restrictive than those codified in Washington. Specifically, in many states vesting occurs only at such time as the local government authority gives *final approval* to an application for a land use, development project, or building permit.

Government Regulation of Land Use: Subdivisions, Short Subdivisions, and Plats.

A property owner must have a proposed division of land reviewed and approved by the county, city, or town in which the land is located. Such divisions of land are generally categorized as either "subdivisions" or "short subdivisions." Subdivisions are defined as land divisions resulting in five or more lots, tracts, or parcels. Short subdivisions are defined as land divisions resulting in four or fewer lots, tracts, or parcels. However, a city, town, or Growth Management Act planning county may adopt a local ordinance increasing to a maximum of nine the number of lots, tracts, or parcels that may be contained within a short subdivision.

A "plat" is a map or graphic representation of a *subdivision* that shows the division of a tract or parcel of land into lots, blocks, streets, alleys, and other divisions. A "short plat" is the map or graphic representation of a *short subdivision*. The initial step in the process of having a subdivision or short subdivision approved begins with the submission of a preliminary plat (for a subdivision) or a preliminary short plat (for a short subdivision) to the local planning authority for approval. The final step in the approval process involves the submission to the local planning authority of the final plat or final short plat.

Vesting of "Subdivisions."

State law distinguishes between *subdivisions* and *short subdivisions* with respect to the vesting of development rights. For a period of five years following the approval of the *preliminary plat* by the local planning authority, the development of a *subdivision* is governed by the pertinent laws and regulations in effect at the time of such approval. In other words, subdivision development

rights are vested for a period of five years following approval of the preliminary plat. If the *final plat* is not submitted for approval within this five-year period, the property is *divested* and the subdivision may be subject to development regulations enacted subsequent to preliminary plat approval. However, even if a developer is subject to such divestiture, a second five year vesting period begins following the planning authorities' approval of the *final plat*. During this second five-year period, the development of a subdivision is governed by the terms of such approval, as well as the statutes, ordinances, and regulations in effect at the time of final plat approval.

In addition, a local government may make changes to the applicable development regulations prior to the expiration of these vesting periods in response to a change of conditions that creates a serious threat to public health or safety.

Vesting of Short Subdivisions.

Short subdivisions, on the other hand, are not subject to the five-year vesting limitations applicable to subdivisions. Development rights with respect to short subdivisions become fully vested at the time of short plat approval and, therefore, are not subject to subsequent changes in land use or development regulations or statutes.

Summary of Bill:

Vesting of a Subdivision Following Preliminary Plat Approval.

A final plat for a subdivision must be submitted to the appropriate local governmental body for approval within seven years of the date of preliminary plat approval. In other words, the initial period during which a subdivision remains vested is extended from five to seven years following preliminary plat approval.

Vesting of a Subdivision Following Final Plat Approval.

The development of a subdivision is governed by the terms of approval of the final plat -- and the statutes, ordinances, and regulations in effect at that time -- for a period of seven years after final plat approval. In other words, the period during which a subdivision remains vested following final plat approval is extended from five to seven years.

Vesting of a Short Subdivision.

A final short plat for a short subdivision must be submitted to the appropriate governmental body for approval within four years of the date of preliminary plat approval. In other words, the period during which a short subdivision remains vested is limited to the four year period following preliminary plat approval.

Appropriation: None.

Fiscal Note: Not requested.

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