



www.AustinHomeBuilders.com
8140 Exchange Drive
Austin, TX 78754
P • 512.454.5588
F • 512.454.5086

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June 7, 2011

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Dave Sullivan
Chair, Planning Commission
City of Austin
PO Box 1088
Austin, TX 78767

Dear Dave:

Thank you for the "heads up" on the procedure for consideration of the requested amendments from Travis County to change plat note requirements.

The request is one that appeared before the Travis County Commissioners Court and which the Home Builders Association (HBA) of Greater Austin opposed. We tried to approach the proposed plat note from the perspective of the Travis County Commissioners Court. The acknowledgement was that Travis County wished to provide home buyers notice that counties in Texas do not have the same land use controls as municipalities and that citizens needed to be provided notice of that fact. Our response is that there are better ways to achieve that end.

Notice by Travis County

A notice on the plat is not something a home buyer is likely to see until they sit down "at the closing table" when all documentation and considerable costs have been invested. To introduce a note at that point is not likely to even be read (the buyers are overwhelmed already with documents to execute). If the note is read, there is little the buyer could do at that point, having already made loan commitments and "locked in" to the closing.

An alternative that might be picked as part of the title search would be a note directly by Travis County. This procedure would provide notice that could be picked up in a title search. The timing would be somewhat prior to actually sitting down at closing and would give the buyers an opportunity to be advised before the true "last minute".

Another advantage would be that if a plat amendment is required, the changes would be easier and the note would not have to be

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Proposed Plat Note

resubmitted. Also, should the county decide to change the note - that could be done county-wide immediately upon action by the Commissioner's Court.

Legislative Solution

The solution that would have the earliest impact would be a legislative mandate that purchase contracts need to contain the prescribed language. That would mean Realtors® would be required to notify the buyer at the time the sale was initiated and all parties would be knowledgeable prior to the time a loan commitment was initiated or any of the expensive closing process was initiated.

Alternative Language

Should the City of Austin wish to proceed, then the HBA would at the very least suggest some alternative language that is easier to understand and provides a disclaimer for the seller.

Sincerely,

A handwritten signature in black ink, appearing to read 'Harry L. Savio', with a stylized flourish at the end.

Harry L. Savio, CAE
Executive Vice President