

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 77

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

AN ACT

RELATING TO PROPERTY LAW; REVISING A COUNTY'S AUTHORITY TO
REGULATE SUBDIVISIONS; AMENDING AND ENACTING SECTIONS OF THE
NEW MEXICO SUBDIVISION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 47-6-2 NMSA 1978 (being Laws 1973,
Chapter 348, Section 2, as amended) is amended to read:

"47-6-2. DEFINITIONS. -- As used in the New Mexico
Subdivision Act:

A. "immediate family member" means a husband,
wife, father, stepfather, mother, stepmother, brother,
stepbrother, sister, stepsister, son, stepson, daughter,
stepdaughter, grandson, stepgrandson, granddaughter,
stepgranddaughter, nephew and niece, whether related by
natural birth or adoption;

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1 B. "lease" means to lease or offer to lease land;

2 C. "parcel" means land capable of being described
3 by location and boundaries and not dedicated for public or
4 common use;

5 D. "person" means [~~any~~] an individual, estate,
6 trust, receiver, cooperative association, club, corporation,
7 company, firm, partnership, joint venture, syndicate or other
8 entity;

9 E. "final plat" means a map, chart, survey, plan
10 or replat certified by a licensed, registered land surveyor
11 containing a description of the subdivided land with ties to
12 permanent monuments prepared in a form suitable for filing of
13 record;

14 F. "preliminary plat" means a map of a proposed
15 subdivision showing the character and proposed layout of the
16 subdivision and the existing conditions in and around it and
17 need not be based upon an accurate and detailed survey of the
18 land;

19 G. "sell" means to sell or offer to sell land;

20 H. "subdivide" means to divide a surface area of
21 land into a subdivision;

22 I. "subdivider" means [~~any~~] a person who creates
23 or who has created a subdivision individually or as part of a
24 common promotional plan or [~~any~~] a person engaged in the sale,
25 lease or other conveyance of subdivided land; however,

1 "subdivider" does not include [~~any~~] a duly licensed real
2 estate broker or salesperson acting on another's account;

3 J. "subdivision" means the division of a surface
4 area of land, including land within a previously approved
5 subdivision, into two or more parcels for the purpose of sale,
6 lease or other conveyance or for building development [~~whether~~
7 ~~immediate or future~~], but "subdivision" does not include:

8 (1) the sale, lease or other conveyance of
9 any parcel that is thirty-five acres or larger in size within
10 any twelve-month period; provided that the land has been used
11 primarily and continuously for agricultural purposes, in
12 accordance with Section 7-36-20 NMSA 1978, for the preceding
13 three years;

14 (2) the sale or lease of apartments, offices,
15 stores or similar space within a building;

16 (3) the division of land within the
17 boundaries of a municipality;

18 (4) the division of land:

19 (a) in which only gas, oil, mineral or
20 water rights are severed from the surface ownership of the
21 land;

22 (b) to create a parcel that is used for
23 facilities that gather, process or transport gas, oil or
24 byproducts of gas or oil; or

25 (c) to create a parcel that is used for

1 facilities that dispose of wastewater created during the
2 production or refining of gas, oil or other hydrocarbons;

3 (5) the division of land created by court
4 order where the order creates no more than one parcel per
5 party;

6 (6) the division of land for grazing or
7 farming activities; provided the land continues to be used for
8 grazing or farming activities;

9 (7) the division of land resulting only in
10 the alteration of parcel boundaries where parcels are altered
11 for the purpose of increasing or reducing the size of
12 contiguous parcels and where the number of parcels is not
13 increased;

14 (8) the division of land to create burial
15 plots in a cemetery;

16 (9) the division of land to create a parcel
17 that is sold or donated as a gift to an immediate family
18 member; however, this exception shall be limited to allow the
19 seller or donor to sell or give no more than one parcel per
20 tract of land per immediate family member;

21 (10) the division of land created to provide
22 security for mortgages, liens or deeds of trust; provided that
23 the division of land is not the result of a seller-financed
24 transaction;

25 (11) the sale, lease or other conveyance of

1 land that creates no parcel smaller than one hundred forty
2 acres;

3 (12) the division of land to create a parcel
4 that is donated to any trust or nonprofit corporation granted
5 an exemption from federal income tax, as described in Section
6 501 (c)(3) of the [~~United States~~] Internal Revenue Code of
7 1986, as amended; school, college or other institution with a
8 defined curriculum and a student body and faculty that
9 conducts classes on a regular basis; or [~~to any~~] church or
10 group organized for the purpose of divine worship, religious
11 teaching or other specifically religious activity; or

12 (13) the [~~sale, lease or other conveyance of~~
13 ~~a single parcel from a tract~~] division of land to create two
14 parcels, except from a tract within a previously approved
15 subdivision, within any five-year period; provided that a
16 second or subsequent [~~sale, lease or other conveyance from~~]
17 division of the same tract of land within five years of the
18 first [~~sale, lease or other conveyance~~] division shall be
19 subject to the provisions of the New Mexico Subdivision Act;
20 provided further that a survey shall be filed with the county
21 clerk indicating the five-year holding period for both the
22 original tract and the newly created tract;

23 K. "terrain management" means the control of
24 floods, drainage and erosion and measures required for
25 adapting proposed development to existing soil characteristics

1 and topography;

2 L. "time of purchase, lease or other conveyance"
3 means the time of signing any document obligating the person
4 signing the document to purchase, lease or otherwise acquire a
5 legal interest in land;

6 M. "common promotional plan" means [~~any~~] a plan or
7 scheme of operation, undertaken by a single subdivider or a
8 group of subdividers acting in concert, to offer for sale or
9 lease parcels of land where such land is either contiguous or
10 part of the same area of land or is known, designated or
11 advertised as a common unit or by a common name;

12 N. "type-one subdivision" means [~~any~~] a
13 subdivision containing five hundred or more parcels, any one
14 of which is less than ten acres in size;

15 O. "type-two subdivision" means [~~any~~] a
16 subdivision containing not fewer than twenty-five but not more
17 than four hundred ninety-nine parcels, any one of which is
18 less than ten acres in size;

19 P. "type-three subdivision" means [~~any~~] a
20 subdivision containing not more than twenty-four parcels, any
21 one of which is less than ten acres in size;

22 Q. "type-four subdivision" means [~~any~~] a
23 subdivision containing twenty-five or more parcels, each of
24 which is ten acres or more in size; and

25 R. "type-five subdivision" means [~~any~~] a

1 subdivision containing not more than twenty-four parcels, each
2 of which is ten acres or more in size. "

3 Section 2. A new section of the New Mexico Subdivision
4 Act is enacted to read:

5 "[NEW MATERIAL] LIMITATION ON MERGER OF CONTIGUOUS
6 PARCELS. -- Unless a county provides prior notice to an owner of
7 contiguous parcels and conducts a public hearing regarding the
8 county's intent to consolidate contiguous parcels owned by
9 him, no action by a board of county commissioners shall
10 require one parcel to be consolidated with one or more
11 contiguous parcels for the purpose of considering the
12 consolidated parcels as a single tract based upon common
13 ownership of the parcels. The provisions of this section
14 shall not be interpreted to limit a board of county
15 commissioners from requiring the merger of contiguous parcels
16 into common ownership for the purpose of enforcing minimum
17 standards on the parcels in preparation for construction on or
18 development of parcels. "

underscored material = new
[bracketed material] = delete