



OFFICES OF THE  
ATTORNEY GENERAL OF MISSOURI  
JEFFERSON CITY

JOHN C. DANFORTH  
ATTORNEY GENERAL

December 13, 1973

OPINION LETTER NO. 44

Honorable C. E. Hamilton, Jr.  
Prosecuting Attorney  
Callaway County Courthouse  
Fulton, Missouri 65251

Dear Mr. Hamilton:

This is in response to your request for an opinion from this office in part as follows:

"Under the Missouri Statutes, and specifically Section 445.030 Revised Statutes of Missouri, 1969, what requirements have to be met before a County Recorder of Deeds should accept a plat on land outside the incorporated limits of the City for recording? Specifically, should the map or plat, as presented to the County Recorder of Deeds, not only contain an acknowledgement by a registered land surveyor and his seal, as provided in Section 327.391 Revised Statutes of Missouri, 1969, but also a certificate properly acknowledged, by the proprietor or owner of the property, and also a certificate that all taxes on the property have been paid?

"The Callaway County Recorder of Deeds has informed me that, in the past, he has believed that he should not accept any plat for recording in the County Plat Book unless the plat was accompanied by an owner's certificate and a certificate that all taxes have been paid on the property. I have attached to this request a copy of a plat, along with the normal owner's certificate and tax certification, as Exhibit A. The County Recorder of Deeds has required

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the accompanying documents regardless of whether the plat to be recorded was of land inside or outside the incorporated limits of any town or city. An individual who has now subdivided land, has come to the County Recorder of Deeds with simply a plat and survey signed by a registered land surveyor and bearing his seal. The subdivider does not have the owner's certificate attached, and he does not have a certificate that all taxes on the property have been paid. The County Recorder of Deeds has refused to record the instrument until the owner's certificate and the certificate that all taxes have been paid is attached."

You refer to Section 445.030, RSMo. This section is part of Chapter 445, RSMo, concerning the preparation of maps or plats of real estate and the filing thereof in the recorder's office.

Section 445.010, RSMo, provides in part:

"1. Whenever any city, town or village, or any addition to any city, town or village, shall be laid out, the proprietor of such city, town or village, or addition, shall cause to be made out an accurate map or plat thereof, particularly setting forth and describing:

(1) All parcels of ground within such town, village or addition reserved for public purposes by their boundaries, course and extent, whether they be intended for avenues, streets, lanes, alleys, commons or other public uses; and

(2) All lots for sale, by numbers, and their precise length and width."

Section 445.030, RSMo, to which you refer, provides as follows:

"Such map or plat shall be acknowledged by the proprietor before some official authorized by law to take acknowledgments of conveyances of real estate, and recorded in the office of the recorder of deeds of the county in which the land platted is situated; provided, however, that if such map or plat be of land situated within the corporate limits of any incorporated city, town or village, it shall

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not be placed of record until it shall have been submitted to and approved by the common council of such city, town or village, by ordinance, duly passed and approved by the mayor, and such approval endorsed upon such map or plat under the hand of the clerk and the seal of such city, town, or village; nor until all taxes against the same shall have been paid; and before approving such plat, the common council may, in its discretion, require such changes or alterations thereon as may be found necessary to make such map or plat conform to any zoning or street development plan which may have been adopted or appear desirable; and to the requirements of the duly enacted ordinances of such city, town or village, appertaining to the laying out and platting of subdivisions of land within their corporate limits."

We understand that the facts under consideration concern a plat of land not within the limits of any incorporated or unincorporated city, town, or village and does not constitute an addition thereto and does not purport to establish a city, town or village, and your question is whether the recorder of deeds has authority under Section 445.030, supra, to refuse to file the plat of record without its being acknowledged by the proprietor and a certificate of the proprietor filed showing that all taxes have been paid.

We assume for the purpose of this opinion that all other legal requirements concerning the preparation of the plat have been complied with.

It is our opinion that Section 445.030, RSMo, does not apply to maps or plats of real estate outside the limits of any city, town, or village or any addition thereto. Weakley v. State Highway Commission, 364 S.W.2d 608 (Mo. 1963).

It is our view that a county recorder of deeds has no authority under Section 445.030, RSMo, to refuse to file or record a plat of real estate outside the limits of a city, town, or village or addition thereto and which plat does not purport to establish an unincorporated city, town or village even though such plat is not certified and properly acknowledged by the proprietor or owner of the property and even though no certificate is filed stating that all taxes on the property have been paid.

Yours very truly,



JOHN C. DANFORTH  
Attorney General