

CLSA Legislative Proposal

Subdivision Map Act (SMA) – Setting of Final Monuments – Payment of Engineers and Surveyors from Deposit – Delegation to A Public Official

Background

The Subdivision Map Act (SMA) provides a comprehensive and orderly procedure for local governments to approve the division of land by the filing of subdivision maps or parcel maps with certain terms and conditions. A subdivider is required to place a deposit with the local agency to ensure payment of various fees and services for a final or parcel map, including the payment to engineers and land surveyors setting the final monuments.

Once a map is approved by the legislative body, Government Code Section 66497 requires that an engineer or surveyor “set sufficient durable monuments ... so that another engineer or surveyor may readily retrace the survey.” Further, the statute requires the engineer or surveyor to give written notice “within 5 days after the final setting of all monuments” to various local officials (including a city engineer or county surveyor or other official or employee authorized to receive such notices) and specifies various actions of the “legislative body” (City Council or County Board of Supervisors) to compensate the engineer or land surveyor for setting the final monuments from existing subdivider cash deposit.

Statement of the Problem

Unfortunately, the requirement that a “legislative body” undertake the release of these funds to compensate the engineer or surveyor is a cumbersome and time-consuming process. This process requires that the release of these surety deposits to the engineer or surveyor for setting required monuments be placed on the “legislative body” agenda for approval. This agenda item is often delayed or deferred to a subsequent date, and most always competes with other substantive and policy matters before a local “legislative body.” As a result, the process of compensation for services rendered by an engineer or surveyor can take many months.

Since the payment of engineers or land surveyor’s for setting the final monuments is purely a ministerial act, it can and should be delegated to designated local government officials at discretion of a “legislative body” for approval, rather than compete with other substantive and policy matters before a local “legislative body.” In addition to expediting the payment process to engineers and land surveyors, delegation to a designated local government official would avoid the cost of placing an item on the “legislative body” agenda.

Proposed Solution

Alternatively, CLSA proposes to streamline the process by allowing a local "legislative body" to delegate the ministerial act of compensating an engineer or surveyor for setting the final monuments pursuant to the SMA to a designated local government official. In fact, some local governments have delegated the authority to a public officer or employee of the local government so that the compensation for engineers and surveyors is expeditiously accomplished. Specifically, the City of San Diego has adopted a policy to authorize the Development Services Department to release or reduce the amount of a subdivision cash deposit in accordance with the existing statutory requirements. Not only will this ensure prompt payment to an engineer or surveyor, but it frees the legislative body from a purely ministerial act in order to concentrate on more pressing matters before the local "legislative body."

Draft of Amendments to Government Code Section 66497

Section 66497 of the Government Code is amended to read:

66497. **(a)** Within five days after the final setting of all monuments has been completed, the engineer or surveyor shall give written notice to the subdivider, and to the city engineer or the county surveyor or any other public official or employee authorized to receive these notices, that the final monuments have been set.

(b) Upon payment to the engineer or surveyor for setting the final monuments, the subdivider shall present to the legislative body evidence of the payment and receipt thereof by the engineer or surveyor. In the case of a cash deposit, the legislative body shall pay the engineer or surveyor for the setting of the final monuments from the cash deposit, if so requested by the depositor.

(c) If the subdivider does not present evidence to the legislative body that the engineer or surveyor has been paid for the setting of the final monuments, and if the engineer or surveyor notifies the legislative body that payment has not been received from the subdivider for the setting of the final monuments, the legislative body shall, within three months from the date of the notification, pay to the engineer or surveyor from any deposit the amount due.

(d) *The legislative body may authorize any public officer or employee to release or reduce the amount of the cash deposit to pay the engineer or surveyor for setting the final monuments pursuant to the conditions specified hereinabove set forth and in accordance with any rules that the legislative body may prescribe.*

CEAC Surveyor Committee proposal:

(d) The legislative body may *designate and* authorize ~~any public officer or employee~~ *the city surveyor/county surveyor or the city engineer/county engineer or his/her designee* to release or reduce the amount of the cash deposit to pay the engineer or surveyor for setting the final monuments pursuant to the conditions specified hereinabove set forth and in accordance with any ~~rules~~ *policy or ordinances* that the legislative body may ~~prescribe~~ *adopt*.

(Amended by Stats. 1985, Ch. 1504, Sec. 7.)