

F I N A L   R E P O R T  
PLATTING AND MORTGAGE SURVEYS STUDY COMMITTEE

January 1990

AUTHORIZATION AND APPOINTMENT

The Platting and Mortgage Surveys Study Committee was established by the Legislative Council to review proposed platting legislation and proposed mortgage survey rules and make recommendations on changes in Iowa's land surveying practices, on the implementation of a parcel identification number system, and the impact of changing the mortgage survey rules.

Members serving on the Study Committee included:

Senator C. Joseph Coleman, Co-chairperson  
Representative Louis Muhlbauer, Co-chairperson  
Senator Donald Doyle  
Senator Norman Goodwin  
Senator Jack Hester  
Senator Alvin Miller  
Representative Robert Fuller  
Representative Robert Renken  
Representative Bill Royer  
Representative David Schrader

COMMITTEE PROCEEDINGS

The Study Committee was authorized for two meeting days, which took place on Wednesday, September 27 and Monday, October 30, 1989. The Study Committee was directed to examine House File 724, relating to the survey of land including the practice of land surveying and the preparation, recording, and vacation of plats, which was the result of a 1988 one-day interim study committee.

MEETING -- SEPTEMBER 27, 1989

The first meeting of the Study Committee was held on Wednesday, September 27, 1989, in Senate Room 22 of the Statehouse. Presentations were made by interested persons concerning proposed platting legislation.

Mr. Ray Willis, Iowa State Association of Counties, recommended passage of House File 724 with several changes. While supporting the concept of a permanent real estate index number, the

Association continues to oppose the mandatory implementation of a statewide parcel identification number system.

Mr. Doug Boothroy, Director of Housing and Inspection Services in Iowa City, and representing the Iowa American Planning Association and the League of Iowa Municipalities, recommended passage of House File 724 with amendment. He stated that the home rule authority of local communities must not be encroached upon by legislative action. Communities must be allowed to require a subdivision plat for a single division of land and they must be able to regulate land use such that the needs of the local community are met.

Mr. Steven Hendricks, Iowa State Bar Association, testified that while a complete overhaul of Iowa's platting statutes is not necessary, some modification is needed. He stressed that uniformity in platting procedures among cities and counties should prevail over land use regulation if the two should conflict in the implementation of these procedures. Any new legislation should include a method for cities and counties to resolve disputes among themselves.

Mr. James Grahm, Iowa Department of Transportation, stated that any platting legislation should address the issue of when it is appropriate to use an auditor's plat. He also stated that a parcel identification number system should not be mandatory, but that counties should be allowed to experiment with this type of system in an effort to determine what works best.

Mr. Larry Boyer, Society of Land Surveyors of Iowa, testified that his association basically supports the legislation as contained in House File 724 with only minor changes. He stressed that it is necessary to make the clarifications as proposed in new chapter 114A so that surveyors know what is necessary for an adequate survey and plat.

Mr. Ray Briggs, City of Johnston, provided several proposed changes to the Committee and testified that cities should monitor the divisions of land in an effort to more accurately determine what is happening with respect to land use and how to appropriately regulate that use.

#### MEETING -- OCTOBER 30, 1989

The second meeting of the Study Committee was held on Monday, October 30, 1989, in Committee Room 116 of the Statehouse. Presentations were made by interested persons concerning the proposed mortgage survey rules. A "mortgage survey" is less formal examination of real estate used primarily by financial institutions for the purpose of completing a mortgage loan. This type of survey is not valid for and should not be relied upon by an individual for

the purpose of building improvements or establishing fence lines on the property's boundary. A "stake survey" is more costly and time consuming and involves actual establishment of the boundary line as described in the recorded description of the property and measured from known monuments.

Ms. Patricia Lee, Iowa Association of Realtors, expressed concern over the recent declaratory ruling by the Iowa Engineering and Land Surveying Examining Board prohibiting individuals from performing "mortgage surveys." She stated that requiring "stake surveys" results in a more costly and time consuming process and offered that a disclosure statement should be used to allow a borrower to choose the type of survey desired and include a statement which clearly explains the nature of each type of survey.

Mr. Jerry Jensen, Iowa League of Savings Institutions, testified that the association favors mortgage surveys because they are less costly and require less time to perform than stake surveys. He recommended that mortgage surveys be allowed, but that the name be changed to "mortgage property inspection report" in order to alleviate confusion among potential borrowers.

Mr. Julian Garrett, Iowa Title Guarantee Division of the Iowa Department of Economic Development, testified that he supports the continued use of mortgage surveys as they are economical and provide the lender with reasonable confidence that the lender is not being exposed to unnecessary risk.

Mr. John Amalse, Iowa Mortgage Bankers' Association, testified that the mortgage survey works well as far as protecting the lender, but it needs to be understood that the mortgage survey is done only to complete the mortgage loan.

Mr. Robert Haylock, Society of Land Surveyors of Iowa, testified that property owners are being misled by mortgage surveys because they do not understand the purpose of such surveys or the uses for which they are valid. He suggested that a single accurate stake survey should be performed that would be acceptable to lending institutions and could be used for building purposes.

#### RECOMMENDATIONS

The Committee took the following actions:

1. Amendments prepared to House File 724, drafted to reflect the testimony of the League of Iowa Municipalities and the Iowa Chapter of the American Planning Association, Ray Briggs, James Grahm of the Iowa Department of Transportation, the Iowa State Association of Counties, and the Iowa State Bar Association, were voted out of the Interim Committee without recommendation and are to be forwarded to the appropriate standing committee for consideration during the 1990 General Assembly.

2. The Committee recommended that chapter 114 be amended to include a "mortgage property inspection report" as follows:

A "mortgage property inspection report" means a document stating whether a parcel of real estate that is being collateralized is materially impaired. This document must include a clear and prominent statement of disclosure to the buyer that the mortgage property inspection report is not a property survey and should not be relied upon as such. The document should state that the report is primarily for the use of the mortgage lender or its assigns and questions concerning the actual placement of boundary lines should be addressed by a complete survey of the property. The mortgage property inspection report is exempt from the provisions of chapter 114 which apply to other land surveying documents.

It is also recommended that the filing and recordation of any completed stake survey be required and that a mortgage property inspection report shall not be filed and recorded.

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