



PIMA COUNTY, ARIZONA BOARD OF SUPERVISORS POLICY

Subject: Subdivision Assurance Agreements – Time Extension, Substitute Assurance and Re-Platting

Policy Number

F 53.4

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Purpose

The Pima County Board of Supervisors regulates the subdivision of lands with the goal of ensuring public safety, the provision of necessary infrastructure and adherence to adopted County regulations. The Board has adopted regulations to ensure the completion of improvements through the posting of assurances by the development entity in order to protect home-buying consumers. The assurance agreement contains a four (4) year time frame to complete the improvements. This policy addresses the appropriate course of action for extending or renewing an assurance agreement, determining when updates are needed based on changing conditions and re-platting a subdivision based on a default of the assurance agreement.

Background

State law requires an assurance with each subdivision plat that ensures completion of subdivision improvements. Per ARS §11-821.C the assurances can take many forms and guarantee that the lots will not be sold to unsuspecting buyers without necessary infrastructure. Although Pima County Code 18.69.070 allows various forms of assurances such as bonds, letters of credit or cash, the most common form of assurance is the placement of title to the subdivision into a third-party trust. Pima County issues authorization to release lots after the improvements have been inspected and approved.

The assurance agreement specifies a date by which the improvements shall be completed, which is four (4) years from the date of the agreement. The time limit enables the County to assess whether conditions or standards have changed that would substantially impact the plat configuration and potentially warrant a change to the subdivision plat. If not in default, the developer may request a time extension or other substitute assurance agreement. If in default, the County has the option to re-plat the subdivision or, in some cases, the option to re-confirm compliance of the subdivision with current regulations and conditions.

Since 2006, the period referred to as the Great Recession, several subdivision plats and master block plats exist where improvements have not been completed and the construction timeframe in the assurance agreement has expired. In many instances the failure to construct improvements within the timeframe does not present an immediate problem since none of the subdivision lots have been released from the assurance trust for sale to consumers and the surrounding conditions have not changed. However, in partially constructed developments where some lots have been released and sold prior to completion of all infrastructure, as well as in older subdivisions with outdated traffic and hydrology studies or delinquent taxes that could result in lots being conveyed out of the assurance trust without necessary infrastructure, it is in the best interest of the County to consider exercising its option to re-plat.

Policy

A. For agreements that are not in default: Prior to the County authorizing a time extension or other substitute assurance agreement, the following shall occur:



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1. Developer initiated time extension or substitute assurance requests shall be submitted in writing to the Development Services Department for consideration.
2. Development Services shall consult with the Department of Transportation, Regional Flood Control District and Regional Wastewater Reclamation Department.
3. The departments shall provide recommendations to the Development Services Director or designee on whether a time extension or other substitute assurance agreement should be granted. Department recommendations should consider the following criteria:
 - a. Status of required on-site and off-site improvements and prospective completion date for unfinished improvements.
 - b. Change in surrounding conditions or adopted codes that warrant an updated traffic study, drainage study, capacity allocation evaluation or other similar documentation updates.
 - c. Presence of tax liens on the subdivision lots or blocks.
 - d. Adherence to conditions of the assurance agreement, rezoning, development agreement or other code or ordinance.
 - e. Effect that required improvements have on the overall required infrastructure, previously released lots and remaining unreleased lots.
4. Upon receipt of department recommendations, a time extension or other substitute assurance agreement may be granted, with appropriate conditions as warranted, by authority of the County Administrator in accordance with Resolution 1986-03 which is hereby delegated to the Development Services Director.
5. Upon receipt of a department recommendation against a time extension or other substitute assurance agreement, the property owner may revise the plat per Section C below.

B. For agreements that are in default: The Development Services Director or designee may, at his sole discretion, initiate the County's option to re-plat or allow the property owner to cure the default per Section C below.

Upon consideration of the criteria in Section A.3 with the Department of Transportation, Regional Flood Control District and Regional Wastewater Reclamation Department, the Development Services Director or designee may initiate the County's option to re-plat as follows:

1. Send notice of default and intent to re-plat by certified letter to the last known address of the owner of the parcels, developer and trustee on the assurance agreement. The letter



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will provide notice to the owner that the County will initiate its option to re-plat by sending a resolution to Board of Supervisors for consideration no sooner than 30 days from the date of the letter.

2. Following the 30 days, the Board of Supervisors will consider a resolution directing staff to commence the re-plat process. All costs incurred by the County in re-platting will be the responsibility of the property owner.
 3. If so directed, staff will utilize an appropriately registered or licensed engineer/surveyor to prepare the re-plat. The re-plat may eliminate lot lines, roadways and common areas. The re-plat may retain regulated floodplains, hillside development designations, natural open space, easements and other regulatory features that are a condition of development. Upon staff concurrence with the prepared re-plat, the plat will be forwarded to the Board of Supervisors for consideration. The Assessor's office and Treasurer's office will be notified to facilitate property tax assessment and collection.
 4. If approved, the plat will be recorded along with the Board of Supervisor's resolution. The property owner will be notified and will be invoiced for the costs to re-plat.
- C. If required per Section A or B above, the property owner shall submit evidence to Pima County Development Services that the prior approved plat complies with current regulations, under current site conditions. Development Services shall consult with the Department of Transportation, Regional Flood Control District and Regional Wastewater Reclamation Department. If upon receipt of department recommendations, the Development Services Director or designee determines, in his sole discretion, that the approved plat complies, a time extension or substitute assurance agreement may be granted, with appropriate conditions as warranted, in accordance with Section A.4. If upon receipt of department recommendations, the Development Services Director or designee determines, in his sole discretion, that the approved plat does not comply, the property owner shall submit revisions to the plat for County review and approval, along with applicable fees and new assurances.
- D. If the property owner elects to cure the default under new agreements acceptable to Pima County that will fulfill the developer's obligation and ensure performance, the County may at its discretion cease the re-platting process.

Adoption Date: July 1, 2014
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