

STATE OF TEXAS
KENDALL COUNTY

KENDALL COUNTY ORDER NO. 11-23-2009
(Amended effective _____)

AN ORDER GRANTING RELIEF TO ROAD FRONTAGE REQUIREMENTS
FOR CERTAIN SITUATIONS AND AUTHORIZING THE COUNTY
DEVELOPMENT MANAGER/COUNTY ENGINEER TO APPROVE

WHEREAS, the Kendall County Development Rules and Regulations require that each lot in a subdivision or each tract of subdivided property shall have at least sixty (60) feet of fee simple road frontage on a state highway, county road or a road constructed to county specifications; and

WHEREAS, a division of property by the owner of the property that results in ~~not more than four tracts and all~~ tracts that are all sold, given, or otherwise transferred to persons related to the Grantor within the third degree of consanguinity or affinity (a family division) is a frequent occurrence in Kendall County; and

WHEREAS, a division of property by the owner of the property that results in not more than two tracts and the division is required in order for the property owner to obtain a loan to improve the property and comply with requirements imposed by the lender is also a frequent occurrence in the County; and

WHEREAS, a division of property as the result of court order or otherwise that results in tracts that are inherited or otherwise transferred to persons related to the owner of the property is a common occurrence in Kendall County; and

WHEREAS, ~~both~~ these types of divisions further public purposes in that a family division by inheritance or otherwise results in property being transferred ~~passed on~~ to persons related to ~~family members of the Grantor~~ owner; and a loan obtained by the owner of property to make improvements to the property not only benefits the owner, but also enhances the value of the property for ad valorem taxation and other purposes, and

WHEREAS, in most such divisions, there is no additional burden on the County, either because the owner of the property retains ownership of the resulting tracts, or because ~~family members~~ persons who may already have an undivided interest or future interest in the property become owners of the resulting tracts; and

WHEREAS, in ~~both~~ such situations, any further division of the property, or transfer of the property to parties not related to the Grantor results in the property being subject to the County platting requirements; and

WHEREAS, the Commissioners Court desires to provide an expedited process to grant relief from road frontage requirements to the owners of such property in order to save the citizens of Kendall County unnecessary delay and expense;

NOW THEREFORE, the following **ORDER** is adopted, effective immediately, concerning situations where the owner of real property divides the property into ~~not more than four~~ tracts and all of the resulting tracts are either retained by the owner or sold, given, or otherwise transferred to persons related to the Grantor within the third degree of consanguinity or affinity; or where the owner of real property divides the property into not more than two tracts in order to obtain a loan to make improvements to the property and the division is necessary in order to comply with requirements of the lender; or where property is divided by court order or otherwise that results in tracts that are inherited or otherwise transferred to persons who are related to the owner of the property.

1. THE COMMISSIONERS COURT FINDS THAT THERE ARE SPECIAL CIRCUMSTANCES OR CONDITIONS AFFECTING THE REAL PROPERTY IN THE ABOVE SITUATIONS SUCH THAT THE STRICT APPLICATION OF THE KENDALL COUNTY DEVELOPMENT RULES AND REGULATIONS CONCERNING ROAD FRONTAGE REQUIREMENTS WOULD DEPRIVE THE OWNER OF SUCH PROPERTY OF THE REASONABLE USE OF THEIR LAND AND/OR THAT RELIEF FROM THE ROAD FRONTAGE REQUIREMENTS IS NECESSARY IN THE ABOVE SITUATIONS FOR THE PRESERVATION AND ENJOYMENT OF A SUBSTANTIAL PROPERTY RIGHT OF THE OWNER.
2. RELIEF IS HEREBY GRANTED BY THE COMMISSIONERS COURT CONCERNING ROAD FRONTAGE REQUIREMENTS IN THE ABOVE SITUATIONS PROVIDED THAT THE FOLLOWING CONDITIONS ARE SATISFIED:
 - A. ALL OTHER REQUIREMENTS OF THE KENDALL COUNTY DEVELOPMENT RULES AND REGULATIONS ARE SATISFIED;
 - B. EACH RESULTING LOT, TRACT, OR PARCEL OF LAND MUST HAVE ROAD FRONTAGE OF AT LEAST SIXTY (60) FEET OR AN EASEMENT FOR ROADWAY PURPOSES (NOT MERELY AN EASEMENT FOR INGRESS AND EGRESS); SUCH ROADWAY EASEMENT MUST BE AT LEAST SIXTY (60) FEET IN WIDTH, IDENTIFIED BY A METES AND BOUNDS DESCRIPTION, DEDICATED BY THE OWNER OF THE PROPERTY IN PERPETUITY FOR ROADWAY PURPOSES, BE OF RECORD; AND SUCH EASEMENT MUST PROVIDE ACCESS FROM EACH RESULTING LOT, TRACT, OR PARCEL OF LAND TO A STATE HIGHWAY, COUNTY ROAD, OR A ROAD CONSTRUCTED TO COUNTY SPECIFICATIONS.
 - C. THERE SHALL BE NOTES ON THE APPLICABLE PLATS, OR AFFIDAVITS OF LAND LOCATION AND DEEDS OR INSTRUMENTS OF CONVEYANCE OR TRANSFER AS FOLLOWS:
 - (1) FOR FAMILY DIVISIONS (BY INHERITANCE OR OTHERWISE):
 - (A) "PROPERTY CANNOT BE SOLD, GIVEN, OR OTHERWISE TRANSFERRED TO ANY PERSON NOT RELATED TO THE GRANTOR WITHIN THE THIRD DEGREE OF CONSANGUINITY OR AFFINITY WITHOUT COMPLYING WITH THE KENDALL COUNTY DEVELOPMENT RULES AND

REGULATIONS IN EFFECT AT THE TIME OF SUCH CONVEYANCE OR TRANSFER"; AND

(B) "PROPERTY CANNOT BE FURTHER SUBDIVIDED WITHOUT COMPLYING WITH THE KENDALL DEVELOPMENT RULES AND REGULATIONS IN EFFECT AT THE TIME OF SUCH DIVISION"; AND

(C) "ANY TRANSFER OR CONVEYANCE OF THE PROPERTY MUST INCLUDE THE CONVEYANCE OR TRANSFER OF THE EASEMENT FOR ROADWAY PURPOSES".

(2) FOR DIVISIONS REQUIRED BY THE LENDER:

(A) "PROPERTY CANNOT BE FURTHER DIVIDED WITHOUT COMPLYING WITH THE KENDALL COUNTY DEVELOPMENT RULES AND REGULATIONS IN EFFECT AT THE TIME OF THE DIVISION"; AND

(B) "ANY TRANSFER OR CONVEYANCE OF THE PROPERTY MUST INCLUDE THE CONVEYANCE OR TRANSFER OF THE EASEMENT FOR ROADWAY PURPOSES".

3. THE DEVELOPMENT MANAGER OF KENDALL COUNTY, AND IN HIS ABSENCE OR UNAVAILABILITY, THE COUNTY ENGINEER OF KENDALL COUNTY ARE AUTHORIZED TO APPROVE REQUESTS FOR RELIEF CONCERNING ROAD FRONTAGE REQUIREMENTS IN COMPLIANCE WITH THIS ORDER.

4. IN THE EVENT THAT PRIOR ORDERS ADOPTED BY THE COMMISSIONERS COURT CONTAIN PROVISIONS THAT ARE IN CONFLICT WITH THE PROVISIONS OF THIS ORDER, THE PROVISIONS OF THIS ORDER SHALL CONTROL.

Effective this ___ day of _____, 2011.

Gaylan Schroeder, County Judge

Attest: _____
Darlene Herrin, County Clerk