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STATE CAPITOL
PHOENIX, ARIZONA

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September 18, 1973

ATTORNEY GENERAL

DEPARTMENT OF LAW LETTER OPINION NO. 73-51-L (R-73)

REQUESTED BY: THE HONORABLE J. MICHAEL FLOURNOY
Coconino County Attorney

QUESTION: Must a County Recorder refuse to record a subdivision plan if there is presented to the County Recorder no evidence that the subdivider has filed a water supply plan with the Arizona Water Commission, as required by A.R.S. § 45-513?

ANSWER: No.

In pertinent part, A.R.S. § 45-513 reads as follows:

A. The developer of a proposed subdivision . . . prior to recordation of the plat, shall submit plans for the water supply for the subdivision and demonstrate the adequacy thereof to meet the needs projected by the developer to the Arizona water commission. . . .

A plain reading of A.R.S. § 45-513 reflects that a County Recorder is not directed by Arizona's Legislature to require evidence that a developer has submitted the required water supply plans to the Arizona Water Commission prior to the recording of a subdivision plat by a County Recorder.

Evidence that lack of such a mandate to a County Recorder in A.R.S. § 45-513 is not a legislative oversight is contained in A.R.S. §§ 9-478 and 11-806.01, which read, in pertinent part, as follows:

A.R.S. § 9-478:

No plat or map shall be accepted by the county recorder for filing unless it complies with the provisions of this article. . . .

("[T]his article" refers to Article 7, Chapter 4, Title 9, A.R.S., relating to the platting of subdivisions adjacent to corporate limits.)

Opinion No. 73-51-L
(R-73)
September 18, 1973
Page Two

A.R.S. § 11-806.01.A:

A. No plat of a subdivision of land within the area of jurisdiction of such county shall be accepted for recording or recorded until it has been approved by the board. . . .

(This section pertains to county planning and zoning requirements.)

On the basis of both the express language contained in A.R.S. § 45-513 and the evidence that lack of a statutory mandate to a county recorder is not a legislative oversight, it is our opinion that a County Recorder may record a subdivision plat without requiring evidence that the developer has submitted water supply plans to the Arizona Water Commission in accordance with A.R.S. § 45-513.A.

Attention is directed to the broad grant of authority to County Boards of Supervisors in A.R.S. § 11-806.01.D. Based on a reading of that provision of Arizona's law, it is our opinion that a County Board of Supervisors, by appropriate regulation, may require evidence that a developer has submitted water supply plans to the Arizona Water Commission as a condition precedent to approval of a subdivision plat by such board.

Respectfully submitted,

Gary K. Nelson
by F.S.

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The Attorney General

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