



DETERMINING LEGAL LOTS OF RECORD In accordance with the Subdivision Map Act

Development and Resource Management Department
2600 Fresno Street, 3rd Floor, Rm 3043
Call (559) 621-8277 for an appointment or visit www.fresno.gov for
information

Policy and Procedure No.

G-005

Date:

February 1, 2019

Target Audience:

Planning staff and the general public

Purpose:

This memo has been prepared to provide the procedure, requirements and guidelines for determining whether property constitutes a legal lot of record for purposes of development, sale, lease or finance.

NOTE: Zoning is not evaluated for purposes of the following.

Procedures (Step “A”):

A. Does the subject lot or parcel comprise any of the following:

- 1) A lot or parcel resultant from recordation of a Final (Tract) or Parcel Map?
- 2) A parcel authorized for creation by a Parcel Map Waiver?
- 3) A parcel resultant from recordation of a Voluntary Parcel Merger?
- 4) A lot authorized for creation and perfected through completion of a Lot Line Adjustment?
- 5) A lot or parcel for which a Certificate of Compliance has been recorded?
- 6) A lot or parcel created by deed through conveyance to or from a public entity?

- Scenarios (1) – Recorded Map) and (6) – Public Entity) may be determined by reviewing the legal description associated with a recorded deed or by reviewing a recorded subdivision map (tract or parcel map) and verifying dimensional boundaries; and/or bearings, as necessary.
- Scenarios (2) – Waiver), (3) - VPM), (4) - LLA) and (5) – CoC) require research and/or review of: City of Fresno records, indexes and job address files; laser fiche and records on file with the City of Fresno Department of Public Works, Land Division; and/or, records on file with the Office of the Fresno County Recorder associated with the subject property. NOTE: The Assessor’s maps may be utilized for reference to recorded maps and underlying lots of record, but the Assessor’s Parcel Number (APN) should not be utilized for purposes of determining whether a lot or parcel is a legal lot of record.
 - Pursuant to Section 66499.34 of the State of California Government Code (Subdivision Map Act), the issuance of a permit or grant of approval for development of real property, or with respect to improvements that have been completed prior to the time a permit or grant of approval for development was required by local ordinance in effect at the time of the improvements, or with respect to improvements that have been completed in reliance upon a permit or grant of approval for development, shall constitute “real property which has been approved for development,” for the purposes of subdivision (c) of Section 66499.35, and upon request by the person owning the real property or a vendee of such person pursuant to a contract of sale, the local agency shall issue a certificate of compliance for

the affected real property.

- If the answer to the above is “yes,” then the lot or parcel is a legal lot of record.
- If the answer to the above is “no,” then continue to the next process (Step “B”).

Procedures (Step “B”):

Pursuant to Section 66412.6 of the State of California Government Code (Subdivision Map Act), any parcel created prior to March 4, 1972 shall be conclusively presumed to have been lawfully created if the parcel resulted from a division of land in which fewer than five parcels were created *and if at the time of the creation of the parcel, there was no local ordinance in effect which regulated divisions of land creating fewer than five parcels.*

NOTE: On December 7, 1967, the City of Fresno adopted Ordinance No. 67-129/Bill No. B144, adopting regulations for divisions of land creating fewer than five parcels.

B. Does the subject lot or parcel comprise any of the following:

- 1) A lot or parcel legally described within a deed document recorded prior to March 4, 1972, which was located within the unincorporated area of the County of Fresno at the time of recordation?
 - 2) A lot or parcel legally described within a deed document recorded prior to January 7, 1968, which was annexed to and located within the incorporated boundary of the City of Fresno at the time of recordation?
 - 3) A remnant lot or parcel resultant from the legal creation and conveyance of lots of record for all bordering lands through recordation of deed(s) documents in accordance with Scenarios (B1) & (B2) herein above?
 - 4) A substandard lot or parcel that was created after 1956 and for which a City permit was issued and created in conformance with the Subdivision Ordinance in effect at that time?
 - Scenarios (1-3) may be determined by identifying the annexation date for the subject lot or parcel of inquiry; and, obtaining a “Chain of Title” demonstrating recordation of deed documents containing a legal description matching the location and configuration of the subject lot or parcel of inquiry prior to the dates cited herein above for the respective Scenarios.
 - Deed documents to establish the Chain of Title may be obtained from the Office of the Fresno County Recorder; or, through a title company.
 - Scenario (4) requires research and review of City of Fresno permit records.
- If the answer to the above is “yes,” then the lot or parcel is a legal lot of record.
 - If the answer to the above is “no,” then the lot or parcel shall not be considered a legal lot of record and measures for enforcement or remediation of violations of the Subdivision Map Act must be implemented; continue to the next process (Step “C”).

Procedures (Step “C”):

C. Enforcement of and Remedies for Violations of Subdivision Map Act:

- 1) Provisions for Enforcement and Judicial Review of violations of the Subdivision Map Act are found at Chapter 7 of the Subdivision Map Act; commencing at Section 66499.30 of the Government Code.
 - Prohibitions and Penalties are cited in Article 1 of Chapter 7 of the SMA
 - Remedies are cited in Article 2 of Chapter 7 of the SMA
 - Judicial Review procedures are cited in Article 3 of Chapter 7 of the SMA
- Whenever a local agency has knowledge that real property has been divided in violation of the provisions of the Subdivision Map Act or of local ordinances enacted pursuant to the Subdivision Map Act, it shall cause to be mailed by certified mail to the then current owner of record of the property a notice of intention to record a notice of violation in accordance with Section 66499.36 of the Government Code.

Review and Responsibility:

Development and Resource Management Department &/or Department of Public Works, Land Division

Signature: _____


Bonique Emerson, AICP, Planning Manager

Dated: _____ February 2, 2019