

RICHARD MAGNESS
First Assistant

MARY ALDOUS
Chief - Criminal Division



JIM WIGINTON
Chief - Civil Division

JOHN BLANKENSHIP
Chief Investigator

JERI YENNE
CRIMINAL DISTRICT ATTORNEY
BRAZORIA COUNTY

January 2, 2007

Mayor Patrick Henry
City of Angleton
121 South Velasco
Angleton, Texas 77515

Re: Follow-up on Interlocal Agreement

Dear Mr. Henry:

Enclosed please find a copy of the Amended Interlocal Agreement concerning the regulations of subdivision platting that was sent to your office on July 23, 2007 for your review and comments.

To date we have not received the executed agreement or any comments from your office. Please review the enclosed Amended Interlocal Agreement and if you are satisfied with the Agreement, please present it to your city council for action.

Please call me if you have any questions or would like to discuss this issue further.

Sincerely,

A handwritten signature in cursive script that reads "Mary Shine".

Mary Cheline Shine
Assistant District Attorney

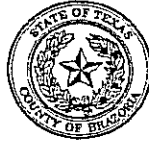
cc: Commissions Court

cc: Penny Goode, Flood Plain Administrator

COUNTY COURTHOUSE, 111 E. LOCUST, SUITE 408A, ANGLETON, TEXAS 77515

Angleton Area (979) 864-1230 Brazosport Area (979) 388-1230 Houston Area (281) 756-1230 Fax-Criminal Division (979) 864-1525 Fax-Civil Division (979) 864-1712 Fax-CPS Division (979)-849-8914

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July 23, 2007

Mayor Patrick Henry
City of Angleton
121 South Velasco
Angleton, Texas 77515

RE: FEMA Permitting in the ETJs

Dear Mr. Henry:

The County has recently encountered some confusion with developer permits, city permit requirements and the County's permit requirements concerning development of subdivisions located in extraterritorial jurisdictions. After extensive research, we have determined that the term "related permits," as identified in the Texas Local Government Code, Section 242.001, does not include FEMA permitting. We have determined that a city is not allowed to issue FEMA or septic permits in its extraterritorial jurisdiction. This determination also appears to be supported by the opinion of the Attorney General's Office (opinion attached for your review). Thus, the County is required to handle all FEMA permitting outside the city limits of each municipality.

Therefore, we believe the Interlocal Agreement Concerning the Regulation of Subdivision Platting with each city should reflect this determination. I have attached a copy of a proposed Amended Interlocal Agreement for your review and comments. If you are satisfied with the agreement, please present it to your city council for action. Please have your mayor execute two originals. This office will then present it to Commissioners Court for action and signature and return one original to you for your records.

In addition, the city will need to attach an Exhibit "A" reflecting the current boundaries of its ETJ.

I am also enclosing a "FEMA permitting quick reference" sheet that each city may provide to all subdivision developers and/or builders. This informs them of the type of permit needed, special requirements for a FEMA permit, and contact information for the Flood Plain Administrator.

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(979) 864-1712

Fax-CPS Division
(979)-849-8914

In addition, your developers need to be informed that until the FEMA permit is obtained, no electrical service will be provided to the new structure. Also, failure to obtain the FEMA permit prior to the start of construction will result in FEMA permit fees doubling.

We realize that Chapter 242 was enacted to simplify the platting process in your ETJ's. We are not in business to hinder appropriate development around your municipalities. However, our Flood Plain Administrator is held accountable by FEMA for these permits and must ensure that all structures comply with the FEMA regulations.

Please call me if you have any questions or would like to discuss this issue further.

Sincerely,

A handwritten signature in black ink that reads "Mary Shine". The signature is written in a cursive, flowing style.

Mary Cheline Shine
Assistant District Attorney

cc: Commissioners Court
Penny Goode, Flood Plain Administrator

THE STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §

AMENDED INTERLOCAL AGREEMENT CONCERNING
THE REGULATION OF SUBDIVISION PLATTING

This Agreement is made at Angleton, Brazoria County, Texas between BRAZORIA COUNTY, TEXAS acting through its Commissioners' Court (hereinafter "COUNTY"), and THE CITY OF ANGLETON, TEXAS, acting through its Mayor (hereinafter "CITY").

NOW THEREFORE, THE COUNTY AND CITY agree as follows:

1.0 COUNTY and CITY previously entered into an interlocal agreement concerning the regulation of subdivision platting. Prior to that agreement, COUNTY regulated the platting of subdivisions in the area located outside of the city limits of the various municipalities located within the COUNTY pursuant to Texas Local Government Code §§232.001-232.005. No part of the COUNTY is located within the extraterritorial jurisdiction of a municipality which has a population exceeding 1.9 million people. COUNTY is not located within 50 miles of an international border and is not subject to the provisions of Texas Local Government Code, Subchapter C, Chapter 232.

1.1 COUNTY and CITY wish to amend the interlocal agreement pursuant to Texas Local Government Code §242.001(c) concerning the regulation of subdivisions located within the CITY's extraterritorial jurisdiction.

1.2 Pursuant to Texas Local Government Code §242(d)(1), the CITY shall have exclusive jurisdiction to regulate plats and approve related permits in that part of the extraterritorial jurisdiction set out in Exhibit "A" attached hereto and incorporated herein by reference; provided, however, that the COUNTY expresses no opinion regarding which city has exclusive jurisdiction to regulate platting and approve related permits in the areas of the extraterritorial jurisdiction with competing claims for such authority by more than one city. With respect to the portion of the extraterritorial jurisdiction shown in Exhibit "A", the CITY may regulate subdivisions pursuant to Chapter 212 of the Texas Local Government Code and the CITY's ordinances and regulations.

The parties agree that in the event Exhibit "A" no longer properly reflects the extraterritorial limits of CITY or is in some manner inadequate, the respective engineers of COUNTY and CITY shall meet

and determine the location, extent, and limits of CITY'S extraterritorial limit.

1.3 Pursuant to Texas Local Government Code §242.001(d)(1), the COUNTY shall have exclusive jurisdiction to regulate subdivision plats and approve related permits in the remaining portion of the CITY'S extraterritorial jurisdiction, if any, which is located in Brazoria County, Texas.

1.4 If COUNTY determines that the CITY is not applying its subdivision regulations in the area described in Exhibit "A", the COUNTY shall give written notice to the CITY of such noncompliance. If the CITY does not respond by enforcing its subdivision regulations within a reasonable time or request COUNTY'S assistance, then COUNTY can seek appropriate legal relief to enforce this Agreement or enforce its own subdivision regulations against the developer/owner through legal relief or other means necessary to complete the platting process.

1.5 The COUNTY will be responsible for enforcing Federal Emergency Management Agency (FEMA) Regulations, On Site Sewage Facility (OSSF) Regulations promulgated by the Texas Commission on

Environmental Quality and issuing FEMA and OSSF permits, where applicable, in the area described in Exhibit "A".

1.6 The CITY shall provide two paper copies of approved construction drawings of improvements to the COUNTY Engineer for the area described in Exhibit "A".

1.7 The CITY shall provide a paper copy of the recorded plat upon recording by the COUNTY Clerk for the area described in Exhibit "A" to the COUNTY Engineer, COUNTY Flood Plain Administrator and the COUNTY Environmental Health Department.

1.8 The CITY recognizes that roads which do not meet or exceed the standards established by the COUNTY may not be accepted into the COUNTY road system. The COUNTY and CITY shall be named as joint obligees on any construction or performance and maintenance bonds required of a subdivision developer constructing improvements in the area of the extraterritorial jurisdiction described in Exhibit "A".

1.9 Within ten (10) working days of receipt of a preliminary plat for a subdivision requiring construction of road(s) or street(s) within the area described in Exhibit "A" the CITY shall provide written notice to the COUNTY that such preliminary plat has been received by the CITY. The

written notice shall include the general location of the subdivision and the name and address of the developer.

1.10 If it is later determined that any part of the area shown in Exhibit "A" is the exclusive extraterritorial jurisdiction of another city the COUNTY agrees that CITY shall not be responsible for any of the obligations set forth in this Agreement with respect to such area. In such case, CITY agrees to notify the COUNTY so that this Agreement may be amended accordingly.

1.11 This Agreement shall take effect and be in force from and after the date of the last signature to be affixed hereto as indicated below.

1.12 This Agreement is being executed in duplicate, one of which shall be retained by each party and each of which shall be treated as an original.

Signed this _____ day of _____, 2007.

BRAZORIA COUNTY, TEXAS

CITY OF ANGLETON, TEXAS

By: E. J. King
Brazoria County Judge

By: Patrick Henry
Mayor

Attest: Amanda Davenport
City Secretary