

Response to Public Comments Chapter Adm 49

Comments on General Issues

The department took substantial efforts to be open and informative during the rule making process. Customers who received services from the Plat Review Program during the last three years were sent copies of the proposed rule and hearing notice. Over six hundred and ninety copies of the proposed rule and hearing notice were sent to interested parties.

Most of the people who commented, 22 out of 27 written comments and all who testified at the public hearing on the proposal, stated that the proposed fee increase was appropriate and reasonable given the increased cost of doing business since the fees were last increased in 1997.

The five letters who expressed concern or opposition to the proposed rule were concerned that the increase in fees may be too much given the current economy. They were also concerned that money generated by the fee increase not be redirected to other programs or lapsed to the state's general fund.

All comments, including those who were concerned about the fee increase, expressed their desire that the level of service, timeliness of reviews and ability to consult with Plat Review staff to continue and not be compromised.

A. Legislative Council Clearinghouse Comments:

1. The department's summary of the rule explains in general fashion what the rule does but does not summarize the rule's content. At a minimum, the rule should identify how it differs from the provisions of current ch. Tax 53, including fee increases.
2. It is assumed that ch. Tax 53 will eventually be repealed.
3. A title should be provided for the newly created chapter.
4. In s. Adm 49.06 (3), "s." should precede the cited rule, and "49.03" should replace "43.03".
5. It is assumed that the deletion of "drawing" from the definition of "sheet" was intentional. Compare current s. Tax 53.02 (4).
6. A parenthesis should follow "submission" in s. Adm 49.03 (1) (b).
7. Section Adm 49.06 (3) does not contain any standard, other than "unusual circumstances", that the department may invoke when waiving fees. Can more specificity be provided?

Agency Response to Clearinghouse Comments:

All suggested changes have been included in the rule except for comment 7.

Section Adm 49.06 (3) allows the department to waive fees for "unusual circumstances." Specifying instances when fees can be waived is impractical given the dynamic nature of land development and rapidly changing technology

used in mapping land divisions. The department needs the flexibility it has had in the past to adjust fees when circumstances warrant.

B. Public Hearing Comments:

1. Lisa VanHorn, President of the Wisconsin Society of Land Surveyors, an organization representing 1100 licensed land surveyors, testified in support of the proposed rule and fee increase, on behalf of the organization. She emphasized that the department's review provides important services to surveyors and county governments.

2. Francis Thousand, a surveyor from Madison, WI testified in support of the proposed rule. The Plat Review Program reviews all of his plats and he wants the program to maintain staffing levels so they can continue providing the service he relies upon.

3. Leslie VanHorn, a surveyor now in private practice in northeast Wisconsin, and formerly the Brown County Surveyor, testified in support of the proposed rule and the timely assistance the program provides surveyors, local governments, and other professionals to ensure that real estate plats are complete, accurate and legally enforceable.

Agency Response to Public Hearing Comments:

The agency appreciates the testimony given at the public hearing. Our desire is to continue to provide the quality and level of timely service they rely upon.

C. Written Comments:

1. Twenty two of the twenty seven written comments stated that the proposed fee increase was appropriate and reasonable given the increased cost of doing business since the fees were last increased in 1997 and that the quality of service was "a bargain" with the increased fees.

2. The Wisconsin Realtors Association wrote on behalf of their members and expressed the affordability of housing was one of the primary concerns of their organization. They also added that although they have a "strong interest in providing DOA with the funding necessary to continue high quality and timely services, they are concerned that the proposed fee increase will negatively impact both the cost and development of new housing." They also raised concern that revenue from the fee not be redirected to fund other programs and services.

3. The Wisconsin Builders Association and the WBA Development Council submitted comments on behalf of their members. They wanted to "thank the Plat Review Program for the service it provides the housing industry and recognize the important role the program plays in the development process and appreciate the high level of service that is provided." However, the Association

expressed that given the downturn the industry faces, the fee increase seemed burdensome. They question whether the amount of the fee increase is excessive and indicated that private industry has been required to go through some financial “belt tightening” to address revenue shortfalls. The Association also expressed concern that \$20,700 was lapsed from the program revenue to the general fund in the enacted 2005-07 state biennial budget.

4. The Brown County Home Builders Association wrote to express that several of their members had raised concerns that the fees generated by the program be used exclusively for the intended purpose and not be redirected or lapsed.

5. Jim Denzine of Denzine Surveying Inc., Thorp Wisconsin wrote expressing his concern about “excessive taxation” and that the proposed fee increase is excessive.

6. Emily Pierce with the Marathon County Surveyors Office wrote asking for clarification on the proposed fee increase for the review of monumentation waivers and the review of certified survey maps.

Agency Response to Written Comments:

“The service provided for the fee submitted is a bargain...”

“A decrease in services would be much more costly in the long run than a modest increase in fees for the service...”

“..the quality of service I have received over the years can not be compromised..”

“The operation of the program within the confines of a fee-based budget for a decade without a fee increase is a testament to efficient management.”

These quotes summarize the opinions expressed in twenty two out of twenty seven written comments received by the department. Those creating plats and maps for land development in Wisconsin depend upon the staff’s expertise, timely reviews, quality service and facilitation of the review process. They believe the level of service they receive is a tremendous value and support the proposed fee increase.

In accordance with state statutes, the department has established fee schedules that cover only the cost of services provided by the Plat Review program. The last fee schedule was set in 1997 and was calculated to generate \$350,000 in revenue to pay for the cost to administer the program. The program was able to operate under this fee schedule for 10 years due to appropriate and timely investments in technology, creative allocation of resources, and the use of skilled limited term employees to facilitate reviews during the 2001-2004 housing boom. The above average workload for all staff in 03-05 generated sufficient revenue to cover increasing costs of the program. In addition, the continuing appropriation generated a small surplus which allowed the program to fill the gap between revenue and expenses since the housing boom ended.

Although permanent state employee positions have remained stable in the plat review program since 1993, program expenses have increased over the last 10 years. Budgetary expenses for technology, space rental and utilities and salary and benefits all have increased since 1997. The fee schedule established in 1997 no longer covers the expenses of the program.

The department is sensitive to the downturn in the housing market and the need to find efficiencies in all of our operations. Since workload has decreased, the Plat Review Program has cut back approximately 20% on the staffing hours allocated to reviews by eliminating skilled limited term employee positions. These positions provided approximately 20% of our staff hours allocated to reviews in 2001-04. The program has also worked with program customers to make the plat review process more efficient by increasing the use of electronic communications and is taking steps to facilitate the use of credit cards to make payments to eliminate paper invoices and payments. These changes allow us to meet the program demands with fewer staff resources. In developing the proposed fee schedule, the department was careful to increase fees to a level to cover the operating costs of the program over the next two biennia.

The department also recognizes that in almost all circumstances, the state plat review fee totals less than one tenth of one percent of the cost of a buildable lot in typical subdivision. To illustrate the impact of the proposed fee schedule for a typical subdivision plat of 25 lots, the plat review fee will be \$48 per lot. On a \$50,000 lot, the plat review fee is 0.096% of the price of the lot. On a \$75,000 lot, the plat review fee is 0.064% of the price of the lot. This very small fee provides assurance to the developer and buyer that platted lots are accurately described and monumented so that they can be conveyed with clear title, create public roads that are eligible for state road aids, provide required public access to waters of the state, prevent land-locked parcels and create lots that are "buildable" not just saleable.

Throughout the long history of the program, the review fees have been directed for the purposes for which they were collected. In the 2005-07 budget, many program revenue accounts in all agencies were lapsed to help address the overall financial challenge facing state government. The \$20,700 one-time lapse from the Plat Review program over the biennium was a very small lapse and in the long history of the program, this has been the only lapse from the Plat Review fee revenue. No lapses were proposed in the 2007-09 budget.

Emily Pierce with the Marathon County Surveyors Office wrote asking for clarification on the proposed fee increase for the review of monument waivers and certified survey maps. We have addressed her concern by clarifying the language in the proposed rule.