

**Planning and Land Services Department
CURRENT PLANNING SECTION POLICY**



Policy Number:	CP2015-05
Title:	Illegal Lot Development
Date:	October 22, 2015
Management Approval:	Deirdre Wilson
Related Documents:	PCC Title 18A

Purpose

Establish the steps necessary to allow issuance of development permits on a 'lot' that was created without benefit of a land division.

Discussion

PCC 18A.05.090 Legal Lot Requirements, states that development shall be permitted only on legally created lots. The applicant has the burden of proving that the lot was legally created.

- For land divided in violation of RCW 58.17, we cannot issue any development permits unless we determine that the public interest will not be adversely affected, or that the purchaser is innocent.
- It is the responsibility of the purchaser or transferee to comply with RCW 58.17 (divide the property). Purchasers may rescind a sale if they discover an illegal division.
- Assignment of a Tax Parcel number by the Assessor is not a land division.

Conclusions

1. If the lot configuration is inconsistent with the current regulations, comprehensive plan, or Growth Management Act, it may adversely affect the public interest.
2. If innocent purchaser status can be established, the Department may allow approval of development on the parcel, subject to all applicable development regulations. Land Division would be required prior to issuance of development permits only when the Department determines that it is practical and appropriate. For example, the site is vacant and obtaining the necessary signatures and cooperation from other parties is feasible.
3. To facilitate Division of the land when assumptions about lot configuration have already been made based upon tax parcel lines, the Department may be able to offer a streamlined Short Plat review process.

Streamlined Short Plat Review

- Includes all items required by the survey recording act.
- Design standards that are impractical will not be imposed, unless required to protect health, safety, and welfare.

Guide for Development Permits on Illegal Lots		
Status of Development on the Lot	Innocent Purchaser Application (IPA)	Land Division Application
Vacant	Required prior to issuance of development permits	Short Plat is usually required prior to issuance of development permits*
Developed, but without permits	Required prior to issuance of development permits	Short Plat is usually required prior to issuance of development permits*
Developed with permits	Required prior to issuance of any more development permits	<ul style="list-style-type: none"> • Regular Short Plat is <u>not</u> required prior to issuance of additional development permits • Streamlined Short Plat review process is available
Developed with an approved IPA and permits		<ul style="list-style-type: none"> • Regular Short Plat is <u>not</u> required prior to issuance of additional development permits • Streamlined Short Plat review process is available
<p>* Land Division would be required prior to issuance of development permits only when the Department determines that it is practical and appropriate. For example, the site is vacant and obtaining the necessary signatures and cooperation from other parties is feasible.</p>		

Innocent Purchase Agreement (IPA)

- The applicant must be an innocent purchaser to qualify, therefore they must submit the appropriate application and fee.
- The following PCC land division codes apply:
 - 18F.10.100 – The illegal division occurred **after** January 1, 1995
 - 18F.50.040 – The illegal division occurred **before** January 1, 1995
- The property owner may be required to submit an application for the legal division of the subject property that complies with all provisions of the Pierce County Development Regulations

Documentation Tools

Once an illegal lot has been discovered, the reviewer should use the following tools as determined appropriate:

- Enter an alert on the parcel in PALS+.
- Send a letter to all affected property owners to notify them of the illegal lot status.
- Request the Assessor Treasurer to enter a note on the abbreviated legal description, "Lot cannot be sold without parcel". This should be used whenever the same entity owns some or all of the parcels.
- Record notice on the title.

Proposed Regulatory Amendments

18F.10.100 — Innocent Purchasers.

- A. ~~Pierce County shall not issue a building permit or other development permit on any lot or parcel that was divided in violation of Pierce County Subdivision and Platting Regulations, except when all of the following apply:~~
1. ~~The illegal division did not take place prior to took place on or after January 1, 1995;~~
 2. ~~The property owner provides evidence that the purchase of the illegal division of land occurred without notification or knowledge by such property owner;~~
 3. ~~The property owner provides evidence that the property in question complies with all provisions of the current Pierce County Development Regulations including, but not limited to, density, lot size, and Critical Area regulations;~~
 4. ~~The property owner shall submit an application for the legal division of the subject property that complies with all provisions of the Pierce County Development Regulations; and~~
 5. ~~The Director finds that the public interest will not be adversely affected by issuing a building or development permit while the application to divide the land is being processed.~~
- B. ~~As an alternative to conforming to these standards, any purchaser may rescind the sale or transfer of such land that was divided in violation of this Chapter pursuant to the provisions in RCW 58.17.210.~~
- C. ~~For a lot or parcel divided in violation of the Pierce County Subdivision and Platting regulations, prior to January 1, 1995, refer to PCC 18F.50.040 C.~~

18F.50.040 — Preliminary Short Subdivision and Preliminary Large Lot Division Requirements.

18A.05.090 Legal Lot Requirements.

- C. ~~Innocent Purchasers~~ ~~Prior to January 1, 1995.~~ Pierce County shall not issue a building permit or other development permit on any lot or parcel that was divided in violation of Pierce County Subdivision and Platting Regulations, except when all of the following apply:
1. ~~The illegal division took place prior to January 1, 1995;~~
 2. ~~The property owner provides evidence that the purchase of the illegal division of land occurred without notification or knowledge by such property owner;~~
 3. ~~The property owner provides evidence that the property in question complies with applicable provisions of the current Pierce County Development Regulations provided, the Director, may consider a lot that does not conform to density or lot area requirements so long as the lot is at least of adequate size to accommodate required zoning setbacks, critical area requirements and able to meet minimum onsite sewage disposal requirements in the event that sewer lines are not available;~~
 4. ~~Title notification is recorded on the parcel indicating that legal division of the subject property is required and has not occurred~~ ~~The property owner shall submit~~

- ~~an application for the legal division of the subject property that complies with all provisions of the Pierce County Development Regulations; and~~
5. The Director finds that the public interest will not be adversely affected by issuing a building or development permit ~~while the application to divide the land is being processed.~~

RCW 58.17.210 (included for reference purpose only)

Building, septic tank or other development permits not to be issued for land divided in violation of chapter or regulations — Exceptions — Damages — Rescission by purchaser. No building permit, septic tank permit, or other development permit, shall be issued for any lot, tract, or parcel of land divided in violation of this chapter or local regulations adopted pursuant thereto unless the authority authorized to issue such permit finds that the public interest will not be adversely affected thereby. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers' or transferees' property shall comply with provisions of this chapter and each purchaser or transferee may recover his or her damages from any person, firm, corporation, or agent selling or transferring land in violation of this chapter or local regulations adopted pursuant thereto, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this chapter as well as cost of investigation, suit, and reasonable attorneys' fees occasioned thereby. Such purchaser or transferee may as an alternative to conforming his or her property to these requirements, rescind the sale or transfer and recover costs of investigation, suit, and reasonable attorneys' fees occasioned thereby.