

March 13, 2009

Re-Subdivision of Lot & Block properties (Surveying out a piece of property)

If you have a borrower who wants to survey out a smaller piece of property from a larger one it is not usually a problem, unless the existing piece of property already has a lot and block legal description. Properties, which are lot and block, are already part of a city or county approved subdivision of a larger piece of property. In order to become lot and block, it was necessary for the subdivision plat to be approved by the county and/or city as well.

In order to re-subdivide a lot and block property, the owner would need to have the resulting lots surveyed and a plat of all the resulting lots approved by the county commissioners, and if located in an incorporated city, or within the Extraterritorial Jurisdiction of an incorporated city, it would also have to be approved by the city council. Some larger counties actually have departments with the authority to approve re-subdivisions, as do some larger cities.

A piece of property that currently has a metes and bounds legal description can usually be divided by surveying out a smaller piece, so long as the subdivision of that property does not violate any county or city subdivision ordinances.

If a borrower re-subdivides a lot and block piece of property, underwriting will require the documentation proving that the resulting piece of property is not an illegal lot. This would include proof of approval by county and city (if applicable), the resulting change of legal description, change of taxing authority property designation, and the survey of the resulting new lot and block.

An example would be that if you started with Lot 2, Block 1, of Any subdivision, Any County, Texas, the resulting new lot designations might be Lot 2A and 2B, Block 1. As far as the time and work involved, there will be a lot of footwork involved in getting a re-subdivision approved.

Combining Lots

It is much easier to combine lots, regardless of legal description. Basically what is required is to simply have the taxing authority combine the two lots as one taxing unit. The legal description can then say lots 1 & 2, Block 1, etc. A new survey of the two combined lots may be required.

If you face this type of issue in a pending loan transaction, please visit with Lawrence or myself before proceeding if you are not sure about what will be required.

Pat O'Neil

