



LAND SURVEYING ~ HOUSE PLAN & BUILDING PERMIT SERVICES

1040 SW LUTTRELL, SUITE E2 ~ BLUE SPRINGS, MISSOURI 64015 ~ PHONE: 816-295-5951 ~ EMAIL: erwin@gardhorizon.com

TESTIMONY FOR KC CITY COUNCIL HEARING
88-610-03 CODE AMENDMENT 12/07/22

Ladies and gentlemen. Good afternoon. My name is Erwin Gard and I am a licensed professional land surveyor in the states of Missouri and Kansas and the owner of Gard Horizon, LLC, a company providing land surveying and building permit services located at 1040 SW Luttrell, Blue Springs, Missouri.

There are two primary issues involved with the matter being heard today. The first is the automatic involuntary merger of property by city staff and the second regards the status of non-conforming lots. These issues affect almost every entity wanting to build in Kansas City and from my perspective, these issues affect three of my largest clients, Elevate Design + Build, National Home Corp, and Habitat for Humanity Kansas City. These three clients have or are building over 200 new homes in an area bounded by Gregory Blvd. on the south, 24th Street on the north, Cleveland Ave on the east and Troost Ave on the west.

From what I have been able to determine, the merger of multiple contiguous properties originated with Jackson County. For many years a property owner who owns two or more contiguous properties could formally request that the Jackson County Assessor combine their tax bill into a single bill instead of receiving a separate tax bill on each individual property. Jackson County GIS department has also stated that the combining of the tax rolls does NOT, and I repeat, does NOT, combine the legal identity of the property. The property owner still owns individual separate properties which can be sold or built on individually at any time. The tax roll is the only thing that has been merged.

I am not sure when Kansas City picked up on this tax roll merger, but Kansas City staff has expanded the tax roll merger to mean an automatic involuntary merger of the legal identity of the property, that is, in Kansas City the property owner now owns only a single tract of land and they are prevented from selling or building on any of the previous individual properties without performing a Minor or Major subdivision plat to re-establish individual properties that Jackson County says already exist. Jackson County officials have informed Kansas City staff on more than one occasion that a tax roll merger does NOT merge the legal identity of the property and that the only way to merge the legal identity is by means of a Minor or Major subdivision plat being recorded at the County Recorder's Office.

Kansas City Code 88-640-03 regarding non-conforming lots has recently become a major issue for my clients and I assume other builders. Most of the lots within the area that I described earlier were created by a subdivision plat recorded in the late 1800s to early 1900s with lot widths ranging from 25' to 50' with a majority being in the 30' to 35' size. The current zoning for this area requires a minimum lot width of 40' to 45' consequently a majority of the lots in this part of Kansas City are non-conforming. Paragraph C of this Code is causing an extreme hardship for my clients due to the Land Bank or Kansas City Homesteading Authority acquiring ownership of a majority of the properties by foreclosure, tax sale, or other reason and as a result and because the properties are non-conforming and now under a single ownership, Paragraph C of 88-610-03 causes all contiguous property to be merged without the knowledge or consent of the owner. The Land Bank and Homesteading Authority are now selling these properties and neither the sellers nor the buyers, including my clients, were aware that there is a provision in Kansas City that declared these properties to be merged.

Ladies and gentlemen of the City Council, the automatic and involuntary merger policies of Kansas City need to be eliminated both in 88-610-03 and in the general policy of the Planning and Public Works Departments. As Joseph Rexwinkle stated in an email dated October 6, 2022, and I quote "We don't think the mere fact of insufficient lot area or lot width invalidates or should invalidate a lot previously created legally as it would result in a loss of development right to the property owner through no action of their own" is a valid statement and we fully agree.

I herewith request that this council take the steps necessary to eliminate all ordinances, codes and policies that allow the automatic and involuntary merger of contiguous properties under single ownership whether they are non-conforming or not thereby restoring the property rights to the land owner to sell or develop an individual property that they own.

Respectfully submitted

Erwin W. Gard, PLS,CET
Owner / Manager.