

DEPARTMENT OF
ATTORNEY GENERAL

MEMORANDUM

January 2, 1997

TO: Maynard Dyer
Department of Consumer and Industry Services

FROM: James E. Riley *JER*
Assistant Attorney General
Natural Resources Division

RE: Governmental Restrictions-Plat of Lake Isabella South

As we have discussed, governmentally imposed restrictions have been placed on the plat of Lake Isabella South pursuant to a document entitled "Building and Use Restrictions of Lake Isabella South." MCL 560.254 allow such restrictions, that section providing:

Any restriction required to be placed on platted land by a public body given the authority to review or approve plats by the provisions of this act or which names the public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction in a court of competent jurisdiction against anyone who has or acquires an interest in the land subject to the restriction. The restriction may be released or waived in writing but only by the public body having the right of enforcement.

As you had mentioned that Phil Brown, Assistant Attorney General for Public Health, had previously reviewed these restrictions, I conferred with him. Both Phil and I agree that the governmental restrictions contained within the document, which was recorded at Liber 404, Page 51 would likely be enforced by a court, especially given the notation on the face of the plat that the plat is subject to those restrictions.

Since the restrictions may only be released or waived in writing by the appropriate public body having the right of enforcement, the restrictions may not be unilaterally altered by others.

JER:rsc
3/special/plats/jer/memo.isabella

c: Phil Brown *✓*

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ATTORNEY GENERAL
PUBLIC HEALTH DIVISION

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ASSIGNED TO: