

Abstract of Title—Platted Additions—Lands—Cities and Towns—Counties—County Commissioners.

Owners of land surveyed and platted as townsite must file with plat a certified abstract.

Mr. Anthony Hork,
County Clerk,
Hamilton, Montana.

May 27, 1931.

My dear Mr. Hork:

I have your request for an opinion relative to section 4986, R.C.M. 1921. You wish to know whether it is necessary for the county to have abstracts of title made now to file with the plats for which no abstracts were ever made.

Section 4986 requires the owner of the land so surveyed and platted to prepare and file with said plat an abstract of the title of the land; such abstract of title must be prepared and certified to by an abstractor, duly qualified to engage in the business. The abstract, after completion, must be submitted to the county attorney of the county when said platted land is outside of any city or town, or to the city or town attorney if said platted land is within the boundaries of any city or town, for examination.

If the county attorney or city attorney refuses to certify to said title as herein provided it shall be the duty of the person claiming to own said land in fee simple to begin suit to quiet title and prosecute the same to final judgment.

Section 4987, R.C.M. 1921, requires "All such plats must be prepared in duplicate, and when the land platted is within the boundaries of a city or town they must be submitted to the city or town council for examination and approval or rejection, * * *"

Section 4994, R.C.M. 1921, provides "Any person who shall violate any of the provisions of this chapter is guilty of a misdemeanor and punishable by a fine of not less than ten dollars nor more than three hundred dollars."

There is no provision of law, in my judgment, for the county commissioners to prepare an abstract in connection with any of these plats where the owner has failed to do so. The plat should not have been approved by the county commissioners or the penalty for failure to comply with the law should have been enforced as against the owner.

Very truly yours,

L. A. FOOT,

Attorney General.