

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE  
September 18, 2015 Session

**SAVE RURAL FRANKLIN, ET AL. v. WILLIAMSON COUNTY  
GOVERNMENT, ET AL.**

**Appeal from the Chancery Court for Williamson County  
No. 43237 James G. Martin, III, Chancellor**

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**No. M2014-02568-COA-R3-CV – Filed August 26, 2016**

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Organizations representing property owners in close proximity to a proposed subdivision filed a petition for a writ of certiorari, seeking review of the regional planning commission's approval of the proposed subdivision. The planning commission and parties with an interest in the proposed subdivision filed motions to dismiss. After determining that the petition was untimely and the petitioning organizations lacked standing, the chancery court granted the motions to dismiss. The court also determined that the planning commission had acted legally in approving the subdivision. The petitioning organizations appealed. Following our review, we conclude that the statutory period for filing a petition for writ of certiorari began to run from approval of the preliminary plat for the proposed subdivision. Because the petition was filed more than sixty days after the preliminary plat was approved, the chancery court lacked subject matter jurisdiction to consider the petition. Therefore, we affirm the chancery court's dismissal of the petition.

**Tenn. R. App. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed**

W. NEAL MCBRAYER, J., delivered the opinion of the court, in which FRANK G. CLEMENT, JR., P.J., M.S., and RICHARD H. DINKINS, J., joined.

G. Miller Hogan II and William B. Hawkins III, Nashville, Tennessee, for the appellants, Save Rural Franklin and Save Old Hillsboro Road.

Kristi Dunlap Ransom, Franklin, Tennessee, for the appellee, Williamson County Government.

Adam O. Knight, Brentwood, Tennessee, and J. Bryan Echols, Nashville, Tennessee, for the appellees, Hillsboro Cove, LLC, Hillsboro Cove Homeowner's Association, Inc., and Grove Park Land Co., LLC.

## **OPINION**

### **I. BACKGROUND**

#### **A. PROCEDURAL HISTORY**

On June 6, 2014, unincorporated associations, Save Rural Franklin and Save Old Hillsboro Road (the "Petitioners"), filed a petition for writ of certiorari in the Chancery Court for Williamson County, Tennessee. Petitioners sought judicial review of the decision of the Williamson County Regional Planning Commission (the "Planning Commission") to approve a new residential subdivision named Hillsboro Cove. Petitioners alleged that the Planning Commission's action in approving the Hillsboro Cove subdivision was arbitrary, capricious and illegal because the approval was in violation of the Comprehensive Land Use Plan and the Subdivision Regulations adopted for Williamson County. On June 9, 2014, the chancery court directed the clerk and master to issue the requested writ.

Petitioners consist of concerned citizens who own property or are residents in close proximity to the proposed subdivision. According to their petition, on July 17, 2013, Hillsboro Development, LLC filed an application for Planning Commission approval of a preliminary plat for the subdivision. The Planning Commission held a public hearing and considered the preliminary plat on August 8, 2013. At that time, the Planning Commission deferred action on the preliminary plat until its next meeting. The Planning Commission subsequently approved the preliminary plat on September 12, 2013. Hillsboro Development sought approval of a final plat on March 19, 2014. The Planning Commission approved the final plat on April 10, 2014.

On June 20, 2014, the Planning Commission moved to dismiss the writ on the grounds that the time limit to seek review had elapsed and Petitioners lacked standing. In the alternative, the Planning Commission sought an extension of the deadline for transmitting the documents requested in the writ. After a hearing on the Planning Commission's motion, the court announced from the bench that it was granting the motion to dismiss because Petitioners lacked standing. The chancery court entered its order granting the motion to dismiss on July 7, 2014.

Following the hearing on the motion to dismiss but prior to entry of the order granting the dismissal, Petitioners filed a motion seeking to amend their petition to address standing and "to set forth their special interests" in the cause. The Planning Commission, which filed

its response to the motion to amend after entry of the order of dismissal, argued that Petitioners were first required to seek relief from the order of dismissal. The Planning Commission also argued that the court lacked subject matter jurisdiction to grant the motion to amend because the original petition was untimely. In light of the timing of the motion to amend, the chancery court elected to vacate its previous order granting the motion to dismiss and granted the motion to amend.

The Planning Commission filed both an answer to the amended petition<sup>1</sup> and a new motion to dismiss, asserting the same grounds as its previous motion. The Planning Commission also filed a motion seeking to limit the scope of the writ. The court set a hearing on the motion to dismiss and also directed the parties to brief the additional issue of whether approval of the proposed subdivision was arbitrary, capricious or illegal.

After filing the amended petition, Petitioners moved to join additional parties-in-interest, Hillsboro Cove, LLC,<sup>2</sup> Grove Park Land, LLC, and Hillsboro Cove Homeowners Association, Inc. (“Hillsboro Cove defendants”), on the ground that these parties had a legal or equitable interest in the subject property. The court granted the motion, and the Hillsboro Cove defendants filed their own motion to dismiss the amended petition.

#### B. THE CHANCERY COURT’S ORDER

On December 5, 2014, the chancery court issued its memorandum opinion and order. Although both the Planning Commission and Petitioners had filed extraneous materials with the court, the court considered the motions as motions to dismiss, not motions for summary judgment.

Initially, the court found the Planning Commission’s approval of the Hillsboro Cove subdivision was an administrative act, reviewable by common law writ of certiorari. The court noted that Tennessee Code Annotated § 27-9-102 required the aggrieved party to file a petition for writ of certiorari within sixty days of entry of the judgment. After reviewing the allegations of the amended petition and the Williamson County Subdivision Regulations, the court found that “[t]he preliminary plat review process, rather than the final plat approval, is where the Planning Commission considers the Planning Staff recommendations regarding all aspects of the proposed subdivision, and the process where the proposed subdivision is actually approved.” The court further found that “approval of the final plat is ministerial and

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<sup>1</sup> The amended petition contained identical allegations with regard to the subdivision review process. The additional allegations in the amended petition concerned Petitioners’ standing to challenge the Planning Commission’s decision.

<sup>2</sup> According to the amended petition, Hillsboro Development, LLC “became Hillsboro Cove, LLC on November 13, 2013.”

that approval of the preliminary plat triggers the sixty day period to file a petition for writ of certiorari.” Because Petitioners did not file their original petition for writ of certiorari within sixty days of the Planning Commission’s approval of the preliminary plat, the court determined it did not have jurisdiction to consider the petition.

The court also concluded that Petitioners lacked standing to challenge the Planning Commission’s decision. The court determined Petitioners failed to allege in either the original or the amended petition “any basis of fact as to how they have a special interest in the final decisions of the [Planning Commission] or that they have suffered a distinct and palpable injury that is not conjectural or hypothetical and is not common to the public generally.”

Although the court found two grounds for dismissal of the petition, the court also considered the additional issue of whether the Planning Commission’s approval of the final plat was illegal. The court reviewed the Comprehensive Land Use Plan, Tennessee Code Annotated § 13-3-304 (2011), and the Williamson County zoning ordinance and concluded that the Planning Commission’s action complied with Tennessee law.

## II. ANALYSIS

Petitioners challenge all grounds of the chancery court’s decision. Specifically, they argue the court erred in its determination that the petition was untimely, that they lacked standing, and that the Planning Commission’s approval of the Hillsboro Cove subdivision was legal. The Planning Commission raises the additional issue of whether the court lacked subject matter jurisdiction to grant Petitioners’ motion to file an amended petition.

### A. STANDARD OF REVIEW

In evaluating a Rule 12.02(6) motion to dismiss,<sup>3</sup> the court reviews the pleadings to determine whether the plaintiff has stated a claim upon which relief may be granted. Tenn. R. Civ. P. 12.02(6). By filing a Rule 12.02(6) motion, the defendant challenges the legal sufficiency of the plaintiff’s claim, not the evidence. *Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011). Thus, the court “must construe the complaint liberally, presuming all factual allegations to be true and giving the plaintiff the benefit of all reasonable inferences.” *Id.* (quoting *Tigg v. Pirelli Tire Corp.*, 232 S.W.3d 28, 31-32 (Tenn. 2007)). The court should only grant a motion to dismiss if “the plaintiff can

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<sup>3</sup> The trial court specifically noted that it was treating the defendants’ motions as motions to dismiss, not motions for summary judgment, even though the parties submitted additional materials. In its memorandum opinion, the court did not rely on matters outside the pleadings but took judicial notice of the Williamson County Subdivision Regulations, the Comprehensive Land Use Plan, and the Williamson County zoning ordinance. *See* Tenn. R. Evid. 202(b). Petitioners do not raise this as an issue on appeal.

prove no set of facts in support of the claim that would entitle the plaintiff to relief.” *Id.* (quoting *Crews v. Buckman Labs. Int’l, Inc.*, 78 S.W.3d 852, 857 (Tenn. 2002)). We review the trial court’s decision on a motion to dismiss de novo without any presumption of correctness. *Phillips v. Montgomery Cty.*, 442 S.W.3d 233, 237 (Tenn. 2014); *City of Brentwood v. Metro. Bd. of Zoning Appeals*, 149 S.W.3d 49, 54 (Tenn. Ct. App. 2004).

#### B. TIME LIMIT FOR FILING A PETITION FOR CERTIORARI

Petitioners sought review of the Planning Commission’s approval of the Hillsboro Cove subdivision under Tennessee Code Annotated § 27-9-101. The statute permits “[a]nyone who may be aggrieved by any final order or judgment of any board or commission functioning under the laws of this state” to seek review of the order or judgment in court. Tenn. Code Ann. § 27-9-101 (2000). The method for seeking review is a “petition of certiorari,” which is designed to enable aggrieved parties to seek review of judicial or quasi-judicial decisions of governmental boards or commissions rendered after a hearing. *Fallin v. Knox Cty. Bd. of Comm’rs*, 656 S.W.2d 338, 341 (Tenn. 1983); *Stockton v. Morris & Pierce*, 110 S.W.2d 480, 486 (Tenn. 1937) (discussing predecessor statute).

The aggrieved party must file a petition for certiorari in the chancery court “within sixty (60) days from the entry of the order or judgment.” Tenn. Code Ann. § 27-9-102 (2000). Failure to file a petition for certiorari within the statutory time limit deprives the chancery court of subject matter jurisdiction to consider the petition. *Blair v. Tennessee Bd. of Prob. & Parole*, 246 S.W.3d 38, 40-41 (Tenn. Ct. App. 2007); *Grigsby v. City of Plainview*, 194 S.W.3d 408, 412 (Tenn. Ct. App. 2005); *Thandiwe v. Traugher*, 909 S.W.2d 802, 803-04 (Tenn. Ct. App. 1994).

Petitioners filed the original petition for certiorari on June 6, 2014. To determine whether the petition was timely filed, we look first to the allegations in the petition. If the petition for certiorari shows on its face that it was filed beyond the sixty-day time limit, “this defect is fatal to subject matter jurisdiction and the motion is well taken.” *Gore v. Tennessee Dep’t of Correction*, 132 S.W.3d 369, 374 (Tenn. Ct. App. 2003). According to the petition, the applicant submitted a sketch plan on May 22, 2013, which was reviewed by the Planning Commission on June 13, 2013. The applicant then submitted a preliminary plat on July 17, 2013. The Planning Commission considered the preliminary plat at a public hearing on August 8, 2013, but deferred action. The Planning Commission ultimately approved the preliminary plat at its meeting on September 12, 2013. The applicant submitted a final plat on March 19, 2014, which was approved on April 10, 2014.

The time for filing a petition for writ of certiorari runs from the entry of the order or judgment for which review is sought. *Thandiwe*, 909 S.W.2d at 803-04. Petitioners argue that the Planning Commission did not approve the subdivision until April 10, 2014, the date of final plat approval. The Planning Commission and the Hillsboro Cove defendants submit

that approval of the final plat was merely ministerial and that the subdivision was approved on September 12, 2013, when the preliminary plat was approved. Resolution of this issue requires an understanding of the subdivision review process, as described in Tennessee statutes and the Williamson County Subdivision Regulations.<sup>4</sup>

## 1. The Regional Planning Statutes

Regional planning commissions, such as the Planning Commission, are authorized by statute. Tenn. Code Ann. § 13-3-101 (Supp. 2015). These commissions must approve all plans for subdividing land within their jurisdictions before a plat<sup>5</sup> of a subdivision can be recorded. *Id.* § 13-3-402 (2011). No owner may sell property in a subdivision without having obtained approval of a plat from the regional planning commission and recording the approved plat in the appropriate county register's office. *Id.* § 13-3-410(a) (2011).<sup>6</sup> Once a plat has been submitted, the planning commission must place the plat on the agenda at a regularly scheduled meeting within thirty days unless the applicant waives the time limit. *Id.* § 13-3-404(a) (2011). A plat may not "be acted upon by the commission without affording a hearing thereon." *Id.* If the commission disapproves the plat, a reason must be provided on the record. *Id.* Regional planning commissions have sixty days within which to approve or disapprove a submitted plat, unless the applicant waives the time requirement, or the plat will be deemed approved. *Id.*

Regional planning commissions are required to "adopt regulations governing the subdivision of land" within their jurisdictions. *Id.* § 13-3-403(a) (2011). The statute does not dictate the contents of the regulations. Instead, the regional planning commissions are permitted to determine the necessary regulations. The statute specifically authorizes subdivision regulations to require roads, utilities or other improvements to be installed "[a]s a condition precedent to the final approval of the plat," to allow preliminary approval of the plat before improvements are completed, and to allow acceptance of a satisfactory bond, in lieu of completion of improvements, before final approval of the plat. *Id.* § 13-3-403(b).

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<sup>4</sup> The Williamson County Subdivision Regulations are available on the Williamson County government website. Williamson County Tennessee Subdivision Regulations (1994), <http://www.williamsoncounty-tn.gov/index.aspx?NID=115>.

<sup>5</sup> A plat is a map or plan of a subdivision. *See* Williamson County Subdivision Regulations § 2.2.

<sup>6</sup> The General Assembly amended the regional planning chapter of the statutes, effective April 20, 2015. Act of Apr. 20, 2015, ch. 209, 2015-1 Tenn. Code Ann. Adv. Legis. Serv. 259 (LexisNexis). The legislation revised Tennessee Code Annotated §§ 13-3-403, -410. This opinion references the statutes in effect prior to April 20, 2015.

## 2. The Subdivision Review Process

The subdivision regulations adopted by the Planning Commission, in accordance with this statutory authority, govern review of any proposal to subdivide unincorporated<sup>7</sup> land in Williamson County. Williamson County Subdivision Regulations § 1.4. As a first step, the applicant meets with the planning staff to decide which type of subdivision is being proposed. *Id.* §§ 2.2 & 3.2.1. The size and type of proposed subdivision dictates the review procedure. *See generally id.* § 3.1. The Hillsboro Cove subdivision involved a proposal to construct twenty homes on twenty lots each of just over one acre, which is considered a “major subdivision” under the subdivision regulations. *Id.* § 2.2. An applicant proposing a “major subdivision” must follow a three-step process, which requires approval of (1) a concept plan, (2) a preliminary plat, and (3) a final plat. *Id.* § 3.1.

After a pre-application conference, the applicant submits a generalized concept plan for the proposed subdivision, also known as a sketch plan. *Id.* §§ 2.2 & 3.2.2. At this point, the planning staff reviews the plan, focusing on “the appropriateness of the subdivision from the viewpoint of timing, location, and zoning.” *Id.* § 3.2.2(b). “The sketch plan review is intended to establish the direction and basis for the subdivision proposal before substantial amounts of time and money have been invested in a very detailed proposal . . . .” *Id.* Once all the required information is provided, the planning staff notifies the applicant that the sketch plan has been accepted for consideration and will be reviewed by the Planning Commission at its next meeting. The planning staff prepares a recommendation for the Planning Commission “as to the appropriateness of the subdivision as it relates to access, utilities, drainage and other improvements, reservations and dedications . . . .” *Id.* § 3.2.2(e). The applicant must submit a preliminary plat within six months after review of the sketch plan or resubmit the sketch plan for another review. *Id.* § 3.2.2(f).

Once the applicant submits a preliminary plat, including all necessary information, the staff notifies the applicant that the preliminary plat has been accepted and will be reviewed by the Planning Commission at its next meeting. Before the meeting, the staff and “other affected agencies” must review the preliminary plat, compare it with the sketch plan, and prepare a recommendation for the Planning Commission “regarding outright approval, approval with changes or conditions, . . . deferral, or disapproval of the plat.” *Id.* § 3.2.3(e). At this point in the review process, the staff may choose to inspect the site of the proposed subdivision and must decide whether adjacent property owners should be notified of the

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<sup>7</sup> State statute also authorizes the creation of municipal planning commissions. Tenn. Code Ann. § 13-4-101 (2011). Proposals to subdivide land within incorporated areas of Williamson County are reviewed by such municipal planning commissions. *See, e.g.,* Brentwood, Tenn., Code of Ordinances ch. 50, art. II, § 50-26 (2016), [https://www.municode.com/library/tn/brentwood/codes/code\\_of\\_ordinances](https://www.municode.com/library/tn/brentwood/codes/code_of_ordinances); Franklin, Tenn., Code of Ordinances title 14, ch. 1, sec. 14-101 (2016), [https://www.municode.com/library/tn/franklin/codes/code\\_of\\_ordinances?nodeId=THFRMUCOFRTE](https://www.municode.com/library/tn/franklin/codes/code_of_ordinances?nodeId=THFRMUCOFRTE).

proposal.<sup>8</sup> *Id.* The Planning Commission must approve, approve with changes or conditions, or disapprove the preliminary plat within sixty days of its submittal. *Id.* § 3.2.3(f).

After a preliminary plat has been approved “and improvements made in accordance with the approved preliminary plat, or bond adequate in form and amount to assure the completion of the required improvements has been established,” the final plat may be submitted for approval. *Id.* § 3.2.4(a). The final plat must “conform substantially to the preliminary plat as approved.” *Id.* § 3.2.4(d). The applicant may choose to submit a final plat for only that portion of the property that “he proposes to record and develop at the time.” *Id.* The Planning Commission, within sixty days of first consideration, must approve, approve with changes or conditions or disapprove the final plat. *Id.* § 3.2.4(f). Before the Planning Commission will sign a final plat, the applicant must complete all street, water, sanitary, and other improvements required by the Planning Commission or post an acceptable performance bond. *Id.* §§ 4.1 & 4.2. Only a signed, approved final plat can be recorded. *Id.* § 1.15. A landowner may not sell a lot by reference to a subdivision plat unless the plat has been given final plat approval and recorded. Tenn. Code Ann. §§ 13-4-306, -410 (2011).

The subdivision regulations make clear that, although an applicant for a major subdivision must complete all steps before a final plat may be recorded, the Planning Commission approves or disapproves a subdivision plan at the preliminary plat stage.<sup>9</sup> A final plat may only be submitted “[a]fter the proposed subdivision has been approved.” Williamson County Subdivision Regulations § 3.2.4(a). Perhaps more importantly, prior to approval of a final plat, the developer may commence improvements in accordance with the preliminary plat that could significantly, if not permanently, alter the land. *Id.* §§ 3.2.4(a) & 4.1.

Based on the claims alleged by Petitioners, the time for filing the petition for writ of certiorari ran from approval of the preliminary plat. Petitioners’ core complaints all related to and originated with approval of the subdivision plan, which occurred at preliminary plat approval. The amended petition alleged that the application for the preliminary plat did not

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<sup>8</sup> Generally, adjacent property owners must be notified in cases in which a variance is sought or lots in the proposed subdivision are substantially out of character with the surrounding area. Williamson County Subdivision Regulations § 3.2(3).

<sup>9</sup> Petitioners argue that approval of the preliminary plat was not final judgment or order because such approval was or could be conditional, citing *State ex rel. Byram v. City of Brentwood*, 833 S.W.2d 500 (Tenn. Ct. App. 1991). We disagree. *State ex rel. Byram* stands for the proposition that “[c]onditional approval is not equivalent to *final approval of the plat* without the modification proposed by the Planning Commission.” *Id.* at 504 (emphasis added). Petitioners challenged approval of the subdivision plan, which Petitioners claimed violated the Comprehensive Land Use Plan and the Subdivision Regulations for Williamson County, not approval of the final plat.

“reference the zoning on the subject property as required.” At the hearing on the preliminary plat, Petitioners and others raised objections “includ[ing], but not limited to, Comprehensive Land Use Plan inconsistency; dangerous traffic conditions; and flooding from the Harpeth River which abuts the subject property.” In addition, the amended petition alleged that approval of the preliminary plat “violated Subdivision Regulation Section 5.3,” which addresses requirements for “roads within or providing principle access to proposed subdivisions.”

Significantly, Petitioners did not allege that the final plat for Hillsboro Cove failed to conform substantially to the approved preliminary plat. Petitioners also made no claim related to final plat approval that had not already accrued with approval of the preliminary plat. If Petitioners were “aggrieved,” they were aggrieved once the Planning Commission approved the subdivision plan shown on the preliminary plat.

Accepting Petitioners’ position that only approval of a final plat triggers the sixty-day time limit for review of the subdivision plan introduces the potential for multiple deadlines for review. As noted above, a developer may submit a final plat for a development in phases. *Id.* § 3.2.4(d). In a multi-phase development, a developer may complete the necessary improvements in one section of the development, obtain final plat approval for that section of the development, and sell lots shown on the final plat, leaving final plat approval for the other sections shown on the approved preliminary plat for a later day. Under Petitioners’ theory, presumably an aggrieved party could seek review of a planning commission’s approval of a subdivision plan as the developer obtained final plat approval of each section of its multi-phase development. Such an interpretation of the statute is contrary to the purpose of the statutory time limit, which is to promote the timely resolution of disputes. *See Hickman v. Tennessee Bd. of Paroles*, 78 S.W.3d 285, 288-89 (Tenn. Ct. App. 2001).

Our conclusion that the Planning Commission’s approval of a preliminary plat may be “final” for purposes of Tennessee Code Annotated § 27-9-101 is also consistent with the holdings of courts in other states. In cases involving a multi-step approval process like the one at issue here, the courts have determined that approval of a preliminary plat is an appealable order for purposes of a petition for writ of certiorari. *See Stevenson v. Blaine Cty.*, 9 P.3d 1222, 1225-26 (Idaho 2000) (holding preliminary plat approval is a final decision because preliminary approval allows developer to take immediate steps to alter the land before final approval); *River Birch Assocs. v. City of Raleigh*, 388 S.E.2d 538, 544-45 (N.C. 1990) (discussing multi-step process for approval of subdivision developments and reiterating that final approval is a ministerial act); *Zuni Indian Tribe v. McKinley Cty. Bd. of Cty. Comm’rs*, 300 P.3d 133, 135-36 (N.M. Ct. App. 2013) (holding approval of preliminary plat was appealable “[i]n light of the thorough review and decision-making process” for preliminary plats); *Bienz v. City of Dayton*, 566 P.2d 904, 913 (Or. Ct. App. 1977) (“The land use decision is made at the time of the approval or disapproval of the tentative plan. The actions following approval are to implement the tentative plan.”), *disagreed with on other*

*grounds, Alt v. City of Salem*, 756 P.2d 637, 639 (Or. 1988).

Because Petitioners filed the original petition for writ of certiorari on June 6, 2014, considerably more than sixty days after approval<sup>10</sup> of the preliminary plat, we conclude the original petition was untimely. As such, the chancery court lacked subject matter jurisdiction to consider the petition, and the petition was properly dismissed.<sup>11</sup> *Blair*, 246 S.W.3d at 40-41.

## B. REMAINING ISSUES

Our conclusion that the chancery court lacked subject matter jurisdiction precludes our consideration of the remaining issues raised by the parties, including whether Petitioners had standing to challenge the Planning Commission's decision and whether the Planning Commission acted illegally in approving the Hillsboro Cove subdivision.

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<sup>10</sup> Our courts have recognized a distinction between the rendition of a judgment or order and the entry of a judgment or order. *Jackson v. Jarratt*, 52 S.W.2d 137, 138 (Tenn. 1932). “‘Rendered’ means expressed or announced in a conclusive manner and with decisive effect . . . .” *Id.* “The ‘entry’ of judgment is the ministerial act by which enduring evidence of the judicial act of rendition of judgment is afforded.” *Carter v. Bd. of Zoning Appeals*, 377 S.W.2d 914, 916 (Tenn. 1964). In the context of Tennessee Code Annotated § 27-9-102, we have held “that something more than simply a vote taking place is required before a judgment or order will be considered as having been entered.” *Grigsby v. City of Plainview*, 194 S.W.3d 408, 413 (Tenn. Ct. App. 2005).

Petitioners alleged that “[o]n September 12, 2013, the [Planning Commission] approved the preliminary plat.” The amended petition did not state whether September 12, 2013, was the date the Planning Commission expressed or announced its decision on the preliminary plat or the date on which the decision was entered. In their motion to dismiss, the Hillsboro Cove defendants argued that “the entry of the notation into the record of the secretary of the [Planning Commission] on September 12, 2013, of the approval of the preliminary plan [wa]s the ‘something more’” contemplated by our case law. However, even if we considered entry of the decision to have occurred with approval of the minutes of the September 12, 2013, Planning Commission meeting, the original petition was untimely. *See Grigsby*, 194 S.W.3d at 414 (“Having the proceedings transcribed and filed as the [Beer] Board’s minutes would constitute entry of the [Beer] Board’s judgment, assuming no other event already had occurred sufficient to establish entry of the judgment.”).

<sup>11</sup> Because the original petition was untimely, the chancery court also lacked subject matter jurisdiction to grant Petitioners’ motion to file an amended petition. *See Blair v. Tennessee Bd. of Prob. & Parole*, 246 S.W.3d 38, 41 (Tenn. Ct. App. 2007) (trial court lacked power to extend time period for filing petition for certiorari after expiration of sixty day period found in statute); *see also Crane Enamelware Co. v. Smith*, 76 S.W.2d 644, 645 (Tenn. 1934).

### **III. CONCLUSION**

For the foregoing reasons, we affirm the decision of the chancery court dismissing the petition for writ of certiorari.

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W. NEAL MCBRAY, JUDGE