

**89TH ANNUAL WEST TEXAS
COUNTY JUDGES AND
COMMISSIONERS ASSOCIATION
CONFERENCE**

Wednesday, April 25, 2018
1:00 – 1:50 p.m.

**“3.004 Regulations and
Legal Issues: Associated
with Rights of Way”**

*Ms. Carah Beth Bass
Attorney
Allison, Bass, & Magee, LLP*

ALLISON, BASS & MAGEE, L.L.P.

Attorneys at Law

A. O. WATSON HOUSE
402 WEST 12TH STREET
AUSTIN, TEXAS 78701
(512) 482-0701
FAX (512) 480-0902

JAMES P. ALLISON
j.allison@allison-bass.com

ROBERT T. BASS
r.bass@allison-bass.com

J. ERIC MAGEE
e.magee@allison-bass.com

CARAH-BETH BASS
c.bass@allison-bass.com

PHILIP B. ARNOLD
p.arnold@allison-bass.com

COUNTY LAND USE REGULATIONS ROAD MAP

1. County Zoning Authority: Local Government Code, Chapter 231
 - a. Subchapter A — General Authority of Counties
 - b. Subchapters B–M — Authority for Certain Areas
2. Platted Subdivisions: Local Government Code, Chapter 232
 - a. Subchapter A — General Authority of Counties
 - i. Manufactured Home Rental Communities — § 232.007
 - b. Subchapter B — Border Counties
 - c. Subchapter C — Economically Distressed Counties
 - d. Subchapter E — Expanded Optional Authority
3. Housing and Other Structures — Local Government Code, Chapter 233
 - a. Subchapter B — Building and Setback Lines
 - b. Subchapter C — Fire Code in Unincorporated Areas
4. Miscellaneous Provisions — Local Government Code, Chapter 240
 - a. Subchapter Z — Flood Control in Coastal Counties
5. Extra-Territorial Jurisdiction (ETJ) Plats: Local Government Code, Chapter 242
 - a. Subchapter A — General Authority
 - b. Subchapter C — Border Counties
6. County Roads and Bridges: Transportation Code, Chapter 251
 - a. Subchapter A — General Provisions
 - i. Construction and Maintenance of County Roads, § 251.003
 - ii. General Requirements for County Roads, § 251.008
 - iii. Gates Across County Roads, § 251.010
 - b. Subchapter B — Establishing and Closing Roads
 - c. Subchapter C — County Bridges
 - d. Subchapter D — Acquisition of Right-of-Way for County Roads
 - e. Subchapter E — County Traffic Regulations
 - i. Load Limits on County Roads and Bridges, § 251.153
 - ii. Speed Limits, § 251.154

- iii. Prohibiting and Restricting Use of Road, § 251.157
 - iv. Prohibiting Use of Road for Certain Vehicles, § 251.1575
 - v. Liability of Owner or Operator for Road Damage, § 251.160
7. Drainage on Public Roads: Transportation Code, Chapter 254
- a. Authority to Provide Drainage, § 254.005
 - b. Restrictions to Authority to Drainage Authority, § 254.006
8. Provisions Related to the Regulation of Utilities: Utilities Code, Title 2
- a. Subchapter A — Regulations Applicable to all Utilities
 - b. Subchapter B — Regulations Applicable to Electric Utilities
 - c. Subchapter C — Regulations Applicable to Telecommunication Utilities
9. Provisions Related to the Regulation of Utilities: Utilities Code, Chapter 181
- a. Authority to Lay and Maintain Gas Lines, § 181.005
 - b. Notice to State or County (to Designate Location of Gas Line), § 181.024
 - c. Authority to Construct, Maintain, and Operate Electric Lines, § 181.042
 - d. Notice to State or County (to Designate Location of Electric Lines), § 181.044
 - e. Relocation of Line to Allow Road or Ditch Improvement. § 181.046

ALLISON, BASS & MAGEE, L.L.P.

Attorneys at Law

A. O. WATSON HOUSE
402 WEST 12TH STREET
AUSTIN, TEXAS 78701
(512) 482-0701
FAX (512) 480-0902

JAMES P. ALLISON
j.allison@allison-bass.com

ROBERT T. BASS
r.bass@allison-bass.com

J. ERIC MAGEE
e.magee@allison-bass.com

CARAH-BETH BASS
c.bass@allison-bass.com

PHILIP B. ARNOLD
p.arnold@allison-bass.com

GENERAL AUTHORITY OF COMMISSIONERS COURT

As creations of the Texas Constitution, commissioners courts are vested with the authority to "exercise such powers and jurisdiction over all county business" expressly given by the constitution or the legislature. TEX. CONST. art. V, § 18; *City of San Antonio v. City of Boerne*, 111 S.W.3d 22, 27-29 (Tex. 2003). Commissioners court duties include legislative, executive, and judicial functions. *Brown v. Lubbock Cnty. Comm'rs. Court*, 185 S.W.3d 499, 505 (Tex. App.—Amarillo 2005, no pet.). Commissioners courts can act only as a body, through its minutes, and not through individual commissioners. *Parks v. Hill Cnty.*, 387 S.W.2d 956 (Tex. Ct. App. 1965).

When acting as a judicial body, the commissioners court is entitled to the same sanctity as any other judicial determination. *Comm'rs. Court of Titus Cnty. v. Agan*, 940 S.W.2d 77 (Tex. 1997) (district court has no right to substitute its judgment and discretion for that of the commissioners court and may only review order for an abuse of discretion). A district court may only reverse a commissioners court order if it acted "arbitrarily, capriciously, collusively, fraudulently, or otherwise in abuse of its discretion." *Griffin v. Birkman*, 266 S.W.3d 189, 195 (Tex. App.—Austin 2008, pet. denied); *see Ector Cnty. v. Stringer*, 843 S.W.2d 477, 479 (Tex. 1992).

The commissioners court acts as a judicial body when it makes and enforces all reasonable necessary rules and orders for the construction and maintenance of public roads. *See* TEX. TRANSP. CODE ANN. Ch. 251 (County Road and Bridge Act). Therefore, any determination of whether to open, close, alter, or accept a road into the county road maintenance system will be valid unless the court acted "arbitrarily, capriciously, collusively, fraudulently, or otherwise in abuse of its discretion." *See Griffin*, 266 S.W.3d at 195. This authority is not limitless, however, and extends only to the powers necessary to fulfill the obligation to ensure safe travel for the public. *Boerne*, 111 S.W.3d at 32.

The commissioners court acts as a legislative body when it creates the county budget and disburses money from the county treasury, including funds for the construction and maintenance of county roads. *See Griffin*, 266 S.W.3d at 195. When performed properly, the courts budgetary decisions are protected from scrutiny of the judicial branch in a similar manner as judicial functions. *See Griffin*, 266 S.W.3d at 195 (all acts of the commissioners courts are given a presumption in favor of the validity). Like all other actions of the commissioners court, this broad budgetary discretion is limited to those expressly vested by the Texas Constitution or legislature. TEX. CONST. art. V, § 18; *Canales v. Laughlin*, 214 S.W.2d 451 (Tex. 1948).

ALLISON, BASS & MAGEE, L.L.P.

Attorneys at Law

A. O. WATSON HOUSE
402 WEST 12TH STREET
AUSTIN, TEXAS 78701
(512) 482-0701
FAX (512) 480-0902

JAMES P. ALLISON
j.allison@allison-bass.com

ROBERT T. BASS
r.bass@allison-bass.com

J. ERIC MAGEE
e.magee@allison-bass.com

CARAH-BETH BASS
c.bass@allison-bass.com

PHILIP B. ARNOLD
p.arnold@allison-bass.com

SUMMARY OF AUTHORITY OVER COUNTY ROADS

Chapter 251 of the Texas Transportation Code, the County Road and Bridge Act, vests the commissioners court with the authority to "make and enforce all reasonable and necessary rules and orders for the construction and maintenance of public roads except as prohibited by law." TEX. TRANSP. CODE ANN. § 251.003(a) (West 2013). This authority is not limitless but extends to all powers necessary to fulfill their obligation to ensure safe travel for the public. *Boerne*, 111 S.W.3d at 32.

a. The Creation of County Roads

Any road or highway that is legally platted and established by a governmental entity, which has not been discontinued, is a public road. TEX. TRANSP. CODE ANN. § 251.002. Although the commissioners courts have the power to establish and title county roads in the county's name, generally all public roads belong to the State of Texas. *See State v. Malone*, 168 S.W.2d 292 (Tex. Ct. App. 1943). Further, while a road may be "public" in the sense that the public has acquired the right to use the road, the county is not required to take the road into its county road system or maintain the road. *See* 43 TEX. ADMIN CODE § 15.10(11)(2002) (Tex. Dep't of Transp., Definitions) (a "public road" is a road owned and maintained by a municipality, county, or the Department of Transportation); *See Hays Cnty. v. Alexander*, 640 S.W.2d 73 (Tex. Ct. App. 1982); *see also* BROOKS at 792 ("this ability to decline maintenance is not made clear in the statutes," but is generally recognized in practice). A road may become public through dedication or adverse possession without the county recognizing the road as part of the maintenance system. *See Porter v. Johnson*, 151 S.W. 599 (Tex. Civ. App.—Dallas 1912, no writ).

A county may acquire a public interest in a road in a few different ways. Texas Transportation Code Chapter 281 outlines the methods in which counties with a population under 50,000 may acquire an interest in a public road. *See* TRANSP. CODE §§ 281.002–.003. Under this chapter, a county may acquire a public interest in a private road only by:

- (1) purchase;
- (2) condemnation;
- (3) dedication; or
- (4) final judgment of adverse possession in a court of competent jurisdiction.

TRANSP. CODE § 281.002.

After 1981, counties with a population below 50,000 could no longer establish a public interest in a private road via verbal dedication or an intent to dedicate by an overt act. *See Baker v. Peace*, 172 S.W.3d 82, 87 (Tex. App.—El Paso 2005, pet. denied). Since this change, the

historical public use of a private road with the permission of the owner nor maintenance of a private road with public funds is sufficient to establish a public interest in a public road. *See Baker*, 172 S.W.3d at 87. However, the new statute is not retroactive; therefore, an implied dedication that occurred before 1981 will not be affected by a subsequent purchase of the property. *See Baker*, 172 S.W.3d at 87.

Naturally, the question becomes: May counties with populations over 50,000 may acquire a public interest by prescription? We believe that the common law as it existed prior to 1981 still pertains to larger counties. Therefore, larger counties still have the ability to establish a public interest in a private road via verbal dedication or prescription.

A road may also become public when expressly dedicated to the county. TRANSP. CODE § 281.003. Since 1981, this grant of the use of a road must be communicated in writing by the landowner and officially accepted by the commissioners court. *Id.*; *see Brooks* at 798 (oral dedication or implied intent to dedication roads is not sufficient to establish a public interest in a private road in counties with a population under 50,000). Once formally accepted through a recorded action by the commissioners court, the dedicated road immediately becomes a county road. Tex. Att’y Gen. Op. LO-C-315 (1964) (actions may be recorded in the commissioners court minutes). Commonly, dedicating county roads occurs through the plat approval process. *Brooks* at 798. Acceptance to file a plat is not acceptance to dedicate the roads for public use; therefore, commissioners courts should ensure that the approval of a plat includes the acceptance of the roads for public use. *Id.*; Tex. Att’y Gen Op. LO-WW-1055 (1961) (filing subdivision plat with the county clerk without commissioners court approval is not acceptance of the roads for public use).

In counties with a population under 50,000, only those private and/or subdivision roads established after 1981 which have been expressly dedicated and expressly accepted by the County will become part of the county road system. Private roads or subdivision roads which were established prior to 1981 should be assumed to be excluded from the county road system unless there is evidence of an express acceptance by the County, or evidence that these roads were clearly established as public roads maintained by the county prior to 1981.

By common law prescription or dedication, certain roads may have become county roads. However, no subdivision road should be recognized as a county road unless there is evidence to establish either prescription or dedication and acceptance. With regard to prescription, there should be evidence that the county maintained the road continuously for more than ten years prior to 1981, and that this maintenance was without the permission of the owner before any assumption of county maintenance as a county road could be safely entertained. In cases of implied dedication, there must be evidence of some act on the part of the owner which shows he intended to dedicate the road, and there must be some evidence that the county intended to accept the dedication to properly establish a county road by implied dedication. As with prescription, any implicit dedication and acceptance must have occurred prior to 1981.

Once a road is accepted into the county road system, the county has a duty to maintain that road. Moreover, the county can, in some cases, be held liable for injuries caused by the condition of

the road. Therefore, the decision to bring a road into the county road system should be made by the commissioners court with caution and knowledge of the potential liabilities.

We suggest that the commissioners court prepare a map identifying all roads presently recognized as county roads, and that only these roads be maintained. If residents on a private road or a subdivision road present evidence that some or all of the private road or subdivision roads should be treated as county roads, this evidence should be reviewed with your attorneys to understand what the best course of action to address the issue will be.

b. Classification of Roads

County roads established by the commissioners court are statutorily required to be classified as either a first, second, or third-class road. TRANSP. CODE § 251.007 (classifying roads by the widths of roads and causeways). In practice, however, very few counties maintain a formal classification system and only haphazardly adopt a classification for a road when determining whether a property owner may place a gate across a public road. *See* TRANSP. CODE § 251.010(a) (a person who owns or controls a third-class road may erect a gate across the road when necessary).

c. Status of Roads; Discontinuing, Closing, Abandoning County Roads

A commissioners court has the power to change or alter the status of a county road. *See* TRANSP. CODE § 251.058 (closing, abandoning, and vacating public roads). Although a county road may be closed or discontinued, this does not necessarily mean that the public loses the ability to use the road, but only that the county will no longer maintain the road at public expense. *See* Tex. Att’y Gen. LO-M-265 (1968) (road not used by the public for twenty years retained public status). The procedural requirements to close or change a road mirror those to open a new road. TRANSP. § 251.052; BROOKS at 806 (residents of a precinct may apply to change a county road by presenting to the commissioners court a petition signed by eight landowners if the application is to discontinue the road or one landowner for any other change other than discontinuance). Before the application is made to the commissioners court, the landowners must give notice of their intention to change or discontinue the road by posting notice at the courthouse and two (2) other places near the affected route for at least twenty (20) days. TRANSP. § 251.052.

d. County Liability for Road Maintenance

A governmental unit is liable under the Texas Tort Claims Act (TTCA) for personal injury and death caused by the wrongful act or omission or the negligence of an employee acting within the scope of employment if (1) the injury or death was caused by a condition or use of tangible personal or real property, and (2) the governmental unit would be liable to the claimant according to Texas law if it were a private person. TEX. CIV. PRAC. & REM. CODE ANN. § 101.021. Therefore, the manner in which a county road is maintained (use of tangible property, i.e. the proper use of road maintenance equipment) or use of real property (the condition of county roads themselves) may give rise to liability for personal injury or death. *See id.*

Any tort claim against a governmental entity must begin with sovereign immunity. *Wildermuth v. Parker Cnty.*, 1 S.W.3d 705, 707 (Tex. App.—Fort Worth 1999, no pet.). Immunity is waived under the TTCA but only to the extent that the TTCA creates that liability. *Id.* Under the

TTCA, liability is limited when the claim involves a regular premise defect but does not extend this liability to “special” premises defects. CIV. PRAC. & REM. § 101.022. For this reason, the decision of the county to maintain any particular road in a manner which constitutes a "premise defect" or a "dangerous condition" should be avoided in light of potential Tort Claims liability. CIV. PRAC. & REM. § 101.021.

ALLISON, BASS & MAGEE, L.L.P.

Attorneys at Law

A. O. WATSON HOUSE
402 WEST 12TH STREET
AUSTIN, TEXAS 78701
(512) 482-0701
FAX (512) 480-0902

JAMES P. ALLISON
j.allison@allison-bass.com

ROBERT T. BASS
r.bass@allison-bass.com

J. ERIC MAGEE
e.magee@allison-bass.com

CARAH-BETH BASS
c.bass@allison-bass.com

PHILIP B. ARNOLD
p.arnold@allison-bass.com

SUMMARY OF SUBDIVISION REGULATIONS

Commissioners courts also have authority to enact subdivision regulations for subdivision plats outside municipal boundaries. TEX. LOC. GOV'T CODE ANN. Ch. 232; TRANSP. Ch. 253; TEX. PROP. CODE ANN. § 12.002. Commissioners courts may refuse to approve a plat if it does not meet statutory requirements; alternatively, if approved, the approval must be through an order entered in the minutes of the court. TRANSP. § 232.002(a); *see* TRANSP. §§ 232.001, .0035 (outlining statutory requirements). The approval and filing of a plat, even when recorded in the minutes, does not make the included roads public. Tex. Att'y Gen Op. LO-WW-1055 (1961); BROOKS at 798. The dedication itself is a mere offer and filing of the plat does not constitute an acceptance of the dedication for maintenance purposes. *Langford v. Kraft*, 498 S.W.2d 42 (Tex. App.— , 1973, ref. n.r.e.); *Comm'rs. Court v. Frank Jester Dev. Co.*, 199 S.W.2d 1004 (Tex. App.—Dallas, 1947). When a plat merely uses the word “street,” without dedicatory language, the party claiming public dedication must show some act by the dedicating owner indicating that purpose and acceptance by the public or local authorities. *Broussard v. Jablecki*, 792 S.W.2d 535, 537 (Tex. App.—Houston [1st Dist.] 1990, no writ).

In *Elgin Bank v. Travis County*, the Austin Court of Appeals held that the Travis County Commissioners Court could not require a subdivision plat unless the subdivider laid out streets, alleys, parks, and other parts of the tract for public or private use. 906 S.W.2d 120 (Tex. App.—Austin, 1995, writ denied). In other words, if the lots already have access to a pre-existing county road, and the subdivider makes no provision for any other public or private use of the property, a plat will not be required. *Id.* To address *Elgin Bank*, the legislature revised Chapter 232 of the Texas Local Government Code. TEX. LOC. GOV'T CODE ANN. Ch. 232. However, many issues regarding the holding in *Elgin Bank* continue to plague Texas counties.

A county may undertake the road maintenance of subdivision roads that require improvement to comply with county standards. TRANSP. § 253.003 (these roads are sometimes called “substandard subdivision roads” and were created prior to the adoption of county subdivision standards under Chapter 232 of the Transportation Code). Once the commissioners court determines the necessity of repair for public health, safety, or welfare, it must give notice of the proposed improvement, hold a public hearing on the subject, and then send out a ballot to each property owner in the subdivision. *Id.* §§ 253.004–.006. If the majority of ballots are in favor of the improvement, the commissioners court shall then order the improvement and assess the costs of the improvements against the property owners in the subdivision. *Id.* § 253.007. It should be noted, however, that although the property owners can be assessed for the improvement of the roads, those roads then become an ongoing obligation for county maintenance. Therefore, private subdivision roads should not be accepted into the county system unless the road in question serves as an integral connecting roadway to another established county road.

In public subdivisions, the main arterial roads may therefore be considered for acceptance into the county road system. Furthermore, even the main roads in public subdivisions must meet the standards set forth in the County Subdivision Regulations to be eligible for consideration for acceptance into the county road system. Finally, as to those main arterial roads in public subdivisions which otherwise qualify for county maintenance, the regulations typically contemplate both an express dedication of the roads and an express acceptance of the roads by the County before the roads can become part of the county road system.

ALLISON, BASS & MAGEE, L.L.P.

Attorneys at Law

A. O. WATSON HOUSE
402 WEST 12TH STREET
AUSTIN, TEXAS 78701
(512) 482-0701
FAX (512) 480-0902

JAMES P. ALLISON
j.allison@allison-bass.com

ROBERT T. BASS
r.bass@allison-bass.com

J. ERIC MAGEE
e.magee@allison-bass.com

CARAH-BETH BASS
c.bass@allison-bass.com

PHILIP B. ARNOLD
p.arnold@allison-bass.com

GATES ACROSS COUNTY ROADS

Can a landowner construct a gate across a county road?! The answer in certain instances, is yes.

If a landowner determines that it is necessary to construct a gate across a county road, they must seek the approval of the commissioners court before they begin construction. *See* TRANSP. CODE § 251.010(e). Once approved, the landowner is required to pay for the gate and ensure that it meets statutory requirements, including: (1) permanent hitching post and stile blocks must be installed on each side of the gate within sixty (60) feet of the gate; (2) the gate must be at least ten (10) feet wide; (3) free from obstructions above the gate; (4) constructed so that opening and shutting the gate will not cause unnecessary delay to persons, including emergency personnel, using the road; (5) constructed with a fastening to hold the gate open until a person using the gate passes through; (6) gate and approaches to gate must be maintained by property owner at property owner's expense; and (7) gate must remain unlocked. *See* TRANSP. CODE § 251.010(a)–(b). Failure to comply with these requirements constitutes a Class C Misdemeanor. *See* TRANSP. CODE § 251.010(c). Conversely, failure to close a gate after entering and exiting the property is also a Class C Misdemeanor. *See* TRANSP. CODE § 251.010(c).

If you discovery that a landowner has built a gate across a county road, contact your attorney immediately so that you can work together to resolve the issue.

ALLISON, BASS & MAGEE, L.L.P.

Attorneys at Law

A. O. WATSON HOUSE
402 WEST 12TH STREET
AUSTIN, TEXAS 78701
(512) 482-0701
FAX (512) 480-0902

JAMES P. ALLISON
j.allison@allison-bass.com

ROBERT T. BASS
r.bass@allison-bass.com

J. ERIC MAGEE
e.magee@allison-bass.com

CARAH-BETH BASS
c.bass@allison-bass.com

PHILIP B. ARNOLD
p.arnold@allison-bass.com

UTILITY LINE SUMMARY

The Texas Utilities Code allows a telephone corporation to install infrastructure along, on, or across a public road, street, or waterway in a manner that does not inconvenience the public in the use of that road, street, or water. *See* TEX. UTIL. CODE ANN. § 181.082. However, unlike the other utilities, telecommunication companies are not required to provide advanced notice or coordination with the commissioners court regarding the placement or depth of the line to avoid interference with routine road maintenance.

Unlike telecommunication utilities, gas corporations must comply with all federal, state, and local regulations, including those of the commissioners court, and those related to the horizontal or vertical placement of a pipeline. *See* UTIL. CODE § 181.005(a). Additionally, a gas company is required to provide sufficient notice of the proposal to install a gas pipeline in a county right-of-way and the county may designate the location in the right-of-way where the gas utility may place the pipeline. *See* UTIL. CODE § 181.024(a).

Electric companies are also required to give the commissioners court notice of any proposal to construct, maintain, or operate lines across a county right-of-way. *See* UTIL. CODE § 181.042, .044(a). The commissioners court may also designate the location along the right-of-way where the electric utility may construct the line. *See* UTIL. CODE § 181.044(b).

The Utilities Code also places restrictions upon county maintenance. *See* UTIL. CODE § 251.151. State law allows the county to maintain its right-of-way up to a depth of twenty-four (24) inches. *See* UTIL. CODE §§ 251.151, 156. Any maintenance deeper than twenty-four (24) inches triggers duties of an excavator. *See* UTIL. CODE Ch. 251 (Underground Damage Prevention and Safety); *see also* Tex. Admin. Code Ch. 18 (Tex. Railroad Comm'n of Tex., Underground Pipeline Damage Prevention). Based on this depth mandate, it would seem reasonable for telecommunications companies to dig below this depth; however, this is often not the case.

Counties have been sued by telecommunications companies for damage to fiber optic cables buried less than twenty-four (24) inches below the surface. *See Southwestern Bell Telephone Co. D/B/A AT&T Texas v. Hood County* (SWB sought \$75,792 in damages for lines run 18 inches below the surface); *see also See Southwestern Bell Telephone Co. D/B/A AT&T Texas v. Parker County* (SWB sought \$16,727.88 in damages for line run on top of the surface); *Southwestern Bell Telephone Co. D/B/A AT&T Texas v. Collingsworth County* (SWB sought \$15,538.49 in damages for line run only a few inches below surface).

The Natural Resource Code requires all common carriers, including gas, electric, and telecommunication companies, to meet certain conditions prior to running or maintaining any pipeline or telecommunication line along, across, or over a public road. *See* TEX. NAT. RES. CODE

ANN. § 111.020(a)–(b). Common carriers must: (1) refrain from interfering with traffic on the road; (2) restore the road to its former condition of usefulness; (3) permit the commissioners court or other proper local authority (like a road department) to supervise the restoration of the road; and (4) place any lines no less than fifteen (15) feet from the improved section of the highway, except with the permission of the commissioners court. *See* NAT. RES. CODE § 111.020(b)(1)–(4). Additionally, common carriers must compensate the county or road district for any damage done to the public road in the course of placing or maintaining utility lines. *See* NAT. RES. CODE § 111.020(c).

What Then?

1. Determine where you would want lines placed.
2. Try to work with the telecommunications companies if at all possible.
3. Contact your attorneys at the earliest point in which you think you might have an issue.
4. Document, Document, Document!
5. Make sure that the pictures you take have a point of reference. Use tape measures in the pictures, in the context of the surroundings.
6. Take pictures at all stages of the construction. If you can't prove the conditions before the work, you will not be able to provide sufficient evidence for restoration purposes.