

Chapter 11 Lecture Notes

Land Boundaries can be created in two manners:

1. By description in a legal conveyance (Does not require a survey)
2. By running lines on the ground, monumenting the corners and describing the resulting parcel.

The goal: Written description matches the physical location of the lines on the ground.

Subdivision Law: Regulations for the use of the land.

Platting Law: Laws regarding size, shape and number of parcels, how they should be monumented, measured and who may create them, and how they should be mapped.

These laws originated for the purpose of standardizing land descriptions and ensuring certainty of location.

Now Subd. Laws are for regulating usage of land and the requirements for improvements and conditions.

Federal Law regulates the subd. Of public domain land and is considered the first platting laws. They had great impact on Subd. and development.

Local agencies have an impact more on size shape purpose number, etc.

Principles#1 Original Survey Regulations

Resurvey to locate original parcels and parcels already described

Creative in nature as opposed to interpretive.

Principle #2 Original Boundaries

Once accepted no other surveyor can recreate or change. Lines are fixed.

Objectives of Platting Laws:

The means to identifying land & ensuring certainty of location after land has been identified.

Plats are used to identify land.

Mon. and Meas. Are used to locate land.

Principle #3 Certainty of Location

Certainty is not necessarily proof of ownership; Sr./Jr. rights might be interfered or defective title.

The objectives of Plat Laws with respect to Certainty of Location:

1. Durable Permanent Monument
2. Unique monument with certain identification
3. Frequency
4. Accurate measurements tying monuments together
5. Reference monuments in later writings

The responsibility of location certainty lies in the person performing the objectives listed above.

Features of Platting Laws:

1. Definition of when a plat must be made.
2. Approval by governing body
 - a) Planning
 - b) Health
 - c) City Engr.
 - d) Tax assessor
 - e) City Attny
 - f) Inspection
 - g) Final Approval for Gov't and Environ.
3. Title Guarantee
4. Performance Bonds
5. Definition of who may prepare maps
6. Dedications and Street Geometry (Conditions)

7. Monuments
8. Set Backs
9. Easements
10. Measurement Data Required and Accuracies
11. Recordation
12. Prohibiting Lot sales prior to recording.

Platting Laws:

of lots created –vs- size of lots

Agencies usually do not cooperate with each other on conformity...county has different standards than city... cities different amongst themselves.

Planning Boards:

County planning, City Planning Design Review board, Coastal Commission, etc.

Regulate land use and zoning...to put the land to its best possible use for the good of the community. Very dynamic, subject to changes throughout the years.

Principle #4 Consideration of Title:

Claims against the title:

Easements

Sr. Rights

Encumbrances

Oil & mineral Rights

Water Rights

Surface and sub-surface rights

“Bundle Rights”

CC & R's = Conditions, covenants and restrictions...“run with the land.” Can be overturned by court decree.

“...no motor vehicles may enter upon this land.”

“...cannot sell to anyone of Indian, black or Mexican descent.”

“...changing the ext. color of your house, addition to the structure, appurtenances, antenna, sat. dish, etc. requires the consent of the HOA.”

“...no establishment will be allowed on the land that permits the sell or consumption of alcohol.”

Title Guarantee:

Financially responsible body guarantees title and location.

Boundary Survey:

When is it required? Why would it be required? Parcel Maps may be made without a field survey!

Monuments:

All platting laws require monumentation...types include:

Boundary, individual parcels/lots, Alignments, etc.

1. Control mon. and prop. Corn.
2. Durable, permanent, and unique
3. Density
4. Accuracy and precision

Marking lot lines in a subd –vs- larger parcel R/W, BSL, ESMNT, PROP COR

Monuments Laws should include:

1. Size and composition of mon.
2. Identification of surveyor setting mon.
3. Max. Distance between mon.
4. Setting all mon before sale of prop.
5. Responsibilities of dev., realtor, and surveyor.
6. Reference mons.

State Plane Coordinates:

Properly used, they are a modern method of ensuring the certainty of location and tying in all points to a common reference plane or datum. There are +/- to using SPC. See page 292 for advantages and disadvantages.

Certificates or Statements:

What's required?

Dedications:

There must be an offer to dedicate and an acceptance of the dedication and a positive description of what is being dedicated.

Set Backs:

Purpose of uniformity in building.

Recordation:

Preservation of the map, public record, references in legal description.

Examination by Authority:

Prior to recording a map or plat it must be reviewed for conformance with the rules and regs. of platting laws. City Engineer, County Engineer. What about Surveyors? Who may prepare these maps? Would the same apply to who checks them?

Presurveys without Recording:

Some states require the recordation of maps that divide or create parcels, some don't. Terrible if there are no laws that allow the plats not to be recorded or there is no place to record them.

Summary:

How subd. are made legal.

Subd. laws regulate how and when land may be divided.

How they may be created?

Who may divide, plat and monument?

Who checks the plat?

Every jurisdiction is different and it is the surveyor's responsibility to know the laws and regulations of the jurisdiction they are working. City to city, county to county, state to state.