

## Chapter 14 Lecture Notes

## 14-1 Writing Legal Descriptions:

In California, only licensed land surveyors or registered civil engineers prior to 1982, may prepare legal descriptions. In the past anyone could write a legal description to convey, sell, subdivide or identify land.

To convey interest in property, common law requires conveyances:

1. To be in writing
2. To identify the grantors and grantees
3. To identify the interest being conveyed
4. To express the intent to convey the interest identified
5. To identify the location of the land or the interests that are being conveyed with legal certainty

Land descriptions identify the physical location of the land or the interest conveyed by the land.

Two basic elements of a conveyance:

1. Words describe the interest and how much
2. The description of the land itself.

The purpose of the legal description is to identify or locate a unique and particular parcel of land, area, or interest.

## 14-2 Graphic and Written Descriptions

Fundamental methods of describing land:

1. Call for a graphic representation
2. Written words

Many descriptions have both elements in them. They are a combination of the two.

## 14-3 thru 10 and 48

Types of legal descriptions:

1. Subdivision Descriptions
2. Metes and Bounds Descriptions...Metes and Bounds = measures and boundaries. Metes and bounds means the boundary lines or limits of a parcel. A complete perimeter description, each course described in sequence. There must be a beginning point and an ending point. See the 6 basic suggestions for the Scrivener on page 402.
3. Bounds Descriptions
4. Proportionate Conveyances...fractional parts of a whole area.
5. Area Described as Being on One side of a Described Line..."Lot 12 except the easterly 20 feet."
6. Strip conveyances...describe a line with a distance on EACH side of that line.
7. Area conveyances...the most ambiguous...the North 5 Acres of Lot 5.
8. Linear Conveyances...similar to Area...how do you measure the East 10 feet...etc.

## 14-11 Indispensable Parts of a Description

Descriptions never fully describe a particular parcel; they merely relate how to find a particular parcel.

Principle 1

Principle 2

Principle 3

## 14-12 Objectives when describing land

Principle 4

1. Should contain title identity 14-14 Title Identity
2. Should not interfere with Sr. / Jr. Rights 14-15 Senior Rights
3. Should be written so that present or future date can be readily located 14-16 Effect of Loss of Evidence on Location
4. Should not contain ambiguous words 14-17 Ambiguity
5. Should contain measurement data sufficient enough to describe an area that closes 14-18 Mathematical Correctness
6. Based on a recent survey.

## 14-13 Sufficiency of Descriptions

Before writing a legal description the surveyor should:

1. Clearly understand the purpose of the description
2. Understand you are concerned with boundary not ownership
3. Prepare a concise, well-written description with proper spelling and punctuation.
4. Understand the courts requirements, legal wording and meaning.

#### 14-14 Title Identity

Title identity is the relationship between a particular description and its Adjoiners. Metes and Bounds without consideration of Adjoiners may cause ambiguity.

#### 14-15 Senior Rights

#### 14-16 Effects and Loss of Evidence on Location

#### Principle 5

#### 14-17 Ambiguity

#### 14-18 Mathematical Correctness

Closure and area incorrectness does not invalidate the conveyance or description...it just causes difficulty in the retracement.

#### 14-19 Description based on a Survey

#### 14-20 Desirable Qualities of a Scrivener

See the 7 qualities of a good scrivener on pages 411 and 412.

#### 14-21 Changing Description Wordings

Improving the description should only occur with an agreement deed between the interested property owners and not change the intent...assist in the location or preservation of a point that may be difficult to locate at a later date.

#### 14-22 Technique of Writing

English 1-A...use the appropriate words, phrases and language to accomplish your task...less is usually better, however do not omit words!

#### 14-23 thru 25 Parts of a Description

The description is broken down into three parts:

##### 1. Caption or Preamble

- A logical arrangement in writing a description is to first recite the general area or locality of land so that attention is directed to vicinity. This is the introductory part of the description.
- State, County, City, Subdivision, map, plat, section, township, range, meridian, rancho, court decree, survey, recorded conveyance, etc.
- "all that portion...", "all that real property...", "being a portion of..."

##### 2. Body

- This is generally what most people consider as the description. It contains the words that actually identify a particular parcel, area, or interests.
- The body with the caption must absolutely identify a unique area.
- Complete dimensional area that renders the intent.
- This "gross area."

##### 3. Augmenting Clauses

- Changes or augments the body of the description. This adds or deletes portions of what was just described.
- This gives "net area."

This is the preferred order in which the description is to be written, however there is no hard and fast rule.

The order of importance in conflicting elements that determine a boundary location is as follows:

1. Rights of Possession (Unwritten Rights)
2. Senior Rights (In the event of an overlap)
3. Written Intentions
  - a) Call for a Survey
  - b) Call for a Monument
  - c) Direction & Distance
  - d) Direction or Distance
  - e) Area (Quantity)
  - f) Coordinates

There are many types of descriptions and methods to describe property. Thus legal descriptions take on many different forms. The bottom-line, "does it convey ones intent and specify location!"

## 14-26 Senior Rights and Calls for Adjoining parcels

## Principle 6

Do not inadvertently call to a junior line when the intent is to call to the senior.

## 14-27 Intent of a Description

## Principle 7

## Principle 8

## 14-28 Call for a Survey

## Principle 9

## 14-29 Call for Monuments

## Principle 10

## 14-30 Lines

1. Straight
2. Circular Curved
3. Spiral Curved
4. Curved to fit the intersection of the earth's surface with a given elevation (water/contour lines)
5. Gradient (rivers)
6. of geometric relationship (parallel with, perpendicular to, etc)
7. geodetic (latitudes and longitudes)
8. irregular

## 14-31 Straight Lines

the shortest measurable distance between two points.

## 14-32 Straight Lines defined by Monuments

line between the two monuments.

## 14-33 Straight Lines defined by Dimension from a Point

beginning from a point or end of a line and given a direction/distance from said point/line

## 14-34 Basis of Bearings for Direction

## Principle 11

## 14-35 Changing the Basis of Bearings

not recommended, only if there is ambiguity between the Adjoiners directions.

## 14-36 Azimuth

Not recommended but may be legally sufficient.

## 14-37 Deflection Angles

A deflection angle must have its direction called out...right or left!

## 14-38 Straight Lines defined by Coordinates

1. a defined point of coordinate origin
2. a direction definition

## 14-39 Directional Calls

1. North vs northerly
2. northwest vs northwesterly
3. most southerly

## 14-40 Lines defined by Geometrical Relationships

be very careful not to introduce ambiguity in your geometric calls.

## 14-41 Area

describe the boundary line of the particular area...the East  $\frac{1}{2}$  the westerly line of which is parallel to the easterly

line.

14-42 Beginning Point and Ending Point  
Beginning vs commencing

14-43 Distance of Described Line from a Starting Point  
perpetuate the POB by calling to witness points near by...

14-44 Circular Curved Lines  
to define the location of a circular curve that is not tangent to the previous call...first state that it is not tangent!  
Then:

1. location of the starting point of the curve
2. location of the center of the curve
3. location of the terminus

In defining a curve always state the following elements:

1. two or three dimensions
2. direction of curve
3. direction of travel

14-45 Spiral Curve

14-46 Irregular Curves  
natural curves, rivers, lakes, shorelines

14-47 Forms used to Indicate Superior Calls  
See example on page 433

14-48 Strip Conveyances and Stationing

14-49 Abbreviations  
see list of abbreviation on page 435

14-50 Easements  
describe the use or intended use in the description to alleviate possible litigation.

14-51 Exceptions in descriptions  
Augmenting clauses as a description.

14-52 Whole Descriptions  
One sentence descriptions

14-53 Whole Descriptions by Referral

14-54 True Metes and Bounds Descriptions  
This should have been included in section 14-4

14-55 Bounds Form

14-56 Exception Form

14-57 Monument Calls

Principle 12

Principle 13

14-58 Use of Coordinates in Descriptions  
state the coordinate system, datum, etc so that there isn't any ambiguous computations/calculations.

14- 59 Checklist for Descriptions (page 443-445)

14-60 Summary  
A well written description is a work of art that will withstand the test of time. Accurate and precise descriptions will assist the surveyor in their pursuit to locate on the ground what was described in words...what is the intent, what is the BEST way to accomplish the task, and did I describe one unique parcel of land without ambiguity?

**ASSIGNMENTS:**