

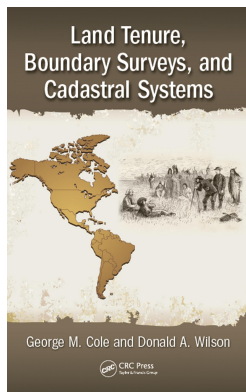
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Land Descriptions

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5

Land Descriptions

5.1 Types of Boundaries

Central to an understanding of land descriptions is an understanding of the concept of land boundaries. Land boundaries are lines that limit or separate ownership or jurisdiction. Therefore, land boundaries may be lines between adjoining private lands, between private and public lands, between adjoining public jurisdictions, or limits of certain types of regulatory jurisdiction.

There are two key attributes of a good boundary: First, the boundary should be more or less permanent. Second, the boundary should be recognizable and should be locatable without ambiguity. In addition, in earlier times, it was desirable for a boundary to be physically defensible. Examples of easily defended boundaries are rivers, coastlines, and the ridgeline of mountain ranges. In more recent time in developed nations, the advent of a legal property system provides a means of defending boundaries through the legal system. Thus, this has largely eliminated the need for physically defending most boundaries, with the possible exception of national boundaries.

Boundaries may be based on three types of features: natural objects, man-made objects, and legal or mathematical entities. As examples of boundaries based on natural features, a boundary may consist of the thread of a stream, along or offset a given distance from the mean high water line of an ocean, along the edge of a wetland as determined by vegetative indicators, or a line run between two prominent trees or other physical features. As examples of boundaries based on manmade objects, a boundary may consist of a line along a manmade ditch, berm, or roadway or a line between two concrete monuments. As examples of boundaries based on legal or mathematical entities, a boundary may consist of the limits of a quarter section of the U.S. Public Land Survey of a lot in a recorded private subdivision, a line along or offset from the east line of a U.S. Public Land Survey section, along a series of distances and directions starting at a corner of a recorded subdivision, or lines between points defined by geographic or state plane coordinates. Another example is a description based on the center of a U.S. Public Land Survey section. While the center of a section is not a physical government monument, it is a point capable of mathematical ascertainment, “thus constituting it, in a legal sense, a monument

call of the description.”* Similarly, a called-for adjoiner, or adjoining tract, may be classed as a monument,[†] provided it is called for, existing at the time of the conveyance, clearly established and identified, and accurately located.

Following are two quotes from the old testament of the *Holy Bible* illustrating early property descriptions using natural features for boundaries and the use of manmade monuments (rock cairns) for inflection points along boundary lines.

And as for the western border, ye shall even have the Great Sea for a border; this shall be your west border. (Numbers 34:6, *The New English Bible*)
 So Jacob took a stone and set it up as a pillar. He said to his relatives, “Gather some stones.” So they took stones and piled them in a heap.... Laban said to Jacob, “Here is this heap, and here is the pillar I have set up between you and me. This heap is a witness, and this pillar is a witness, that I will not go past this heap to your side to harm you and that you will not go past this heap and pillar to harm me.” (Genesis 31:45–52, *The New English Bible*)

5.2 Purposes of Descriptions

Throughout history, mankind has created representative systems, such as written music notation and currency, that have allowed great advances in civilization. One such system, the representation of land with a written description, is especially important to property law. The fact that a parcel of land can be represented by a written document that uniquely identifies the parcel allows for the land to be the subject of legal transactions. In addition, the written description allows for the land to be recorded in a central deed repository and also located on cadastral maps. It allows the described land to have a parallel life as a capital asset in addition to its physical life and ability to support human life. Thus, descriptions have played an important part in aiding the protection of claims to land under legal systems, as well as allowing the consideration of land as a commodity.

5.3 Types of Descriptions

Descriptions referencing formal (recorded) subdivisions—A very common, and simple, type of description is that referencing formal subdivisions of land.

* *Matthews v. Parker*, 299 P. 354, 163 Wash. 10 (1931)

[†] A line called for is quite as controlling as any natural or artificial boundary. *Parran v. Wilson*, 154 A. 449, 160 Md. 604 (1931); *Ramsay v. Butler, Purdum & Co.*, 129 A. 650, 180 Md. 438 (1925)

This type of description involves a reference to a lot or lots within a subdivision of land where a plat of survey has been recorded in the public records.* Descriptions of this type may involve a reference to subdivisions by government agencies such as those performed as a part of the Public Land Survey System (PLSS) or those created by private landowners and recorded in the public records. Such recorded subdivision plats are typically filed in each county courthouse. Most states have statutes providing standards for the survey and platting of such subdivisions. In addition, many counties have subdivision ordinances with additional requirements. Therefore, modern-day subdivision plats are relatively standardized. Since such subdivision plats are available in the public records, a description of land portrayed on such a plat requires only that the lot or lots be identified along with the subdivision name and a reference to where the plat is recorded. With such a description, a plat referenced in a description becomes a part of the description, “with as much effect as if copied into it.”†

Example: Lots 100 and 101 of Dreblow & Company’s the Silver Lake Subdivision as recorded at Plat Book A, Page 3 of the public records of Jefferson County, Florida.

One of the most common problems with subdivision plats is that, frequently, one will not agree 100% in all aspects with the evidence set by the original surveyor on the ground. When encountered by some surveyors, the tendency is to set an additional marker to conform with the distance(s) stated on the plat, sometimes subsequently incorporated in the resulting deed description. Several recent judicial decisions and at least one older decision state that this is an incorrect approach, and when such a disagreement is found, it is to be resolved against the plat.‡

Metes and bounds descriptions—In those U.S. states not subdivided under the PLSS as well as in the U.S. territories, many of the surveys for the original private conveyances were made by the metes and bounds method. Metes and bounds descriptions are also used extensively to describe irregular areas being severed from lands originally subdivided under the PLSS. Examples include mineral surveys, homestead entry surveys, donation tracts, and townsites.

* Instances exist where subdivisions have been done and conveyances made from them that have never been recorded. Many courts have upheld such practice. Modern-day subdivisions result in a plat, but earlier subdivisions have been in the form of sketches, and a few that contained numbered lots from a scheme in the developer’s head, without anything having been drawn on paper. See *Perkins v. Jacobs*, 129 A. 4, 124 Me. 347 (1925).

† *Jacobs v. All Persons, etc.*, 106 P. 896, 12 C.A. 163 (1910); *Goldsmith v. Means*, 158 A. 596, 104 Pa. Super. 571 (1932)

‡ *Tyson v. Edwards*, 433 So.2d 549, 552, Fla. 5th DCA (1983). See *Outlaw v. Gulf Oil Corp.*, 137 S.W.2d 787, Tex.Civ.App. (1940) and *Bean v. Batchelder*, 78 Me. 184, 3 A. 279 (1886).

A metes description identifies a beginning point and then describes each course in sequence around the perimeter of the tract until the point of beginning is reached again to complete the description of the perimeter. Such a description includes a distance and direction for each course. A bounds description defines the boundaries of a tract of land by identifying adjoining properties but does not typically provide a direction. A metes and bounds description provides measurements as well as adjoining properties, where practical, as well as calling monuments.

Examples:

Bounds description: All of that land lying north of State Road 99; bounded on the north by land of Albert Bowie, bounded on the east by lands of Betty Anderson, and bounded on the west by Trout Creek.

Metes description: A tract of land in Section 12, Township 3 North, Range 6 East in Jefferson County, Florida, more particularly described as follows: For a point of beginning, commence at an old axle marking the southeast corner of said Section 12; then go N00°01'E for 200 feet; then go N89°59'W for 400 feet; then go S00°01'W for 200 feet; then go S89°59'E for 400 feet to the point of beginning.

Metes and bounds description: A tract of land in Section 12, Township 3 North, Range 6 East in Jefferson County, Florida, more particularly described as follows: For a point of beginning, commence at an old axle marking the southeast corner of said Section 12; then go N00°01'E for 200 feet along the east line of said Section 12 to an iron pipe; then go N89°59'W for 400 feet to an iron pipe; then go S00°01'W for 200 feet to an iron pipe; then go S89°59'E for 400 feet along the south line of said Section 12 to the point of beginning.

As may be seen from the provided examples, metes and bounds descriptions are somewhat more complex than descriptions merely referencing a recorded subdivision plat. Since the survey creating a metes or bounds description is not typically part of the official records, a metes or bounds description must, in effect, describe the results of the survey creating the parcel and not just reference a plat of survey available in the public records.

Other types of descriptions—There are a number of other types of descriptions used for conveying land. Typical of these is a portion of a given tract based on a certain distance or width, based on a certain area, based on a certain fraction of the total area, or based on a manmade or natural feature such as a road or stream. Another common type is a strip description. This type is frequently used for describing a road easement or right of way. Another type of description being increasingly used is based on geographic coordinates. Many descriptions also use a combination of the previously described types.

Examples:

Division by width: the westerly 50 feet of Lot 2...

Division by area: the southern 10 acres of Government Lot 2...

Division by fraction: the western one-half of Lot 4...

Division by feature: all of Section 12...lying northerly of U.S. Highway 90.

Strip description: A right of way for ingress and egress purposes across a strip of land lying 30 feet on each side of the following described center line...

Description by coordinates: ...For a point of beginning, commence at an old concrete monument marking the south quarter corner of said Section 24 and having a north coordinate of 1,972,048.50 and an east coordinate of 563,589.10; then go N00°01'E for 200 feet to a point having a north coordinate of 1,972,248.62 and an east coordinate of 563,589.16; then go N89°59'W for 400 feet to a point having a north coordinate of 1,972,248.5 and an east coordinate of 563,589.16; then go S00°01'W for 200 feet to a point having a north coordinate of 1,972,048.50 and an east coordinate of 563,589.10; then go S89°59'E for 400 feet to the point of beginning. Coordinates are in feet and are based on the Florida State Plane Coordinate System, North Zone, NAD88.

PLSS descriptions—Descriptions based on the PLSS have traditionally been some of the most commonly used in the United States in the past. Thirty states were subdivided using the rectangular system, as described in the previous section. Therefore, almost all of the privately owned lands in those states were originally conveyed by reference to that system.

The original 1796 Public Land Act specified that public land was to be sold by the section. Since each square-mile section, with a standard size of 640 acres, had its own identity, conveyance of any of the public lands that had been surveyed under the PLSS involved a relatively simple description providing the pertinent section, township, and range. In addition, the description needed a reference to the base line and meridian from which the section had been surveyed and to the pertinent official plat that depicted the section.

Example: Section 6, Township 1 North, Range 2 East, Tallahassee Baseline as depicted on the official General Land Office plat approved June 1, 1842.

Due to concern that the minimum size of 640 acres for land purchases restricted land ownership to the wealthy, successive legislation reduced the minimum size for purchase of public land. In 1800, the half section, with a standard size of 320 acres, became the minimum size. In 1804, the sale of land by the quarter section, with a standard size of 160 acres, was authorized; and in 1820, sale of land by the half quarter section, with a standard size of 80 acres, was approved. Then in 1832, the minimum area for public land sale became the quarter of a quarter section, with a standard size of 40 acres. That size tract became the “modular unit of settlement” and “40 acres and a mule” became the standard requirements considered necessary for subsistence for the average family.

The public land surveys only traversed the perimeter of sections. Thus, all of the boundaries of aliquot parts of sections as described previously were not surveyed in the public land surveys. Nevertheless, the description of such tracts is still a simple process. Figure 5.1 illustrates the convention used. Note that when attempting to visualize the location of aliquot parts of sections, it is best to start at the end of the description and work backward.

Example: The northeast one quarter of the northeast one quarter of Section 11, Township 1 North, Range 2 East, Tallahassee Meridian as depicted on the official Public Land Office plat approved June 1, 1842.

In the platting process for the public lands surveys, it was the practice to divide fractional sections along navigable water bodies into relatively small lots. Typically, the boundaries of such lots were drawn along lines of fractional parts of the section. This was a cartographic process, and the boundaries of such government lots were not surveyed, except for any boundaries coincident with section lines and those coincident with meander lines along the water body. As with descriptions for PLSS sections and aliquot parts of sections, government lots may be described simply by reference to the lot number, section, township, range, base meridian, and pertinent official plat.

Example: Government Lot 3, Section 12, Township 1 North, Range 2 East, Tallahassee Meridian as depicted on the official General Land Office plat approved June 1, 1842.

Descriptions according to lot and range—Throughout the so-called non-rectangular states and areas (non-PLSS) are found individual, stand-alone,

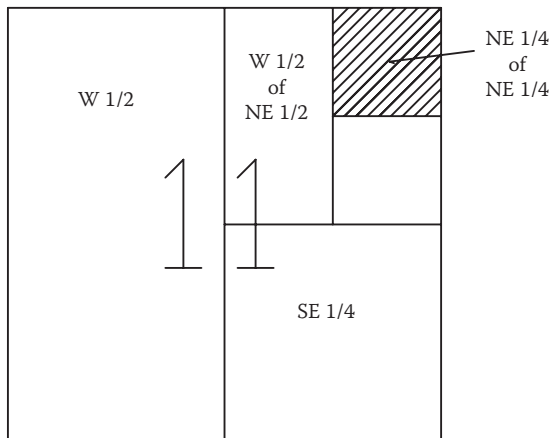


FIGURE 5.1

Fractional parts of public land survey sections.

rectangular divisions (see Chapter 4 for a detailed discussion). Typically, townships were divided into lots of a specified size and arranged in tiers or rows, called ranges. While considerable variation exists in size and shape, many were rectangular in shape, measuring 100 rods by 160 rods. This was a convenient combination to work with, and to divide, since any number multiplied by 160 rods equals that (same) number of acres. As a result, the 100×160 rod lot was 100 acres in size, being an ideal size for the average farm.

One of the modern problems with this type of system is the manner in which the original lots were laid out by survey. The original surveyors, realizing that measuring errors occur, would insert what was known as “allowances,” some of which were standardized, e.g., “Common Allowance of about Twelve Chains to a mile for Sagg of Chain.” This practice led to overrun in acreage in order to ensure that original lots were not too small, thereby shortchanging the recipient. Later retracement surveys frequently did not take such allowances into consideration, resulting in discrepancies within and between subdivided lots.

Where lots overrun in area (acreage), special care must be taken with the interpretation of description. For example, considering that a 100-acre lot may overrun considerably in total area, a 110-acre lot (actual amount, but reported to be 100 acres) could be divided in two basic ways: by size or by area. Conveying *one-half* of the lot, purported to be 100 acres, would result in a 55-acre lot ($1/2$), although reported to be 50 acres. Conveying a specified acreage, such as 50 acres, would result in a 50-acre lot, as reported. However, the remainder, also reported to be 50 acres (thought to be $1/2$), would actually contain 60 acres ($110 - 50 = 60$).

Descriptions based on the longlot system—Also known as arpent lots and river lots, this French system was used extensively along water bodies (lakes and rivers) in some areas. Common in Louisiana and Texas, it also appears in areas settled by the French throughout the eastern states, Maine, New Hampshire, and Michigan being among the most common. Basically rectangular, or nearly so, the lots front on the water, providing access and, depending on the width, extend approximately at right angles back into the interior a specified distance to contain the desired, or planned, area. Generally, these lots were surveyed and numbered according to a specified plan.

Descriptions based on the Rancho System—Ranchos were generally large tracts of land granted by the Spanish or the Mexican government. They were of the metes and bounds type and often consisted of thousands of acres. Even though they are mostly found in the so-called rectangular (PLSS) states, they are independent of that system and were subdivided as the owner chose rather than by public lands procedures.

Description on one side of a described line—Occasionally, a tract of land is described as being on one side of a line described by directions, distances, and monuments. A description of the original tract must be obtained and the line description applied to it in order to define the parcel being separated.

5.4 Writing Descriptions

The preparation of a land description is an important responsibility. The description must be sufficient to represent the land in various legal transactions, such as buying and selling, serving as collateral for loans, and appropriate taxation, and must also allow for the precise location of the limits of a parcel of land for many years after it is written. Thus, it is critical that the description correctly describe the land, relating it to some well-established and readily identifiable point on the earth (or to a document of record that describes such a point) that will allow the precise location of the parcel on the ground (Robillard and Wilson 2014).

Descriptions are typically written with two major elements, a caption and the body of the description. The caption provides the general location and other identifying information, while the body provides a detailed description of the parcel. In addition, the description may include a qualifying clause that takes away rights to land described in the body and an augmenting clause that adds something to the area described in the body.

Example:

(Caption) A tract of land in Section 12, Township 3 North, Range 6 East in Jefferson County, Florida, more particularly described as follows:

(Body) For a point of beginning, commence at an old axle marking the southeast corner of said Section 12; then go N00°01'E for 200 feet along the east line of said Section 12 to an iron pipe; then go N89°59'W for 400 feet to an iron pipe; then go S00°01'W for 200 feet to an iron pipe; then go S89°59'E for 400 feet along the south line of said Section 12 to the point of beginning.

(Augmenting clause) Including an easement for ingress/egress purposes over a 20 foot wide strip running the length of and lying immediately southerly of the described parcel.

(Qualifying clause) The described land is subject to an easement for public ingress/egress over the southerly 20 feet.

The objectives of a description may be summarized as follows:

- To allow for the precise location of the described parcel by a competent surveyor*
- To clearly identify a unique area without ambiguity[†]
- To allow for determining the relationship of the described parcel to adjoining land
- To be physically and mathematically accurate

* The definition of a legally sufficient real property description is one that can be located on the ground by a registered land surveyor. *Rivers v. Lozeau*, 539 So.2d 1147, Fla. App. 5 Dist. (1989)

[†] Ambiguity means doubtfulness; doubleness of meaning; indistinctness or certainty of meaning of an expression used in a written description (*Black's Law Dictionary*).

In addition to these objectives, there is an increasing demand for an additional objective, that of providing a link between the described land and its map representation. With increasing reliance on digital maps for various aspects of land tenure as well as many other aspects of our modern world, there is an increasing demand for the inclusion of geographic coordinates in land descriptions for key points on the described tract, as well as associated metadata for such coordinates.

Some important considerations in writing land descriptions are as follows:

- The caption should identify the state and municipality in which the parcel is located.
- Where recorded subdivision plats or other recorded documents are referred to in the description, sufficient information should be provided to allow location of that document.
- One or more ties to monuments of public record should be provided to allow identification and location of the parcel.
- Any monuments called, especially the reference points for metes and/or bounds descriptions, should be permanent in character, visible, and stable.
- The description should not be in conflict with descriptions of adjoining lands.
- The basis for any directions should be stated. For example, bearings should be identified as being based on astronomic, state plane coordinate grids, magnetic north, or as based on a specifically identified line.
- If coordinates of corners are called, the datum for the coordinates should be stated as well as the epoch for the datum.
- The description should contain no ambiguous terms.
- For any curves called in the description, sufficient information must be provided to allow the determination of the beginning and ending points for the curve as well as the radius point. If the curve is tangent (where the radial line at the beginning of the curve is at right angles to the preceding straight line), it is sufficient to provide the arc length, the radius of the curve, and the direction of the curve. If the curve is not radial, then additional elements are necessary. At least two elements of the curve should be stated. The most frequently used elements are the radius, arc length, central angle, and tangent length. In addition, the relationship of the curve to the previous line, the direction of the curve (e.g., concave to the south), and the direction of travel along the curve (e.g., easterly) should be stated.

Example: Then go 1000 feet along a tangent curve to the left, said curve being concave to the north and a radius of 2000 feet.

5.5 Description Plats

Although the written land description is critical to the land tenure process, an accompanying drawing of the described lands is also important to interpretation of the description and its intent. Further, in some jurisdictions, it is a required part of new descriptions. A detailed plot of a description is especially helpful to users of the description, such as land owners, cadastral mappers, land planners, attorneys, realtors, and well as other nonsurveyor users. In addition, it is helpful to other surveyors attempting to survey the described land.

Land description plats are typically prepared on letter-sized sheets for filing in cadastral systems with the written descriptions. For large tracts and parcels with complex boundaries, it is important that the plats be at sufficient scale for viewing. This may be accomplished with the use of multiple sheets or detail enlargements.

An important aspect of a land description plat is the visual hierarchy of the depicted elements to help the viewer focus on the most critical elements. This can be accomplished by the careful use of line weights and pattern types in the drafting process. As an example, the parcel boundary should have the highest priority, while other lines such as the parent parcel boundaries and commencement tie lines should have a lower priority. That difference could be depicted by a heavier weight line for the parcel boundary.

The important elements of an effective land description plat are as follows (Blake 2014):

- A clear depiction of the boundaries of the subject land, along with associated measurements for each segment of the boundary
- Identification of the point of beginning and point of reference
- Identification of the basis for bearings
- Physical address, recordation parcel identification, and other ownership information related to the parcel
- Identification of and relationship to surrounding parcels

Recommended Additional Reading on Land Descriptions

Cuomo, Paul A. and Roy Minnick (1993). *Advanced Land Descriptions*. Rancho Cordova: Landmark Enterprises. With contributions by Michael J. Pallamary.

Robillard, Walter G. and Donald A. Wilson (2014). *Brown's Boundary Control and Legal Principles*. 7th Edition. New York: John Wiley & Sons.

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