



Redefined Horizons
3938 Kimball Lane
Stockton, California 95206

Brown's Boundary Control and Legal
Principles
Study Notes By Landon Blake
Monday, March 16, 2020

Chapter 3 – Study Notes

Key Terms

Public Lands

Lands owned by the federal government of the United States. Special rules of disposal (transfer to private parties) applies.

Private Lands

Lands owned by private citizens, businesses, local governments (counties and cities), state governments, and foreign governments.

Land Title

Land title is the means or authority by which a landowner proves legal possession. It is not ownership. It is evidence of ownership. (This is because our legal system supports unwritten rights and because there is a location question to all land rights.)

Chain-of-Title

A chain-of-title is a record of all transactions related to a parcel of land back to the time of patent or the time of its creation. A chain-of-title may be required to prove actual ownership, and not just evidence of ownership.



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Key Concepts

The Government's Role In The US Cadastral System

- The government has the authority to tax and regulate the use of land.
- The courts adjudicate possession and the relationship of possession to title lines (deed lines or boundary lines).

The Definition and Sources of Land Title

- Title is the means or authority by which a landowner proves legal possession. It is not ownership. It is evidence of ownership. (This is because our legal system supports unwritten rights and because there is a location question to all land rights.)
- There are 13 ways to obtain title in the United States. The most common means of title transfer dealt with by the land surveyor are:
 - 1) Title by patent from the US federal government.
 - 2) Title by patent from a state government.
 - 3) Title by deed or private grant.
 - 4) Title by will from a deceased person.
 - 5) Title by involuntary transfer.
 - 6) Title at law (transfer by a court decision).
- You can't convey legal title to more land than you own. (This is why junior/senior rights are important to land surveyors.)
- Voluntary transfers of real property need to be in writing.
- There is a presumption that voluntary transfers of real property convey fee unless stated otherwise.
- Property transfers in the United States are typically recorded in a public database or repository.
- In most of the United States evidence of ownership (title to land) is recorded, not the actual ownership of land. (Conflicting deeds can be recorded.)
- In a Torrens system, actual record of ownership is recorded. The recording document has final authority. Unwritten rights aren't allowed.
- A chain-of-title is a record of all transactions related to a parcel of land back to the time of patent or the time of its creation. A chain-of-title may be required to prove actual ownership, and not just evidence of ownership.
- There are judicial alternatives to proving ownership by a chain-of-title. (For example: A quiet title action.)
- Surveyors often need to research chain-of-title farther back than attorneys or land title professionals. (They are interested in creation events that fall outside the statute-of-limitations.)



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- Land title can be transferred in the US cadastral system by several legal doctrines. These doctrines include adverse possession, prescriptive easements, boundary line by agreement, estoppel and others.,
- The land surveyor needs to be aware of unwritten rights.
- The evidence a land surveyor collects in the field may be used to prove or disprove unwritten rights in land.
- Unwritten rights are created once the legal criteria have been met by "facts on the ground". A court doesn't create unwritten rights. It merely recognizes the existing unwritten rights.
- A court decree is needed to create marketable title to land or land rights obtained by unwritten means.
- Involuntary transfers of real estate recognized in the US cadastral system include foreclosure, tax seizure, and escheat.

Resolution of Land Ownership Conflicts

- The courts adjudicate possession and the relationship of possession to title lines (deed lines or boundary lines).
- Conflicts about land ownership occur in the cadastral system.
 - 1) Conflicts occur when two parties claim the same property or property right.
 - 2) Conflicts occur when one party has possession and another party has legal title.
 - 3) Conflicts occur when a land description that defines the location of a property right conflicts with another land description (or survey).

Land Descriptions

- Descriptions of a parcel of land can be below the surface, above the surface, or at the surface.
- A deed is not a land description. A deed contains a land description.
- Conflicts occur when a land description that defines the location of a property right conflicts with another land description (or survey).
- To be legally valid a deed must meet requirements defined by law. These requirements include:
 - 1) Identification of competent parties.
 - 2) Operative words of conveyance.
 - 3) A sufficient description of the real estate being conveyed.
- Unqualified people prepare land descriptions. These include land owners, attorneys, utility company employees, land title professionals and even land surveyors.
- Land descriptions have an important historical context. This includes the type of measurements in use when the land description was prepared.
- Distance measurements in land descriptions can be along a horizontal surface or follow the slope of the land. Historical context is important.



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- There are different types of basis-of-bearings. Historical context is important. States have different rules about presumptions made about basis-of-bearings and conflicts between bearings and distances.
- Elevation contours can be used as a controlling call in land descriptions.
- Land descriptions have four (4) main parts:
 - 1) Caption.
 - 2) Body.
 - 3) Qualifying clauses.
 - 4) Augmenting clauses.
- There are several different types of land descriptions. These include:
 - 1) Perimeter
 - 2) Bounds
 - 3) Strip
 - 4) Aliquot
 - 5) Combination
- Multiple controlling calls for the same course can create conflicts in location.

Land Title Abstracting And Land Title Insurance

- We need land title insurance for two reasons:
 - 1) Only evidence of ownership is recorded. This evidence can conflict.
 - 2) Most buyers of real estate aren't qualified to determine if valid marketable title is being sold.
- There are common exclusions to title insurance coverage. Land surveyors should know what they are.
- Title abstracts and title opinions (prepared by a land attorney) are alternatives or complements to land title insurance.