

### The original *Spice Girls*?

#### **Man beaten to death with spice grinders**

DHAKA, Bangladesh (AP) — Five women armed with heavy spice grinders and Iron rods surprised a sleeping man and beat him to death over a land dispute, a newspaper said Thursday. The women, aged 18 to 45, attacked the man in his hut near Dhaka late Wednesday and he died a few hours later, the newspaper Ittefaq said. Their family had been engaged in along-standing dispute with the man over about a half-acre of land, Ittefaq said.

### A *Very* Basic Introduction to Boundary Law



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## Learning Objectives

Types of law; Boundary control  
How boundaries are created; Characteristics  
Where the Rules of Construction come from  
How gaps and overlaps are handled  
Description interpretation issues: Ambiguities;  
Controlling/informative terms  
Written intent conflicts

## Just enough to be dangerous...



A ~60 slide Powerpoint can't make you an expert in boundary law.

This material is a general overview with some caveats because it is in part based on common law. Common law can vary between jurisdictions; as a practicing surveyor you must be familiar with its principles in your area.

Often there is no definitive solution to a re-establishment problem, only the "best" given the circumstances.


The answer to a boundary question is often "It depends..."

Changing evidence even a little can dramatically affect the conclusion.

Research is key, including a title search back to parcel origins & parcel evidence.

Consider all reasonable alternatives and why they do or don't apply.

## I. Law and Boundaries



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### A. Type of Law


#### 1. Statutory

Constitution creates Legislature and grants it law making power.

Legislative bodies at

- Federal
- State
- Local


Statutes are written law



Legislature can create regulatory or administrative agency and give it rule making authority

- Narrower scope than legislature
- Rules have same authority as statutes

## I. Law and Boundaries



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### A. Type of Law

#### 2. Common Law

Rules, beliefs, and principles derived from long continued usage and customs (tradition), or judgments and decrees of judicial tribunals.

Based on consistent application.

- Use of pervious similar situations for decision framework.
- Quantity and quality of evidence is important.



Judicial common law

- Trial level courts (lowest level) decisions must be within framework of existing common law.
- It is created, affirmed, overturned at the appellate level (couts of appeals and supreme courts).

## I. Law and Boundaries

### B. Statute of Frauds

*Contract must be in writing to be valid.*


- All terms included
- Prevents contradiction by action or word
- Interested third parties can interpret

All states have a Statute of Frauds


*Deed is a contract for property conveyance*


- Description defines physical extent and rights transferred
- Written intent

States have statutes which identify required elements for a valid deed.



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## I. Law and Boundaries

### C. Boundaries

*Are either created or re-established*

1. Creation

Controlled by statutory law.

Examples include:

Subdivisions; Condominiums; Small land divisions, Cemeteries, etc

Regulations may define:

Minimum lot sizes, maps, descriptions, monumentation, survey accuracies


USPLS: Federal level regulation

Original Instruction letters

1855 - First Manual

2009 - Latest Manual

Procedures, survey accuracies, monumentation, documentation, etc.



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**I. Law and Boundaries**

**C. Boundaries**  
*Are either created or re-established*

**1. Creation**

Corner

A legal entity with a specific location but without physical attributes (dimension and composition)  
Boundaries connect corners; a corner is where a boundary changes direction or character.  
A *monument* is physical evidence of a corner location.

To maintain boundary stability and integrity

- Where corners were originally placed is where they belong today
- Once created, a boundary exists in perpetuity unless removed by a legal process.
- Rights of adjoining owners sharing a boundary are established at boundary creation.

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**I. Law and Boundaries**

**C. Boundaries**  
*Are either created or re-established*

**1. Re-Establishment**

Re-establishment seeks to re-create a boundary in its original location.  
A resurvey collects evidence and surveyor evaluates it to determine original corner locations.

Re-establishment is controlled by common law.  
Provides evidence evaluation framework  
Evidence quantity and quality are paramount.

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## II. Parcel Creation Methods



### A. Parentage

#### *Parent-Child*

A child parcel is part of a parent parcel

At least one new boundary

Possible shared boundaries

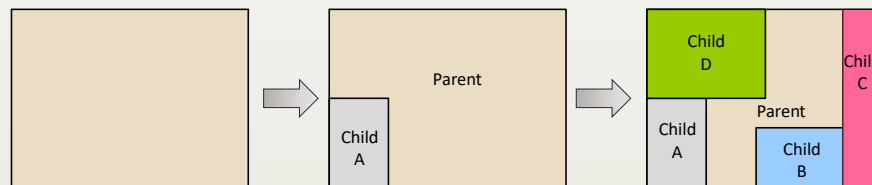
Multiple children, multiple new boundaries – how do they relate?



#### *Family analogy*

Child inherits characteristics from parent

Parent must provide for child



## II. Parcel Creation Methods



### A. Parentage

#### *How boundaries are created affect:*

Description type

How are gaps and overlaps handled

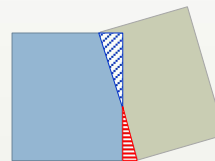
#### Boundary creation

Establishes boundary once and forever.

Creates adjoining relationship

Location is "without error."

Creates evidence framework for later re-establishment.




#### *Creation methods*

Simultaneous

Sequential

Combination

## II. Parcel Creation Methods

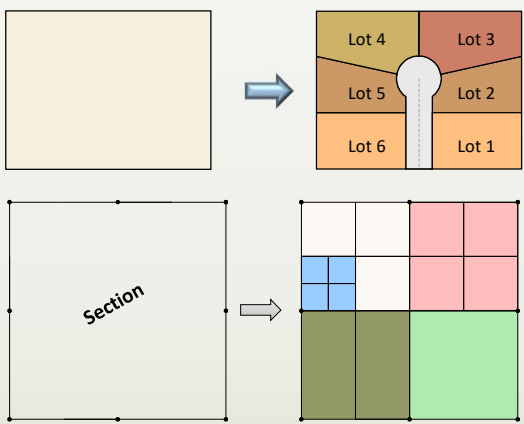


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**B. Processes**


1. *Simultaneous*

Boundaries created at the same time by the same legal instrument. Have equal standing - no Sr-Jr relationships.



*Description types*  
Lot and block  
Aliquot part

## II. Parcel Creation Methods

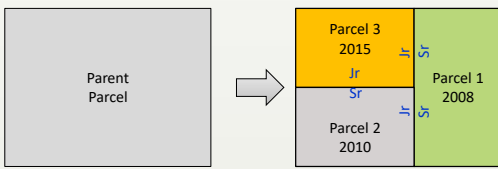


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**B. Processes**


2. *Sequential*

New parcels created independently from same parent over time.  
Earlier created boundaries have precedence (senior) over later created ones (junior).



*Description types*  
Metes  
Bounds  
Metes and Bounds

## II. Parcel Creation Methods

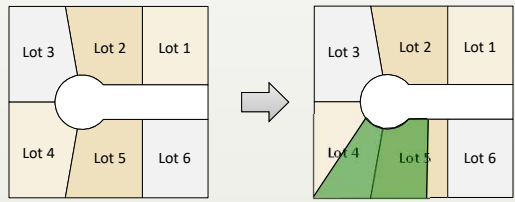


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**B. Processes**

3. *Combination*

New parcels created by combination of simultaneous and sequential processes.  
 New boundaries can have characteristics of either or both.  
 Senior-junior standing may or may not exist




*Description type*  
 Quasi-metes and bounds;  
 "of"

New parcel is part of Lot 4  
and part of Lot 5

Parcel I: The South 25 feet of Lot 6 and the South 25 feet of the West 1/2 of Lot 5, in Block 84 in Plot of Lots 3 and 6 of the North 1/2 of the SE 1/4 of Section 32, Town 7 North, Range 22 East, in the City and County of Milwaukee, Wisconsin.

## III. Boundary Re-Establishment



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**A. Rules of Construction (RoC)**

*Evidence*

Evidence framework established at original boundary creation.  
 Deed (written intent) and (possibly) physical monumentation.  
 Over time, evidence added and removed based on human and natural action.


*Boundary Creation*

Written


  

Physical

*Secondary Evidence added*



*Evidence lost*




*Boundary Re-establishment*

*Collateral evidence* is secondary, often derived from original evidence.  
 Examples: fences, streets, replacement monument, parol, etc.

At boundary re-est, evidence may conflict - How to resolve?




### III. Boundary Re-Establishment



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#### A. Rules of Construction (RoC)

*Evaluation guide*



Increasing weight

Right of possession (unwritten rights)

Senior right (in case of overlap)


Written intentions of the parties (description)

Call for survey

Call for monuments; adjoiner

Direction/distance

Area/Coordinates




Matter of Title

Matter of Survey

If elements conflict, RoC indicates their relative weight

- Not strict; guidelines
- Description wording can change order
- As can evidence type and character
- If higher elements are lost, lesser ones carry greater weight.

### III. Boundary Re-Establishment



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#### B. Right of Possession: Unwritten Rights

*Based on adjacent owners' actions/inactions*

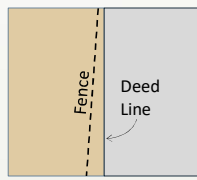
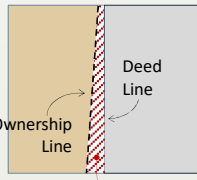
Ownership departs from description

Doctrines

- Adverse possession
- Prescription
- Oral agreement
- Equitable estoppel
- Recognition and acquiescence


Ownership determined by courts

- Surveyor doesn't have authority
- Map deed and use (encroachment) lines

Unwritten Right

### III. Boundary Re-Establishment



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#### C. Senior Right: Gap or Overlap

*Precedence establishment*

Once boundary is created, Sr-Jr relationship is established and doesn't change unless boundary is legally removed.

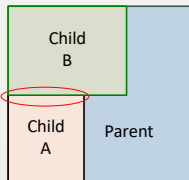
Is a **boundary** attribute, not an **owner** attribute

Child inherits parent's Sr-Jr standing along shared boundaries.


Parent is junior to children – parent must provide.

≥2 adjoining children from common parent-  
overlap/gap potential

Resolution depends on how parcels are created



### III. Boundary Re-Establishment



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#### C. Senior Right: Gap or Overlap

*1. Simultaneous*

Parcel boundaries have equal standing: no sr-jr rights

Excess or deficiency proportioned between found original corners

Subdivision

125.0 ft	100.0 ft	150.0 ft
<i>Lot 1</i>	<i>Lot 2</i>	<i>Lot 3</i>

Lot 1:  $W = (372.5/375.0) \times 125.0 = 124.2$  ft

Lot 2:  $W = (372.5/375.0) \times 100.0 = 99.3$  ft


Lot 3:  $W = (372.5/375.0) \times 150.0 = 149.0$  ft

✓ 372.5 ft

USPLS

Single or Double Proportionate Measurement and variations.

III. Boundary Re-Establishment



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**C. Senior Right: Gap or Overlap**

*1. Simultaneous*

Exception to proportionate distribution rule:  
When there is a deficiency and one (or more) of the parcels affected is owned by the public; the public gets what was dedicated.

100.0 ft	120.0 ft		140.0 ft	100.0 ft
Lot 1	Lot 2	60.0 ft Street	Lot 3	Lot 3

Record: 520.0  
Measured: 518.0  
Deficiency: 2.0

The Street gets its dedicated 60.0 feet  
That leaves 458.0 feet to distribute  
across the Lots


Lot 1:  $100.0 \times (458.0 / 460.0) = 99.6$

Lot 2:  $120.0 \times (458.0 / 460.0) = 119.5$

Lot 3:  $140.0 \times (458.0 / 460.0) = 139.4$

Lot 4:  $100.0 \times (458.0 / 460.0) = 99.6$

III. Boundary Re-Establishment



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**C. Senior Right: Gap or Overlap**

*2. Sequential*

Earlier created boundaries have higher standing than later boundaries

Parent Parcel

Parent Remainder

Jr  
Sr

A: 2008

Parent Remainder

Jr  
Sr

A: 2008

B: 2010

Jr  
Sr

A: 2008

C: 2015

Jr  
Sr

A: 2008

B: 2010

Jr  
Sr

A: 2008

**III. Boundary Re-Establishment**

**C. Senior Right: Gap or Overlap**

*2. Sequential*

Child inherits parent's sr-jr relationship along shared boundaries

Parcel D description might call Parcel B as adjoiner **but** Parcel D is senior by inheritance.

**III. Boundary Re-Establishment**

**C. Senior Right: Gap or Overlap**

*2. Sequential*

Along sr-jr boundaries:

- Sr parcel protected in case of an overlap - the junior parcel yields.
- If excess, then what happens with the gap?

Touchy situation: Give to one parcel or other or split between?

### III. Boundary Re-Establishment



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#### C. Senior Right: Gap or Overlap

##### 2. Sequential

A deed is a contract for land conveyance & must follow the same rules.

It has long been the policy in Nevada that absent some countervailing reason, contracts will be construed from the written language and enforced as written. *Cf. Southern Trust Mort. Co. v. K & B Door Co., 104 Nev. 564, 568, 763 P.2d 353, 355 (1988)* (where document is clear on its face, the court will construe it according to its language).

*Ellison v. California State Auto. Ass'n*, 797 P. 2d 975 - Nev: Supreme Court 1990

We also would decline to modify the express terms of a written contract agreed to by competent parties.

*Willis v. Champlain Cable Corp.*, 748 P. 2d 621 - Wash: Supreme Crt 1988

### III. Boundary Re-Establishment

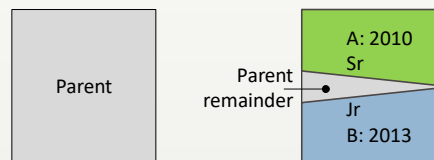


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#### C. Senior Right: Gap or Overlap

##### 2. Sequential

Strict interpretation: unconveyed gap is created



Pg. 425, *Brown's Boundary Control and Legal Principles*, 6th Ed

Gap is unconveyed

Pg. 337

Court opinions vary; generally:

if gap is large, it is unconveyed

if gap is small, it goes to *junior* owner

why the junior owner?

### III. Boundary Re-Establishment



#### C. Senior Right: Gap or Overlap

##### 2. Sequential

Strict interpretation: unconveyed gap is created

Pg. 203, *Illinois Boundary Law*, Jeff Lucas cites a few cases that grant gap to junior owner.

Not to be outdone, when considering a gap between a senior and junior owner:

The circuit court was of the opinion that it would be equitable **to divide the 2.55-foot strip equally between the parties**. Such division of land unintentionally omitted from conveyances of adjoining properties is somewhat analogous to the apportionment of discrepancies between the actual measurements of a subdivision and the measurements of the lots therein as shown by the recorded plat... Under the circumstances, we agree that the division made by the circuit court was fair and equitable.

*Pavela v. Fliesz*, 133 N.W.2d 244, 26 Wis.2d 710

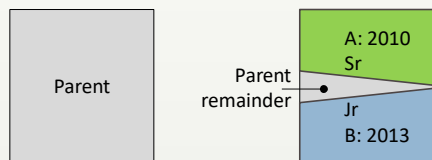
### III. Boundary Re-Establishment



#### C. Senior Right: Gap or Overlap

##### 2. Sequential

So the right answer is: It depends.



Note in the RoC it says “Senior right in the event of an overlap”

Does not address a gap.

Best way to treat:

Gap is a Matter of Title – depends on common law of jurisdiction

Overlap can be a Matter of Survey

### III. Boundary Re-Establishment



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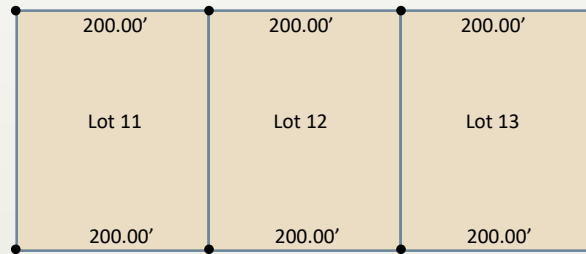
#### C. Senior Right: Gap or Overlap

##### 3. Combination

Parcel boundaries may or may not have sr-jr relationships

Example:

Subdivision: simultaneous, no sr-jr relationships



### III. Boundary Re-Establishment



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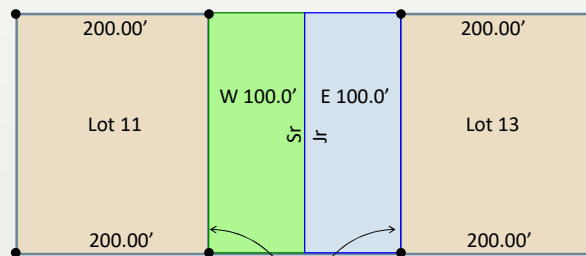
#### C. Senior Right: Gap or Overlap

##### 3. Combination

Parcel boundaries may or may not have sr-jr relationships

Example:

Sequentially: "West 100.0 ft of Lot 12" later "East 100.0 ft of Lot 12"



No sr-jr relationships  
along these lines.

**III. Boundary Re-Establishment**

**C. Senior Right: Gap or Overlap**

3. *Combination*

Parcel boundaries may or may not have sr-jr relationships

Example:  
 Sequentially: "West 100.0 ft of Lot 12" later "East 100.0 ft of Lot 12"

The diagram illustrates three adjacent lots: Lot 11 (left, 200.00' wide), Lot 12 (middle, 198.0' wide), and Lot 13 (right, 200.00' wide). Lot 12 is divided into two sections: a green section on the left labeled 'W 100.0\'' and a blue section on the right labeled 'E 100.0\'. A vertical dashed line with a red and white striped pattern separates the two sections. The total width of the three lots is indicated as 202.0' at the bottom.

**III. Boundary Re-Establishment**

**C. Senior Right: Gap or Overlap**

3. *Combination*

Parcel boundaries may or may not have sr-jr relationships

Example:  
 Sequentially: "West 100.0 ft of Lot 12" later "East 100.0 ft of Lot 12"

The diagram is identical to the one above, but with additional measurements and a note. The green section of Lot 12 is now labeled '100.0\'' and the blue section is labeled '98.0\'. The total width of the three lots is still 202.0'. A red arrow points to the 2.0' gap between the boundaries of the green and blue sections, with a note: "2.0' Remainer Same issue as sequential conveyances."



**III. Boundary Re-Establishment**

**C. Senior Right: Gap or Overlap**

3. *Combination*

Parcel boundaries may or may not have sr-jr relationships

Example:  
 Instead: "West 100.0 ft of Lot 12" later "Lot 12 except West 100.0 ft"

No sr-jr relationships along these lines.

**III. Boundary Re-Establishment**

**C. Senior Right: Gap or Overlap**

3. *Combination*

Parcel boundaries may or may not have sr-jr relationships

Example:  
 Sequentially: "West 100.0 ft of Lot 12" later "East 100.0 ft of Lot 12"

### III. Boundary Re-Establishment



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#### D. Written Intent

##### 1. Description

###### a. Description Interpretation

Simultaneous: references to map or plat

Unless errors on map, intent relatively clear

Sequential or Combination: *narrative* descriptions

Greater conflicts potential

- Archaic terms, "ancient" measurements

"Commencing at a point 20 rods 19 links North of a point that is 26 links East of the East side of the steel tube at the Northeast corner of the wagon bridge..." (1992)

- Written by non-surveyors

"Commencing at the West 1/4 corner of Section 9; thence N80° 29ft 17in. East, 2781.62 ft; thence S89° 11ft East, 177.84 ft;..." (1996)



Surveyor must follow common law principles to interpret & apply description

### III. Boundary Re-Establishment



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#### D. Written Intent

##### 1. Description

###### b. Controlling and Informative Terms

Controlling: defines course termination and/or path

Key words: to, along, parallel, perpendicular, with, continuing...

Identify a condition

Informative: all other terms, help identify controlling term(s)



"...thence North 38 degrees West 139.6 feet **to** an iron stake..."

Go to and end at the iron stake (*to*);

Monument higher element, dist & dir yield if conflict.

"...thence southwesterly **along** said high water mark **to** an iron stake..."

Course follows topographic feature (*along*)

and ends at an iron stake (*to*);

### III. Boundary Re-Establishment



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#### D. Written Intent

##### 1. Background

##### c. Ambiguities

##### (1) Extrinsic evidence

Physical and parol evidence outside the description.

Cannot be used to change description terms, only help explain.



##### (2) Ambiguity Types

Ambiguity: when something can be *reasonably* interpreted more than one way. Introduces confusion.

Common in descriptions written by non-surveyors.

### III. Boundary Re-Establishment



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#### D. Written Intent

##### 1. Background

##### c. Ambiguities

##### (2) Ambiguity Types

##### (a) Latent

Hidden, not apparent until application.



A parcel of land in sec. 16, T8N, R8E, described as follows: the old farm house plus 23 feet to the north, 40 feet to the south, 116' to the west and 95 feet to the east of the outside walls of said farm house. The easterly, northerly and westerly boundaries are intended to convey land to the center of a road around said property. Said description is intended to convey 1/3 to 1/2 acre of land including one-half of the well and water rights on said property.

May need extrinsic evidence to reconstruct location

### III. Boundary Re-Establishment



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#### D. Written Intent

##### 1. Background

##### c. Ambiguities

##### (2) Ambiguity Types

##### (b) Patent

Obvious, immediately apparent



Commencing at the West 1/4 corner of Section 9;  
thence N80° 29ft 17in. East, 2781.62 ft; thence  
S89° 11ft East, 177.84 ft; thence S34° 04ft 40 in  
East, 123.68 ft to the point of beginning; thence  
continues S34° 4ft 40in East, 98.68 ft; thence S55° 55ft 20in West, 15.36 ft;  
thence Southwesterly along a curve to the right having a radius of 1487.50 ft,  
and a long cord which bears S58° 13ft 50in West, 113.79 ft; thence N4° 4ft West,  
108.00 ft; thence N55° 55ft 20in East, 76.85 ft to the point of beginning.

Lot 2 CSM 5857 CS 27 Diagonal 307 and 308, R12866 Diagonal, 52-5 Diagonal  
26 Diagonal 89 described as Sec. 13-7-6, Part of E 1/2, SW 1/4 and Sec. 24-7-6,  
Part of NE 1/4, NW 1/4, 5.751 acres

Mistake in original contract.

Mistake must be found and applied where it occurred.

Correction instrument

### III. Boundary Re-Establishment



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#### D. Written Intent

##### 2. Call for survey

Some boundary creations are based on survey and monumentation

USPLS: survey before sale

Subdivision plat: map and monument before sale

Survey & map are primary evidence of intent.

Typical for simultaneously created parcels.



##### 3. Monuments and Corners

##### a. Monument v Corner

Corner: legal location; dimensionless

Monument: physical feature used to mark a corner

Monument is corner surrogate, if it controls

### III. Boundary Re-Establishment



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#### D. Written Intent

##### 3. Monuments and Corners

###### a. What's the Diff?

Corner: dimensionless legal entity where boundary changes direction.

Monument: Physical object serves as evidence of a corner.

Corner surrogate if it controls

###### b. Monument

(1) To control over lesser elements, it must be

- Called in description
- Identifiable
- Undisturbed

Can control

- Direction and termination
- Direction only; termination controlled by higher element

(2) Accessories

When established at original monument placement, are considered part of the monument.



### III. Boundary Re-Establishment



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#### D. Written Intent

##### 3. Monuments and Corners

###### c. Corners

(1) Disposition: Location certainty

- Existent (Found): position can be identified by original mon/acc or acceptable physical & parol evidence. Location is certain.
- Obliterated: no traces of original mon/acc, but position can be re-est beyond reasonable doubt using physical & parol evidence.
- Lost: Insufficient evidence to re-est beyond reasonable doubt. Must resort to measurements to surrounding corners.



### III. Boundary Re-Establishment



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#### D. Written Intent

##### 3. Monuments and Corners

##### c. Corners

##### (2) Common Report

Location based on reputation

- Reasonable location
- Accepted by all affected parties
- Location can't be disproved

Avoid using this location justification. Based on unwritten rights.

Evidence collection and evaluation.



### III. Boundary Re-Establishment



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#### D. Written Intent

##### 4. Measurements

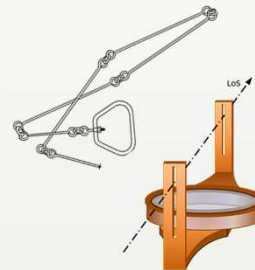
##### a. Distance and Direction

Inferior to a controlling monument

Control if:

- Monuments not called
- Called monuments are lost

Direction basis? Can recreate in field?



Commencing at a 2" iron pipe at the west quarter corner of Section 31, T5N, R10E;  
Thence S88°16'52"W, 0.30 feet to the existing east line of Section 1, T5N, R9E;  
Thence S00°18'01"W, 0.01 feet along said east line of said Section 1;  
Thence S00°18'01"W, 33.20 feet along said east line;  
Thence N88°34'15"E, 33.78 feet to the existing east right-of-way line of STH 104, also being the point of beginning;  
Thence N88°47'53"E, 803.03 feet along the existing south right-of-way line of STH 92;  
Thence N88°17'20"E, 55.46 feet along said south right-of-way line;

### III. Boundary Re-Establishment



#### D. Written Intent

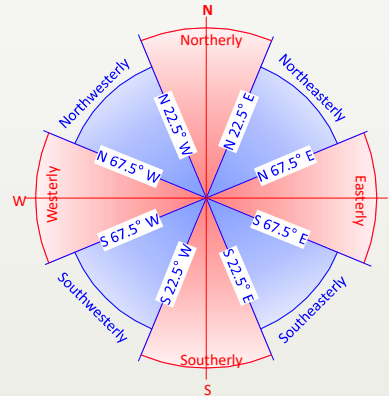
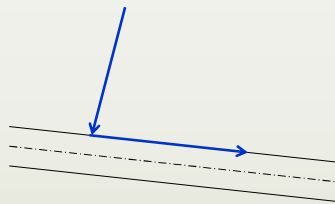
##### 4. Measurements

##### b. General directions

Informative term

A range of directions for each general one

"...to the northerly sideline of Maple Drive;  
thence easterly along said sideline..."



### III. Boundary Re-Establishment



#### D. Written Intent

##### 4. Measurements

##### c. What's a conflict?

Last two courses "... thence  $S18^{\circ}20'W$ , 283.2 ft to a 1/2-inch iron pin; thence 220 ft back to the point of beginning."

All corners have been recovered until last one before POB.

No monument evidence at  $S18^{\circ}20'W$ , 283.2 ft, pt A.

1/2-inch iron pin at  $S17^{\circ}50'10''W$ , 285.72 ft, p B.

A & B  $\sim 3$  ft apart.

POB to pt A is 220.5 ft, to pt B 224.52 ft.



Are dist and dir to pt B "too far" from record dir and dist?

Can lower elements control over higher elements?

Does pt A fit closing line better than pt B?

Is B-POB dist within the uncertainty of the 220 ft call?

How much must elements differ to conflict with each other?

Extrinsic evidence?

### III. Boundary Re-Establishment



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#### D. Written Intent

##### 5. Area/Coordinates

###### a. Area

USPLS: nominal or legal area. Actual area may be larger or smaller.

Subdiv laws: areas included on plat

Informative in both cases.

M&B descriptions

Area generally in summation

"...said parcel containing 1.5 acres."

Informative

Controls if intent was to convey specific amount.

"...the Easterly 2 acres..."

"...the southeasterly half..."

### III. Boundary Re-Establishment



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#### D. Written Intent

##### 5. Area/Coordinates

###### b. Coordinates

Coordinates, even with GPS, are derived quantities.

Historically: not included or were informative.

Times a changin':

**Part of the Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter, Section 30, Township 16 North, Range 2 West, Monroe County, Wisconsin, more particularly described as follows: Commencing at the Southwest corner of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$  of SW $\frac{1}{4}$ ); thence easterly along the South line of the forty, 1,102 feet, more or less, to GPS waypoint, Lat. 43.827330, Long. -90.666967, which is the point of beginning; thence continuing easterly along the South line of said Section 30, 1,592 feet, more or less, to GPS waypoint, Lat. 43.827326, Long. -90.660929; thence Northerly 487 feet,**

No higher element calls.

Controlling terms: to GPS waypoint

Coordinate questions

Units? Accuracy? Datum realization?

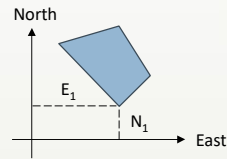


**D. Written Intent**

5. Area/Coordinates

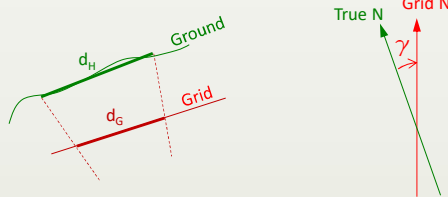
b. Coordinates

What about using grid coordinates?



Computed distance and direction between coordinates are not the same as ground-based measurements.

Projecting 3D Earth to 2D grid creates distance and direction distortions.



**D. Written Intent**

5. Area/Coordinates

b. Coordinates

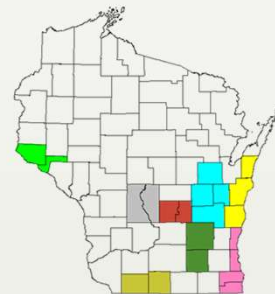
Low Distortion Projections (LDP)

Minimize ground-grid distortions:

- Cover smaller areas
- Are closer to ground level




Zones	14
Max Distortion (ground to grid)	1/40,000



Zones	59
Max Distortion (ground to grid)	1/40,000 rural 1/50,000 urban

### III. Boundary Re-Establishment



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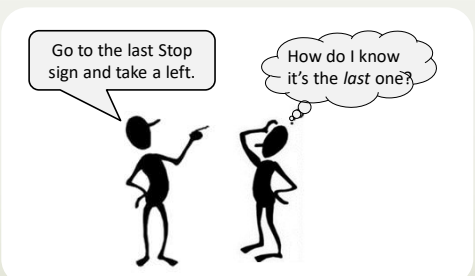
**D. Written Intent**

6. *More or less*


Indicates an element has unknown certainty.  
 The element is informative  
 Similar terms: *approximately, plus minus, ±, about*

*"...thence running in an Easterly and Southeasterly direction along the South and Southwesterly line of private road that is used by the grantee herein a distance of about 28 rods; thence..." (2001)*

Need extrinsic evidence



### III. Boundary Re-Establishment



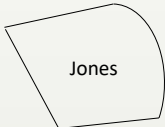
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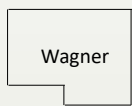
7. *Quasi Metes and Bounds (QM&B)*

Combination Conveyances QM&B description have their own issues:  
 Easy to write and among the most ambiguous.

"...Easterly 100.0 ft of the Jones land..."



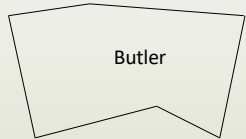
"... southerly 5000 sq ft of Wagner..."



"...northerly half of Lot 9 and 10..."

Lot 8	Lot 9	Lot 10
----------	----------	-----------

"...the northwesterly 1/4 acre of Butler..."



**III. Boundary Re-Establishment**

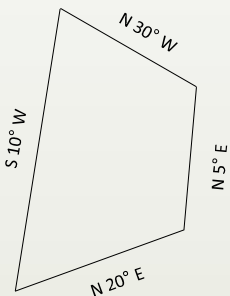
**D. Written Intent**

7. *Quasi Metes and Bounds (QM&B)*

Simple example

"Easterly 100 ft of Lot 7"

With no physical or parole evidence, how would the west line of the description be established?



The diagram shows a quadrilateral lot with the following bearings: the left side is S 10° W, the top side is N 30° W, the right side is N 5° E, and the bottom side is N 20° E.

**III. Boundary Re-Establishment**

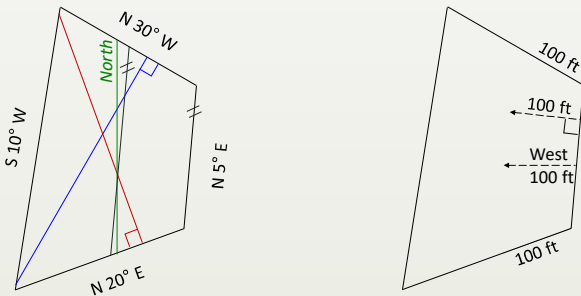
**D. Written Intent**

7. *Quasi Metes and Bounds (QM&B)*

Simple example

"Easterly 100 ft of Lot 7"


With no physical or parole evidence, how would the west line of the description be established?



The first diagram, labeled "Possible line directions", shows the quadrilateral lot with a vertical green line labeled "North" and a blue line extending from the top-left corner towards the right side. Right-angle symbols are shown at the intersections of the green line with the top and bottom boundaries.

The second diagram, labeled "Ways to measure 100 ft", shows the same quadrilateral lot with a horizontal line extending 100 ft west from the top boundary and another horizontal line extending 100 ft west from the bottom boundary. Right-angle symbols are shown at these intersections.

III. Boundary Re-Establishment



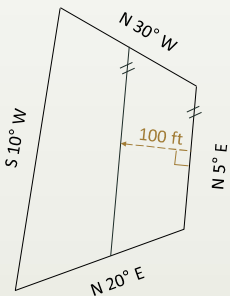
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**D. Written Intent**


7. *Quasi Metes and Bounds (QM&B)*

General Common law principles:

- Create a child similar to the parent by creating a parallelogram - direction of the new boundary is parallel with the referenced parent boundary.
- Where multiple interpretations exist, the one most benefiting the grantee, within reason, is used.



III. Boundary Re-Establishment

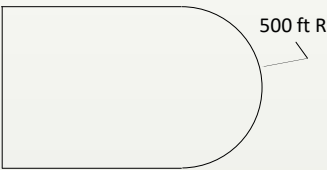


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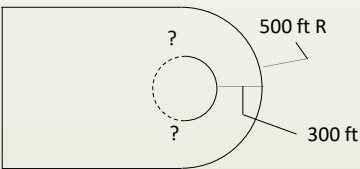
7. *Quasi Metes and Bounds (QM&B)*

Although a principle is useful only if it can be consistently applied, there can be situations where the description is too ambiguous.



Apply the principles to the "...Easterly 300 ft of..."

where the easterly parent boundary is curved.



A parallel boundary is a concentric arc with a  $500-300=250$  ft radius.

It doesn't intersect parent lines.

Creates a parent remainder island.  
Is that reasonable?

**IV. Examples**

**A. Examples 1**

The lots and street in the diagram below are in the same subdivision. Black numbers are record, red are contemporary measurements between found original corners. Is there any excess or deficiency and if so, how would you deal with it?

**IV. Examples**

**B. Example 2**

The owner of Parcel B subdivided his property into 6 lots and a dedicated street. On the last diagram black numbers are record, red are contemporary measurements between found original corners. What are the south line lengths of Lots 4-6?

Two issues:

1. 0.72' Overlap onto Parcel A
2. 1.00' deficiency along Lots 4-6

**IV. Examples**

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**B. Example 2**

The owner of Parcel B subdivided his property into 6 lots and a dedicated street. On the last diagram black numbers are record, red are contemporary measurements between found original corners

What are the south line lengths of Lots 4-6?

Two issues:

1. 0.72' Overlap onto Parcel A
2. 1.00' deficiency along Lots 4-6

The overlap only affects Lot 4.  
Can't distribute it into the others.  
The deficiency affects all three lots.

**IV. Examples**

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**C. Example 3**

"...Beginning at a 1-inch diameter iron bar in the north line of the Pohl property; thence N10°20'E 241 ft to a 1/2-inch iron pin; thence N85°35'E 267 ft to a 1/2-inch iron pin; thence S18°45'W 283 ft; thence back to the point of beginning"

First two courses found with no issues. Diagram shows third course situation.

How to run in last two courses?

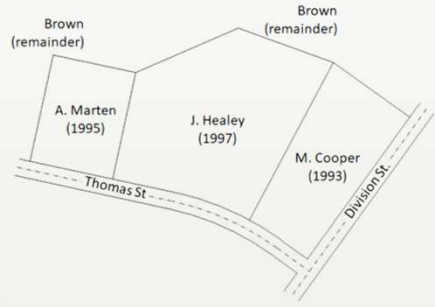
Assume no extrinsic evidence available.

No monument found at S18°45'W 283 ft. This location is 1.3 ft S of Pohl's line.

1/2-inch iron pin found at S17°50'36"W 282.91 ft. Pin is 2.0 ft S of Pohl's line. Origin unknown.

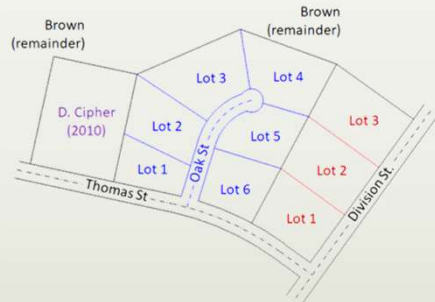
Distance between the two positions is ~2.5 ft.

**D. Example 4**



Brown owned a large rural property at the corner of Thomas and Division Streets, both public roads.

Over time, Brown created and sold off three parcels to Cooper, Marten, and Healey. Creation date for each is shown in parenthesis.

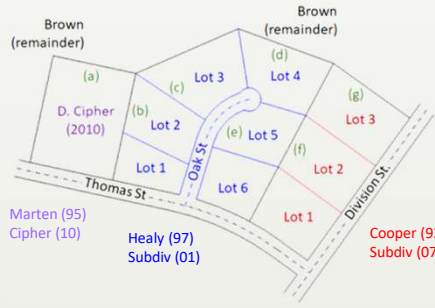


In 2001 Healey subdivided his parcel.

In 2007, Cooper subdivided his parcel.

In 2010 Marten sold his entire parcel to D. Ciper.

**D. Example 4**



Which, if either, is the senior property along each of the following labeled lines? Circle your answer.

- |     |       |        |
|-----|-------|--------|
| (a) | Brown | Ciper  |
| (b) | Ciper | Lot 2  |
| (c) | Lot 2 | Lot 3  |
| (d) | Brown | Lot 4  |
| (e) | Lot 5 | Oak St |
| (f) | Lot 2 | Lot 5  |

## Learning Objectives

Types of law; Boundary control  
How boundaries are created; Characteristics  
Where the Rules of Construction come from  
How gaps and overlaps are handled  
Description interpretation issues: Ambiguities;  
Controlling/informative terms  
Written intent conflicts

## Questions?





**That's It!**

