Preparation of Deed Descriptions

SURVCON 2018
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BALLYS- Atlantic City, New Jersey

Presented by Bruce R Blair PLS, PP
INTRODUCTION

• The New Jersey administrative code 13:40 – 5.1 states that

• (i) Upon completing the plat or plan of survey, the licensed professional land surveyor shall provide the client an agreed upon number of prints of the survey drawing. Such print copies of the plat or plan of survey shall bear the signature and impression seal of the licensed professional land surveyor. Certification by the licensed professional land surveyor may be given when requested by the client.
1. The licensed professional land surveyor shall also supply a description of the property surveyed when the survey is to be used for conveyancing (title transfer or mortgage). This description must be suitable for use in a deed. The description shall be by metes and bounds or by reference to a filed plan, block and lot. If a filed plan, block and lot is utilized, the entire title of the filed plan shall be set forth along with, the filed plan number and the date on which the plan was recorded in the office of the County Recording Officer.
• If there is any deviation from the filed plan to the completed survey, a description by filed plan, block and lot, shall not be utilized. The deed description shall be consistent with both the survey provided and the documentation upon which the survey was based and shall be written in such a manner as to define the boundary lines of real property unambiguous and sufficient for a surveyor to lay it out on the ground.
• This description may be reproduced on the survey plat itself or may be by separate document. If the deed description is provided on the survey plat, it must be titled "Deed Description." If a separate document is provided, the description shall be signed and sealed by the licensed professional land surveyor responsible for its preparation.
•NOW THAT WE KNOW WHAT WE HAVE TO DO, NOW LET’S LOOK INTO WHAT IT IS WE HAVE TO PREPARE
• A deed is a legal document that transfers real property or selective rights to that property. There are various types of deeds, such as but not limited to: quit claim, warranty, bargain and sale with covenants against grantor. They are usually written by attorneys or title companies. Almost anyone can purchase a form to fill out as a deed and many times can record it in the Hall of records.
• There are many deeds of record that are deficient or erroneous because the descriptions therein were written by those unqualified to do so. It is for that reason that the New Jersey State Board of Professional Engineers and Professional Land Surveyors created the requirement for a professional land surveyor to prepare a deed description that “hopefully” will be used by the conveyancer in preparing the deed.
• We will be dealing with the preparation of the deed description in this workshop. We will look at some existing descriptions is both good and bad examples. We will then endeavor to discuss the various items impacting the creation of an acceptable deed description.

• HERE ARE A FEW EXAMPLES OF ITEMS ON WHICH A DESCRIPTION MAY BE BASED:
  • A properly recorded file map
  • A will or testament
  • A judicial edict
  • The taking by a governmental agency
  • A properly performed land survey
There have been many writings by knowledgeable and notable persons and this workshop will draw on those writings. Some of these are as follows:

- **ADVANCED LAND DESCRIPTIONS** by Paul Cuomo and Roy Minnick
- **DEED DESCRIPTIONS I HAVE KNOWN BUT COULD HAVE DONE WITHOUT** by Donald a Wilson
- **WRITING LEGAL DESCRIPTIONS** by Gurdon Wattles
- **WRITING PROPERTY DESCRIPTIONS ANALYSIS AND PREPARATION** by Knud E Hermansen presented at an NJSPLS workshop March 15, 2000
• **TITLE PROBLEMS CAUSED BY LEGAL DESCRIPTIONS** by James Dorsey presented at an NJSPLS workshop February 2007

• **LEGAL DESCRIPTIONS AND CONVEYANCES** by Jeffrey Lucas presented at and NJSPLS workshop February 2010

• **SURVEYS AND LEGAL DESCRIPTIONS: AN OVERVIEW** by Bruce R Blair and General Land Abstract Company January 1989
• The description has many parts. Hermansen spells them out in his work.

• The CAPTION is a general description of the location of the property. It must clearly identify the property and can refer to geographical references, a tax lot in block or other parcel identifier.

• The BODY is the particular description and describes the location of the boundaries. It consists of a point of commencement (if needed), a point of beginning, courses, monuments (including adjoiners), and usually an area.
• An AUGMENTING CLAUSE is often used to describe easements or other issues which benefit the property.

• A QUALIFYING CLAUSE is often used in cases where the property is subject to an easement or other encumbrance.
• Jeff Lucas in his 2010 workshop gives the following 10 commandments on writing legal descriptions:

• I. Convey the intent of the grantor and grantee

• II. Use reliable information such as surveys, recorded maps, previous deeds, deeds of the joiners, right-of-way maps and as a last resort, tax maps

• III. Describe one unique parcel of land uniquely so it cannot be mistaken for another

• IV. Be clear and concise and avoid ambiguity by avoiding unnecessary and confusing words and make sure your description closes

• V. Use “metes AND bounds

• VI. Superiority of calls e.g. the Rules of Construction
• VII. Remember the difference between accuracy and precision
• VIII. Legal sufficiency to allow a competent surveyor to lay it out
• IX. Rewriting legal descriptions use extreme caution and only when necessary
• X. Follow in the footsteps of the original surveyor
• Wattles goes into great detail to describe the various forms and formats for describing a piece of land.

• The first is a single parcel outlined on a map with a unique identifier such as a block and lot number system.

• The second being part of a large parcel which can be described by either metes and bounds or expressed as the South so many feet of......

• The third being Boundary deeds of record e.g. on the east by Brown on the north by Smith etc.

• The fourth being a strip of land such as a power line right-of-way across many parcels
• The first being reference to a map should include
• The lot or parcel number
• The block
• The tract name
• The city and County and state
• The recording information for the map and where recorded
• The second method is rarely used other than in the public land states. It is however used in some wills where the easterly half of the property is conveyed to one heir.

• A description by boundary only (bounded on the north by Smith, on the east by Jones etc.) does not meet the requirement of the administrative code

• A strip map will most normally be metes and bounds
• In any event, the value of the description depends on its being sufficient and unambiguous. It must not rely on parol evidence. It has been ruled that “if a description is sufficient for a competent surveyor to locate the land on the ground, with or without extrinsic evidence, it is considered sufficient as between the parties”.

• The administrative code requires that the “point of beginning” be clearly indicated on the survey. This is the same POB to be used in the deed description. It should be either physically marked or properly referenced to an existing monument. The same administrative code requires sufficient information as to the basis of the bearings.
• If the POB is tied to a monumented reference point, it is customary to call the monumented point a “point of commencement” and then proceed to the “point of beginning”. The metes and bounds description will traverse around the parcel and return to the point of beginning. The difference between the two points must be clearly made in the description.

• The basis of the bearings in the description should be clearly stated. Care must be taken when working from a map which may have bearings in the reverse direction, that the metes be traveling in a consistent direction around the parcel.
• There is a difference between lines of title and monuments. If the description being written relies on the monuments there are three principal items to consider (one) are the monument specifically cited in the prior description, (two) where the monument set sometime before the description was written or concurrent or subsequent to, (three) what were the intentions of the parties. This of course does not apply to monuments improperly set.

• Lines of title and lines of occupation should have been determined prior to the completion of the survey and can be described as appropriate.
• Hermansen sets out some general rules and pointers. He suggests that the description should mirror the plan and the plan should mirror the fieldwork and the fieldwork should mirror the intention of the parties to the original operative conveyance.

• Measurements should reflect the position of the field measurements e.g. a distance of 100.00 feet rather than 100 feet.

• Call should not be included that have not been checked. “Running along lands of Smith”, have you surveyed enough of Smith to be sure of their location?

• The description should be written in such a manner as to highlight problems or overcome potential legal obstacles. If there is a problem with part of the property, write a separate description for that part. This is a requirement in the Green Acres program.
• He continues with regards to measurements.
• Capitalize cardinal directions (North, South etc.)
• Don’t spell out numbers.
• Note the basis for directions in either the first direction or the ending statement.
• You may use parentheses to show differing record measurements from survey measurements.
• He also warns against conflicting or vague terms. Words like “either” referring to offsets to a line would be better stated as each.
• The terms excepting and reserving are very rarely compatible.
• Proper terms.
  • Use PERPENDICULAR to and PARALLEL with
  • A straight line is PROLONGED while a curve is CONTINUED
  • ADJACENT, ADJOINING, CONTIGUOUS and COINCIDENT with are not interchangeable under not always synonymous
  • Use On Or Near, In Line Of, etc. to express an uncertainty
  • Use EXCEPTION, RESERVATION, SUBJECT TO and TOGETHER WITH in the proper context.
  • He suggests using the word ENCOMPASS rather than “containing” when indicating the area of easements or other servitudes
• New Jersey statutes allow the describing of properties by the use of State plane coordinates. This was done in 1958 for the creation of the right-of-way of the Garden State Parkway. If this process is used, it is imperative that the reference system for the coordinates be clearly described. Simply saying NAD 83 as the basis for the coordinates is insufficient due to the ongoing reiterations of the coordinate system by the National Geographic Survey. The variance between the original NAD 83 and the more current NAD 83 (2011) is as much as ½ a meter or more in the values of the coordinates. The use of GNSS receivers and networks makes this more and more attractive since the coordinate of a corner can easily be replaced should the mark be destroyed.
Bruce R Blair, PLB
Professional Land Surveyor
734 Armwell Road
Hillside, NJ 07205

Legal description
Block 400 Lot 6.91
Township of North Hanover
Burlington County, New Jersey

Beginning at a point in the center line of Jacobstown-Amytown Road (killed where right of way on the tax map of the Township of North Hanover, Burlington County, New Jersey, said point being a corner in common with Lot 5 of Block 400 and shown on said tax map, said point having New Jersey State Plane Coordinates (400) 86 feet north of N = 4936.7123, E = 470706.1443
and from said beginning point:

1) THENCE South 79°52'10" East a distance of 667.12 feet passing over a concrete monument 40.0 feet from the origin of this course, along Lot 6, to a capped pin;

2) THENCE South 16°19'10" West a distance of 294.17 feet along a line of subdivision approved by the Township in 2012, to a capped pin;

3) THENCE North 76°49'55" West a distance of 835.40 feet along a new line passing over a capped pin 15.3 feet from the terminus of this course to a point in the right-of-way of Jacobstown-Amytown Road.

4) THENCE North 12°50'57" East a distance of 294.18 feet along a line through said point to the POINT OF BEGINNING, and containing 0.30 acres(s) of land more or less.

Subject to the rights of the public in said portion of Jacobstown-Amytown Road running along course number 8.

The above description is prepared in accordance with a survey and proposed minor subdivision prepared by Bruce R. Blair, Professional Land Surveyor dated 04-06-15 and shown as job number 14-204.

Prepared by Bruce R. Blair
Professional Land Surveyor
NJ 05511

December 14, 2015

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Block 1601 lot 9.02
Borough of Nanuet
Orange County, New York

Beginning at a capped pin set in the easterly side line of a public assessment land mark from Main Street to the Borough of Nanuet property, lot 96, said point being the easterly corner of the tract herein described, being the following three courses from the north easterly corner of the block 1601 lot 8, (A) north 75° 24' 07" East 167.78 feet, (B) north 75° 15' 26" East 27.76, (C) north 15° 56' 17" East 800.38 feet, to the beginning point.

1) THENCE along the rear of lot 9 and crossing an assessment for the benefit of lot 9 for parking spaces, on deed book 2009 page 1642, north 75° 26' 10" east a distance of 185.83 feet to an iron pipe found marking the south westerly corner of lot 9 in the westerly line of Lot 9.

2) THENCE along the westerly line of Lot 9, south 15° 56' 30" East a distance of 185.83 feet to a capped pin set in the northerly line of lot 9.01.

3) THENCE along the northerly line of Lot 9.01, north 75° 26' 10" West a distance of 283.40 feet to a pipe and disk in the easterly line of the public assessment.

4) THENCE along the easterly line of the public assessment, north 15° 50' 17" West a distance of 185.83 feet to the capped pin which is at the POINT OF BEGINNING, and containing 1,840 square feet or 0.0435 acres of land, more or less.

Access to lot 9.02 is by way of a public assessment land mark from E. Main St. to lands of the Borough of Nanuet property, as set forth in deed book 2310 page 1642, beginning at page 256 as recorded in deed book 2444 page 197.

The above description is prepared by Bruce R. Blain, Professional Land Surveyor, as project 95.532.

Bruce R. Blain
NJ Professional Land Surveyor 110861

August 23, 2013
QUESTIONS