

“Anything Goes”: Various Ways to Describe Real Property

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I. Introduction

A. *The Topic is “Various Ways to Describe Real Property”*

- 1. What comes to mind?**
- 2. If you knew absolutely nothing about real estate, how would you describe real property if you wanted to sell it? If you wanted to buy it?**
- 3. Think out of the box—let your mind wander.**

B. *This Topic is Large in Scope*

- 1. “A comprehensive treatment of land descriptions would require excursions into astronomy, geography, geodesy, geometry, trigonometry, photogrammetry, terrestrial coordinates, land surveying, measurement systems, geophysics, cartography, systems of description, cadastres, and economic, cultural and societal effects.”
Land Title Institute, *Land Descriptions* 2001.**

C. *The Standard: What Constitutes a “Legitimate” Way to Describe Real Property?*

- 1. Surprisingly, anything goes.**
- 2. Description must be “sufficient to identify the real property with reasonable certainty in accordance with the parties’ intent”
(definition mine)**
 - a) In construing a deed (and the description of the subject property), a court will ascertain the intention of the grantor from the entire instrument. *Chesapeake Corp. v. McCreery*, 216 Va. 33, 37, 216 S.E.2d 22, 25 (1976)**
 - b) “A deed conveying land must give such a description of the property intended to be conveyed as will be sufficient to identify it with reasonable certainty.” *Chesapeake Corp. v. McCreery*, 216 Va. 33, 37, 216 S.E.2d 22, 25 (1976) (citing**

Harris v. Scott, 179 Va. 102, 109, 18 S.E.2d 305, 308 (1942);
Butcher v. Creel's Heirs, 50 Va. (9 Grat.) 201, 203 (1852)).

c) The main object of the description in a deed “is not in and of itself to identify the land sold . . . but to furnish the means of identification, and when this is done it is sufficient.” *Harper v. Wallerstein*, 122 Va. 274, 278, 94 S.E. 781, 782 (1918) (citing *Thorn v. Phares*, 35 W.Va. 771, 782, 14 S.E. 399, 405 (1981)).

D. Some Ways to Describe Real Property

1. Common Words
2. Street Address
3. Tax Map Number
4. Lot and Block
5. Metes and Bounds
6. NOTE: this list is not exhaustive

a) Remember the standard—anything goes, just as long as the description is sufficient to identify the real property with reasonable certainty in accordance with the parties’ intent.

E. *Practical Implications*

1. Sometimes, these descriptions are insufficient or just plain wrong.
2. If such problems are not resolved, how may coverage be triggered under a title insurance policy?
3. How do we resolve such problems for closing?

II. Common Words

A. *Examples—Sufficient and Insufficient*

1. Sufficient:
 - a) “To my dearly beloved wife Martha Washington I give and bequeath . . . My improved lot in the Town of Alexandria, situated on Pitt and Cameron Streets . . .” *Last Will and Testament of George Washington dated July 24, 1790*.
 - b) *Midkiff v. Glass*, 139 Va. 218, 123 S.E. 329 (1924) (description of land in a contract of sale as “situated in

Staunton Magisterial District, Halifax County, Va., adjoining the land of W. T. Midkiff, Mr. Clark and others” was sufficient).

2. **Insufficient:**

a) *George v. Bates*, 90 Va. 839, 20 S.E. 828 (1904) (description in deed which consisted only of the words, “a piece or parcel of land near Bacon Quarter Branch” deemed too vague and indefinite).

b) *Merritt v. Bunting*, 107 Va. 174, 57 S.E. 567, (1907) (deed describing land as situated on Chincoteague Island and embraced by certain courses and distances, but no starting point or ending point given, deemed not sufficient)

3. **NOTE:** Not surprisingly, there are more case examples of insufficient descriptions of real property when common words are the means of description. Words can be very imprecise!

B. *“Common Words” are non-systematic and are to be distinguished from systems of description, which follow.*

III. **Street Address**

A. *Examples*

1. Check out www.50states.com (Biographies) to see what famous people lived or are living in Virginia.

2. **You all have one—you know the format:**

a) **Name**

b) **House number**

c) **Street, Boulevard, Lane, etc.**

d) **City**

e) **State**

f) **Zip Code**

3. **NOTE:** over time, addresses for letters have become less attached to persons and more attached to real property. Compare your address to:

- a) “Paul . . . to the church of God that is in Corinth” 1 Corinthians.
- b) “Most High and Mighty Sovereigns” Christopher Columbus to the King Ferdinand and Queen Isabella of Spain (1494?) regarding his explorations.

4. **NOTE:** names and numbers of street addresses are sometimes changed.

5. See Appendix A for deed using address to describe subject property.

IV. Tax Map Number

A. *Examples*

1. *Firebaugh v. Whitehead*, 263 Va. 398, 559 S.E.2d 611 (2002) (agreement granting “first right of refusal to purchase certain parcels currently owned by [Sowers] lying on the northerly side of State Route 665 and designated as Tax Parcel # 72-83 and Tax Parcel # 72-53 and shown on that certain plat prepared by Charles R. McMurry, C.L.S. dated March 29, 1987, a copy of which is recorded in the Clerk’s Office of the Circuit Court of Botetourt County, Virginia in Deed Book 336, Page 533” held to be a sufficient description of the subject property)

2. Fairfax: 076-4-06-0005B

3. Loudoun: /59/C/2////12/

4. Prince William: 7896-31-8680

5. **NOTE:** not all the same—and some counties have alternative and/or additional systems, such as “property identification number”, “account number”, “grid parcel identification number”, “geographic parcel identification number”, “residential planned community number”—and the list goes on.

6. **NOTE:** tax maps numbers and such alternative numbering systems sometimes change.

B. *Components*

1. Contact your county assessor for your county—too much variety to recite here.

2. Fairfax Example: 076-4-06-0005B

- a) **“076”**: map grid number
- b) **“4”**: quad number
- c) **“06”**: single circle number (also, **“block number”**)
- d) **“0005”**: lot number (also, **“parcel number”**)
- e) **“B”**: subplot number

C. Statutory Basis

- 1. The development of any particular tax map system is left primarily to the **“governing body of any county”** with some constraints by the Virginia Department of Taxation. *See Va Code 58.1-3301.*

V. Lot and Block

A. Examples

- 1. *Matney v. Cedar Land Farms, Inc.*, 216 Va. 932, 224 S.E.2d 162 (1976) (where deeds contained direct reference to land conveyed by lot, block and section number and this reference, aided by available extrinsic evidence, such as field office map, furnished ready means of identification of property sold, nonexistence of lot sold on uncertified recorded plat incorporated by reference into deeds did not prevent passage of title to purchasers).

2. Standard:

- a) **“Lot 86, Section 2B, ASHBROOK VILLAGE, as the same appears duly dedicated, platted and recorded in Instrument No. 200408920101727 among the land records of Loudoun County, Virginia.”**

3. Condominium:

- a) **“Condominium Unit No. 8357-F, MOUNT VERNON LAKES CONDOMINIUM, and the limited common elements appurtenant thereto, established by condominium instruments recorded on April 26, 1984, in Deed Book 5939 at Page 957, among the land records of Fairfax County, Virginia.”**

B. *Components*

1. **Lot/Condominium Unit**
2. **Block**
3. **Section**
4. **Phase**
5. **Subdivision**

C. *Commonly referred to as “Legal Descriptions”. Why? What is so “legal” about them?*

D. *Why do we prefer lot and block descriptions over others for title insurance?*

1. **derived from recorded subdivision plats**
2. **metes and bounds are included in the subdivision plats**
3. **harder to change than other forms of description**
4. **more people may be involved**
5. **more people may subsequently rely**

VI. **Metes and Bounds**

A. *Example*

1. **Fun:**

a) *Pilkerton v. Roberson*, 110 Va. 136, 65 S.E. 835 (1909) (legal description deemed sufficient, stated as “Beginning at a large white oak on the south bank of Lick fork of the Pound river at the upper end of a cliff of rocks, and from said tree up the hill about six rods to another white oak standing on a bench in a hillside, then in a straight line passing said tree to Isom Hall, Sr., lines, and with his lines to Indian creek, then down the creek to William Roberson's Pound tract, and with the Pound river, and with the lines of another tract belonging to said Roberson, and again with the river, to the beginning.”).

b) “Bench”, as used above, means “a shelflike area of rock with steep slopes above and below.” *Dictionary.com, result 1, def. no. 10.*

2. **Simple:**

a) **“BEGINNING at a pipe on the westerly side of State Route 702, a corner to the land of Raymond Lovenshimer: thence with the line of Lovenshimer S 64°19’00” W 209.20 feet to an iron pipe in the line of Shoemaker; thence with Shoemaker N 27°00’00” W 104.14 feet to an iron pipe; thence through the land of Daisy Lynch, N 64°19’00” E 209.20 feet to an iron pipe set in the westerly side of State Route 702; S 27°00’00” E. 104.14 feet to the point of beginning and containing 0.5 acres.”**

3. **Complex: See Appendix B**

B. *Definitions*

1. **“Mete” means to measure or identify.**
2. **“Bound” means to establish a boundary.**

C. *Not a precise science—consider the effects of:*

1. **Historical differences in units of measurement**
2. **Temperature on measuring instruments, such as chains or tapes**
3. **The curvature of the earth**
4. **Movement of the earth, streams or other monuments**
5. **And the list goes on**

D. *Common Problems*

1. **Lack of or insufficient point of beginning**
2. **Description does not “close”**
 - a) **Consider using “Deed Plotter”. See www.deedplot.com.**
3. **Lack of “more or less” after stated acreage.**

E. *How do you read these descriptions?*

VII. Practical Implications

A. *How is coverage triggered under a title insurance policy?*

1. In General

a) **If the real property is not sufficiently described, or if there are competing descriptions, then this may trigger questions like, “Was the right property conveyed and encumbered?” or “Did the right owner(s) convey the property described?”**

2. Basic Owner’s Policy (ALTA 6-17-06):

a) **Covered Risk 1: “Title being vested other than as stated in Schedule A.”**

b) **Covered Risk 2(a)(ii) and (iii): “Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from: (a) A defect in the Title caused by . . . (ii) failure of any person or Entity to have authorized a transfer or conveyance; (iii) a document affecting Title not properly created. . . .”**

3. Enhanced Owner’s Policy (ALTA 1-1-08):

a) **Covered Risk 1: “Someone else owns an interest in Your Title.”**

b) **Covered Risk 6(a): “Your Title is defective. Some of these defects are: (a) Someone else’s failure to have authorized a transfer or conveyance of your Title.”**

c) **Covered Risk 6(b): “Your Title is defective. Some of these defects are: (b) Someone else’s failure to create a valid document by electronic means.”**

4. Basic Lender’s Policy (ALTA 6-17-06):

a) **Same as Basic Owner’s, above.**

5. Enhanced Lender’s Policy (ALTA 1-1-08):

a) **Same as Basic Owner’s, above.**

6. **NOTE: Certainly, other provisions may be at issue depending on the facts and circumstances of a particular case, but the ones above would be the likely candidates for policy coverage.**

B. *Resolving Problems:*

- 1. Obtain underwriter approval in writing**
- 2. Create an exception to the policy**
 - a) Probably not acceptable to a lender, but an owner might accept it in light of the cost or lack of other alternatives.**
- 3. Obtain waivers/consent from all interested parties**
 - a) Problem: How do you know you have all interested parties?**
- 4. Obtain court order (“Quiet Title action”)**
 - a) See Title 55 (“Property and Conveyances”) Chapter 8 (“Clouds on Title”), Va Code Sections 55-153 through 55-155.**
- 5. Get a new survey of the property**
- 6. Correct the subdivision plat**
- 7. Contact County Assessor’s Office**

A298-10
R298-04

QUITCLAIM DEED

BK 1211 1078

THIS QUITCLAIM DEED, Executed this 27th day of September 1999, (year).

by first party, Grantor, Ginger Lee/Deppeller

whose post office address is 12 Greenway Plaza, Suite 800, Houston, Texas 77046

to second party, Grantee, Donald K. Deppeller

whose post office address is 8463 Sugar Creek Lane, Springfield, Virginia 22153

WITNESSETH, That the said first party, for good consideration and for the sum of Dollars (\$1.00) paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quitclaim unto the said second party forever, all the right, title, interest and claim which the said first party has in and to the following described parcel of land, and improvements and appurtenances there- to in the County of Fairfax , State of Virginia to wit:

8463 Sugar Creek Lane
Springfield, Virginia 22153



(1)

Rev. 6/88

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APHH

APPENDIX A



IN WITNESS WHEREOF, The said first party has signed and sealed these presents the day and year first above written. Signed, sealed and delivered in presence of:

Monica M. Smith
Signature of Witness

Monica M. Smith
Print name of Witness

Signature of Witness

Print name of Witness

Ginger Deppeller
Signature of First Party

GINGER DEPELLER
Print name of First Party

Donald Deppeller
Signature of First Party

DONALD DEPELLER
Print name of First Party

State of Texas)
County of Harris
On Sept. 27, 1999 before me,
appeared Ginger Deppeller

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

Monica M. Smith
Signature of Notary

Affiant Known Produced ID
Type of ID _____ (Seal)

State of Virginia)
County of Fairfax
On September 28, 1999 before me, Mr Deppeller Jr. Donald K.
appeared _____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

Mohammad T. Raafidnia
Signature of Notary

Affiant Known Produced ID
Type of ID _____ (Seal)

My Commission expires July 31, 2000.

Signature of Preparer

Print Name of Preparer

Address of Preparer

(2)

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JAN 10 00

RECORDED FAIRFAX CO VA

TESTE: J. J. Tracy
CLERK

APPENDIX B

Beginning at a point in the Southwesterly right-of-way line of Sudley Road, State Route No. 234 said point also marking the Northwesterly corner of the property of Katherine P. and E.R. Conner, Jr.; thence departing Sudley Road and running with the Westerly line of Conner, S. 15 03' 10" W. 969.49 feet to a point in a Northwesterly line of the property of Charles C. and Kimberly D. Johnson; thence with the average thread lick branch and with the line of Johnson, Lots 14 & 15, Section One Catharpin Farms Estates and Lots 13 & 12, Section Two, Catharpin Farms Estates the following courses and distances; N. 46 57' 10" W. 24.19 feet, N. 57 02' 30" W. 263.81 feet N. 41 41' 30" W. 117.42 feet, N. 03 36' 49" W. 291.73 feet, N. 45 24' 16" W. 67.74 feet, N. 65 13 42 W. 32.65 feet, N. 42 29' 14" 244.78 feet N 10 55' 59" W. 23.79 feet, N. 05 34' 34" W. 69.99 feet, N. 47 16' 35" 91.78 feet, N. 35 34' 03" W. 62.12 feet, S. 75 13' 49" 50.68 feet, N. 72 47' 14" W. 68.96 feet, N. 26 24' 05" W. 22.66 feet, N. 44 32' 36" W. 94.02 feet, N. 77 22' 19" 99.14 feet, S. 89 29' 08" 61.34 feet. S. 72 09' 05" W. 97.96 feet, S. 56 34 58" W. 13.08 feet to a point marking a Southeasterly corner of the property of Noreen M. Kellogg; thence departing said Lot 12, Section Two, Catharpin Farms Estates and running with the line common to the property herein described and the property of Kellogg the following courses and distances N. 06 36' 03" E. 62.28 feet, N. 34 58' 56" E. 127.05 feet and N. 30 48' 08" E. 507.53 feet to a point in the southerly right-of-way line of state route No. 621 (abandoned); thence with the southerly right-of-way line of state route No. 621, S. 80 37' 04" E. 393.20 feet to a point in the southwesterly right-of-way line of Sudley Road, State Route No. 234; thence with said line of Sudley Road, S. 43 46' 59" E. 660.86 feet and along the arc of a 1.128.48 feet radius curve (the chord bearing and distance of which is S. 52 38' 45" E. 306.56 feet) and arc distance of 307.60 feet to the point of beginning, containing 24.3636 acres of land.