

DEED WRITING 101

In the beginning, there must be a base understanding of given conditions.

1. Landbase records are the best representation given available data and are not survey accurate. Additions to the city have been many things, from simple rectangles and lots with a statement of dedication and no survey requirements up to the present requirement of a survey closure rate of 1' in 25,000'.
2. Most property owners are not surveyors, engineers, or architects and have a hard time with legal descriptions. A clear drawing and simple shapes of taking allow them to understand the effects on their property. They may not like it, but they can understand it. If the description is long and complex or drawing is cluttered, they will become lost and less cooperative.
3. No one wants to return to a property owner to correct a deed. This admits error and any prior trust by the owner is lost. If it has changed hands, things become very awkward and complex.
4. Irregular tracts will present problems. They should be fully researched before writing descriptions for taking.
5. All takings from existing lots are not noted with the words "Rem. Port." for remaining portion. Many changes were done B.T. (before Titus) regardless of popular opinion.
6. It will always be at the last minute, critically short of time and money, and in rush situation when right-of-way deeds and easements can finally be gotten to, as there will also be changes by those who don't care or know how much extra work they create. Time must still be taken to prepare correct deeds to maintain public confidence.

WRITING PRINCIPLES

K.I.S.S. - Keep it short and simple.

Not only do owners get lost by complex descriptions, but the complexity increases the opportunity to generate errors.

TAKE ENOUGH THE FIRST TIME.

Returning to a property owner for additional taking creates a lack of faith and increases difficulty in acquisition. It does happen when conditions change beyond your control but all efforts should be made to minimize number of occurrences.

SOMETIMES IT'S THE LITTLE THINGS.

Property owners will generally fight to keep a tree. Also be aware of fences, extensive landscaping, wells and other high price improvements.

RESEARCH BEFORE WRITING

1. Check the lot for possible prior takings. This includes getting the tract notes for irregular tracts. If it is a remaining portion of a lot, be sure to identify it correctly and the starting point of the taking. If the irregular tract is described from the section line, include all the property from the section line to limit of need.
2. Check ownerships as these may differ from full lots.
3. Check to see if there is anything in progress which would change the legal description prior to acquisition, i.e. plat in progress, zoning change, etc.

THINGS TO THINK ABOUT

1. Is control of access needed or already exist? Who owns the control of access?
2. Has a building permit been issued or in the works which will be impacted by the taking?
3. Will the remaining property be “buildable” by code or be an “uneconomic remnant”?
4. Can the description be drawn as written without other data? It must be able to stand on its own and not dependant on some project centerline or arbitrary feature.

COMMONLY FOUND ERRORS

1. Description does not stand on its own.
2. The use of bearings without establishing a base assumed bearing.
3. Starting at a point called a lot corner which isn't.
4. Identifying the property by the wrong lot number, block number, addition name, section, township, and/or range.
5. Omitting a line or preceding in the wrong direction such as left instead of right, clockwise or counter clockwise and inversed bearings.
6. Described property has been divided and the start point is gone without going back to prior legals, which may not be available.