



# CHAPTER 2

# PHYSICAL

# PROPERTY

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## Property Definition

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The Constitution and the R&T Code define property in California as:

- *real property*, which is land, including all things naturally occurring on, in, or above the land, and buildings and other changes or improvements that are permanently part of the land
- *tangible personal property* is all property that may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses, except land and improvements.
- *intangible personal property* is all property other than real property and tangible personal property.

## A Place in Space

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All real and tangible personal property has a physical dimension to it – a specific piece of space which that property occupies and no other property can include. Real property extends from the center of the earth to the sky, and is defined for property tax purposes by vertical walls around the surface area of the parcel as stated in the assessor’s parcel map. Real property is fixed in position.

Tangible personal property is movable, and it is also defined by its physical outline. No other tangible property can occupy that space at a point in time.

## Real Property

California can only tax real property within the boundaries of the State of California. All real property is taxable unless it is specifically exempted by the Constitution. The surface area of the state is approximately 158,693 square miles, exclusive of the Pacific coastal waters claimed by the state. There are 58 counties within California, and more than 12,000,000 assessment roll units.

Real property is land and improvements such as roads, buildings, and other items that are permanently attached to the land. Real property includes water, minerals, and growing trees and vines.

### The Physical Nature of Real Property

Real property is the land, including everything above and below the land, and improvements permanently attached to the land; it extends from the center of the earth to the sky, and includes the subsurface, surface, and air above the surface of the property. The outside edge of the column of earth, surface, and air is defined by imaginary lines drawn on the surface using mapping systems including the *metes and bounds* and *rectangular survey* methods.

The R&T Code does not define land itself. However, Civil Code Section 659 defines land as follows:

Land is the material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock, or other substance, and includes free or occupied space for an indefinite distance upwards as well as downwards, subject to limitations upon the use of airspace imposed, and rights in the use of airspace granted, by law.

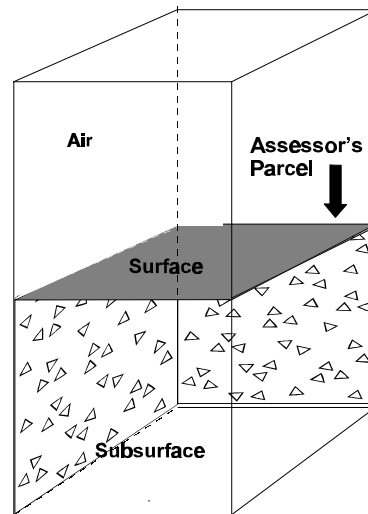


Figure 7 Land is a column of space

## Real Property Components

Real property is classified for property tax purposes as land, improvements, and fixtures.

### Land

Land, as defined by R&T Sec. 104 and Rule 121, consists of the possession of, claim to, ownership of, or right to possession of land; mines, quarries, and unextracted mineral products; unsevered vegetation of natural growth; standing timber, whether planted or of natural growth; and other perennial vegetation that is not an improvement. Where there is a reshaping of land or an adding to land itself, that portion of the property relating to the reshaping of or adding to the land is land. Whenever the addition of other materials is solely for the drainage of land to render it arable or for the drainage or reinforcement of land to render it amenable to being built upon, the land, together with the added materials, remains land. In the case of property owned by a county, municipal corporation, or a public district, however, fill that is added to taxable land is an improvement.

**Figure 8 Land Examples**

|                              |                                 |                      |
|------------------------------|---------------------------------|----------------------|
| Air rights                   | Embankments                     | Leveled ground       |
| Alfalfa                      | Fill (except on property owned  | Minerals             |
| Artichokes                   | by a county, municipal          | Roads, unpaved       |
| Asparagus                    | corporation or public district) | Shrubs               |
| Bushes                       | Graded ground                   | Strawberry plants    |
| Contoured ground             | Grasses, perennial,             | Timber, standing     |
| Date palms, 4 to 8 years old | natural or planted              | Water rights         |
| Ditches                      | Levees                          | Wells, oil and water |

### Improvements



Section 105 defines improvements as buildings, structures, fixtures, and fences erected on or affixed to land; planted fruit and nut trees and vines that are taxable, other than date palms between four and eight years of age; and planted ornamental trees and vines. Where a substantial amount of materials other than land, such as concrete, is added to an excavation, both the excavation and the added materials are improvements. Rule 122 expands on this definition.

## Fixtures

*Fixtures* is a term used in property taxation to describe two types of real property:

- components of a building or other real property improvement that may have an economic life different from the main structure, and
- improvements to a building or other improvement that enhance the business that is using the property rather than the property itself.

The items listed in Figure 9 are illustrative of the application of classification rules to various types of improvements. All of these items are considered improvements, according to Rule 124. Many would be valued as trade fixtures since they support the business activity. However, items such as hard floor coverings, buildings themselves, and

**Figure 9 Examples of Real Property: Improvements and Fixtures**

|  |  |   |
|--|--|---|
| Air conditioner, built-in  | Elevators  | Piling, for support of structure  |
| Alarm system   | Escalators   | Printing press, built-in  |
| Awnings  | Exhaust systems, built-in  | Pumps, fixed  |
| Back bars  | Fences   | Radiators, steam  |
| Beds, wall   | Fill (on property owned by county, municipal corporation or public district) | Railroad spurs  |
| Blast furnaces   | Flagpole   | Refrigerator, built-in  |
| Blinds   | Floor covering, hard surface   | Roads, paved  |
| Boilers, built-in  | Flumes   | Safe deposit box nests, if attached to building                               |
| Booths, restaurant   | Foundations  | Safes, imbedded   |
| Booths, spray paint  | Fruit trees, taxable planted (except date palms under 8 years of age)        | Scales, truck   |
| Bowling lanes  | Furnishings, built-in.   | Screen, theater   |
| Breakwaters, artificial (above fill)                                   | Grape stakes, in place   | Shelves, attached   |
| Buildings  | Grape trellises  | Signs, attached to buildings  |
| Cabinets, built-in   | Kilns  | Signs, on separate supports   |
| Carpets, wall-to-wall  | Kitchen appliances, built-in   | Sink, built-in  |
| Cash boxes, service station, attached to stands                        | Laundry machines, launderette  | Sprinkler system, lawn  |
| Check-out stands, built-in   | Lighting fixtures  | Sprinkler system, fire  |
| Compressors  | Machinery, heavy or attached, inside or outside of building                  | Sprinkler system, agricultural (except portable)                              |
| Computer components operating an improvement; for example, an elevator | Music systems, coin and electric type attached to booth or counters          | Stoves, built-in  |
| Concrete flatwork  | Nut trees, taxable planted   | Tanks, buried   |
| Coolers, built-in  | Organs, pipe   | Tanks, butane, propane and water softener, unburied but which remain in place |
| Cooler, water evaporator attached to main line                         | Ovens, bake, attached  | Tellers' cages  |
| Counters, bank   | Partitions, affixed  | Towers, radio and television  |
| Counters, restaurant   |  | Utilities, on-site  |
| Cranes on fixed ways   |  | Vault doors   |
| Dams (except small earthen)  |  | Vaults  |
| Drinking fountains   |  | Vines, taxable, planted   |
| Ducts  |  | Walls   |

foundations for structures would be classified and valued as real property improvements. Rule 122.5 contains the following guidelines to define and identify fixtures:

A fixture is property that is classified as real property for property tax purposes because it is physically or constructively annexed to the realty with the intent that it remain annexed indefinitely. The phrase *annexed indefinitely* means the item is intended to remain attached to the real property until it is worn out, replaced by a more suitable replacement, or until the use of the real property changes. The weight of the item, method of attachment, and relationship of the item to the property all are factors that are considered when distinguishing between personal property and real property fixtures.

### Physical Annexation

Property is physically annexed if it is attached to, embedded in, or permanently resting on land or improvements. If the property cannot be removed without substantially damaging it or the real property with which it is being used, it is considered to be physically annexed. If the property can be removed without material damage but is actually attached, it is to be classified as a fixture unless there is an intent, as manifested by outward appearance or historic usage, that the item is to be moved and used at other locations. Property may be considered physically annexed if the weight, the size, or both are such that relocation or removal of the property would be so difficult that the item appears to be intended to remain in place indefinitely. Property is not considered physically annexed to realty solely because of attachment to the realty by “quick-disconnect” attachments, such as simple wiring and conduit connections.

### Constructive Annexation

Property not physically annexed to realty or a fixture is constructively annexed if it is a necessary, integral, or working part of the realty. Factors to be considered in this determination are whether the nonattached item is designed and/or committed for use with specific realty, and whether the realty can perform its desired function without the nonattached item.

An extreme example of constructive annexation is a ballroom partition. The partition is required to convert the room into smaller units when necessary, and the partition has no use other than with the building.



Property connected to the realty by quick-disconnect conduits that contain power or electronic cable, or allow for heating, cooling, or ventilation service to the connected property, is constructively annexed only if it is an integral part of the building itself rather than attached for convenience only.

### Intent

Intent is the primary test of classification. Intent is measured with, not separately from, the method of attachment or annexation. If the item is intended to remain annexed indefinitely, then the item is a fixture for property tax purposes. Intent is inferred from reasonable outward appearance. An oral or written agreement between parties, such as a contract between lessor and lessee, is not binding for purposes of determining intent.

The phrase *reasonably manifested by outward appearance* means more than simple visual appearance. An appraiser must have a reasonable knowledge of the relationship of the item being classified to the realty with which it is being used to determine whether physical or constructive annexation has occurred.

Historic usage of a property may be considered in determining whether or not a property is intended to remain annexed indefinitely. *Historic usage* means the normal and continuing use of the property as an item that is annexed either indefinitely or only temporarily.

### Trade Fixtures vs. Building Fixtures

Assessors distinguish between *building fixtures* and *trade fixtures*, and approach valuation and assessment differently for each type. Building fixtures generally are valued with, or in the same manner as, the building, and are assessed to the owner or as tenant improvements to the tenant. Examples of building fixtures include interior walls, plumbing fixtures, electrical improvements, and window coverings.

Trade fixtures are real property improvements that support the business activity of the site, rather than the site itself. Examples include restaurant booths, kitchen equipment, and reach-in coolers. These fixtures are distinguished from the building itself, because their value, like the value of business equipment, is presumed to decline over time. These fixtures are classified, valued, and assessed as a separate unit. The value of trade fixtures is reduced by assessors in a manner similar to personal property depreciation.



Tracking fixtures in complex properties is very difficult, and errors occur frequently, especially when ownership of the building changes. One method of distinguishing between building fixtures, trade fixtures, and personal property is by identifying the function of the building or improvement itself. For example, wall-to-ceiling partitions enable the real property to perform its function of providing economic units of leasable space for use by a tenant, and are included in the structure value. Smaller movable partitions assist the tenant, not the building, and are typically classified as personal property. Interior improvements to a restaurant building are considered trade fixtures and are valued separately from the building, since they enable the occupant or user of the property to perform the business function, and changes in their value are typically independent of the value of the building.

## Fixtures vs. Personal Property

Business equipment that is not classified as a fixture is personal property. Computers, forklifts, store display fixtures, paper supplies, and machining equipment are all examples of business personal property. Portable partitions erected inside a building to create office work areas and connected to the building only by the electrical, computer, and telephone wiring are personal property, not fixtures.

Over time, classifications of fixtures change, as technology or usage changes. The larger IBM mainframe computers used to be so large that entire buildings were built around them. Those computers were fixtures because they were an integral part of the buildings they occupied, including the wiring, platforms, and associated air conditioning. Today's computers with more power and capacity fit on desks, and are personal property. Telephone systems for large buildings were fixtures and now can also be personal property, since most are portable, move with the tenant rather than the building, and utilize wiring that remains a fixture. Multistory printing presses that occupy whole buildings are fixtures, but large modern web presses and offset presses are personal property, not fixtures.

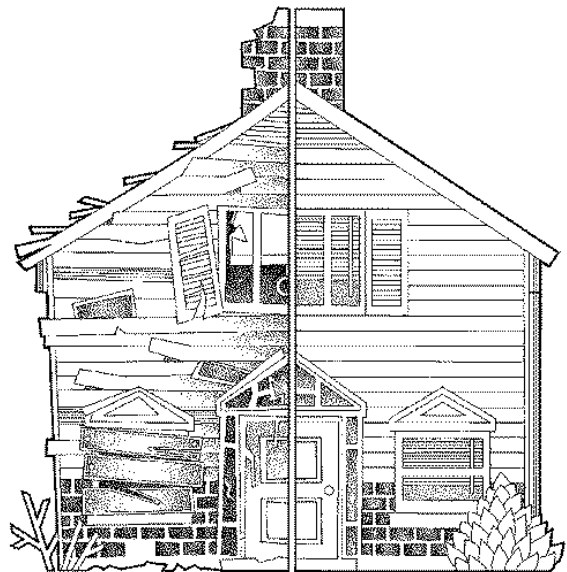
## Real Property Attributes

### Physical Attributes of a Specific Property

The legal definition of real property is a specific parcel area on the surface of the land, plus the subsurface and air above the surface and the improvements and fixtures attached to the land. That minimum definition basically lists the items included in real property, but it doesn't describe or define the property completely. Nor does the bare definition give a person any idea of the ways the property could be used.

The physical property is actually defined by facts about the property that clearly identify the composition, construction, or nature of the various significant items found in and on the land itself. In some cases that list of facts can be fairly limited – and the physical property can be described exactly as of a given date. For instance, flat desert land with no known mineral or water resources would only need a limited description of the subsurface and surface geology, the slope of the surface, and any vegetation growing on the land.

The important facts about most



California property make a much longer list than the four items above. Some of the major categories of description include soil type, elevation, slope, vegetation, minerals under the surface, types of improvements, size, construction, exterior, interior, color, and utility services on the property. Potentially important additional information includes an almost endless list of other words to describe the facts about the physical property.

A property's physical attributes are all the ways to factually describe the components of the real property, and all of these attributes contribute to the assessable value of the property.

### **Intangible Attributes of Real Property**

In addition to the physical description of the property, other factual statements apply that do not involve the physical property. These types of attributes include the operating characteristics of the property, its current use and user, prior uses, environmental items such as weather, air quality, water quality, and view, and another long list of minor items that seldom are important but occasionally override all other facts. These characteristics are called **intangible attributes**, and are an assessable component of real property, according to Sec. 110(f).

For instance, events that happened in the past make up the history of the property, and they can add to or detract from an otherwise "normal" property. Some "haunted houses" (Realtors are *required* to mention such information) don't sell well, but occasionally somebody will buy the distressed property and turn it into a tourist attraction.

Under normal circumstances, a McDonald's site is a valuable location – it has good traffic, valuable improvements, and after a few years of successful operation, customer habit patterns that another restaurant owner could capitalize on, and a quality tenant. An unfortunate incident occurred a few years ago at a McDonald's in San Diego County, when a gunman massacred a group of patrons. Not long after the tragedy, the company decided that the highest and best use for the property was as a local park, which they created for the people of the area. Clearly, the history of the property outweighed any other facts.

The most important factual attributes of any commercial property are the operating characteristics of the property. Income is the result of current occupancy status or percentage occupancy, which is a fact about the property. Physical construction and external economics combine to create a set of operating costs that affect the possible uses and potential profitability of each property. These costs are unique to the specific property, and are a part of the overall physical real property. For instance, a building that has been well maintained will cost less to operate in the future, as is normally the case when a building has a history of quality tenants and relatively high occupancy at economic rents. Foreclosure properties, on the other hand, typically have experienced lower occupancies, deferred maintenance, and general mismanagement. Such properties will have different factual operating characteristics, future cost requirements, and potential income. These facts are intangible attributes, components of the physical property aspect of real property.



## Exterior Influences on Real Property

In addition to facts known about the physical property and its operating facts and characteristics, other facts and observations apply to a specific parcel of real property that have their source outside the boundaries of the site. These have been described by the Board of Equalization staff and others as *assessable intangibles*, and include everything from international economics to traffic patterns and the odor that comes from the new tenant next door.

The major classes of external influences are these:

- Economic: economic base, market access and outlook, natural resources, prices, wages, changes, credit availability, and employment levels.
- Physical: climate, adjacent properties, community infrastructure, environment, access to the site, and transportation resources.
- Governmental: programs impacting returns, infrastructure development, zoning laws and growth controls, environmental constraints, and tax structure and enforcement.
- Social: popular perceptions of the site and its uses, schools, population trends, composition and education, and local preferences.

## Fractions and Combinations of Physical Real Property

Whenever possible, assessors try to use assessment units that match ownership units that are bought and sold in the market. For instance, developers frequently combine parcels to create an efficient area for development. They then prepare a plan for development, present it to the city for approval, and after approval subdivide the old lots into a new set of lots.

The assessor's mapping department records these divisions and combinations of property by recording the new lot boundaries on their parcel maps. Effective with the date of the new map, they cancel all old numbers and assign new numbers to each new parcel. When the changes are significant, assessors frequently cancel the old page and assign one or more new pages as necessary. When this happens, all parcels on the old page will be assigned new numbers.

## Land Identification and Description

Before a property can be appraised, it must be identified or described. Property tax appraisers should be generally familiar with the legal methods for describing property and with the assessment parcel identification system. Both are discussed below.

## Legal Descriptions

A proper identification of the property is essential for all documents that affect the title to real estate. The legal conveyance of title by deed requires a precise legal description that specifies the property's exact boundaries. The delineation of parcels according to an assessment parcel identification system is based on the legal descriptions contained in recorded deeds and other documents. Assessment maps are the result of the various forms of legal descriptions. Three methods are commonly used to legally describe land: the metes and bounds system; the government, or rectangular survey, system; and subdivision maps. However, other methods are permitted by law for property tax purposes. A legal description may also be a hybrid of these methods.

### Metes and Bounds

The oldest form of legal description is description by *metes and bounds*. *Metes* means measurements or distances, and *bounds* means boundaries. Metes and bounds descriptions are still used, particularly for large and irregular parcels. A metes and bounds description gives the distance and compass direction of each boundary line of the property. It starts at a point of origin known as the *point of beginning* and traces all the way around the property back to that point. The earliest metes and bounds descriptions did not use compass directions or distances, but instead referred to identifiable physical features such as rivers or fences that "bounded" the property in question. Any parcel of land can be described using a metes and bounds description.

Example: Beg. At a point 30 ft. N. Of the S. W. Cor. Of Sec. 18, T. 6 S. R. 8 E. Mt. Diablo B. & M., th. N. along the section line 396.36 ft., th. N. 89° 35' E. 210.14 ft., th. S. 396.36 ft., th. N. 89° 35' E. 210.14 ft., th. S. 396.36 ft., th. S. 89° 35' W. 210.14 ft to beg.

### Rectangular Survey

In 1785, the United States Congress approved a method of land description known as the *rectangular survey system*, for the purpose of describing and disposing of lands in the public domain. Land description in all states west of the Mississippi (except Texas) and several other states east of the Mississippi is based on this method.

The rectangular survey system is based on principal meridians running north and south and base lines running east and west. These were located by the original surveyors to intersect at established landmarks. Most of the land area of the United States can be described using principal base lines and meridians as primary reference points. (California has three principal base lines and meridians: Humboldt, Mt. Diablo, and San Bernardino.)

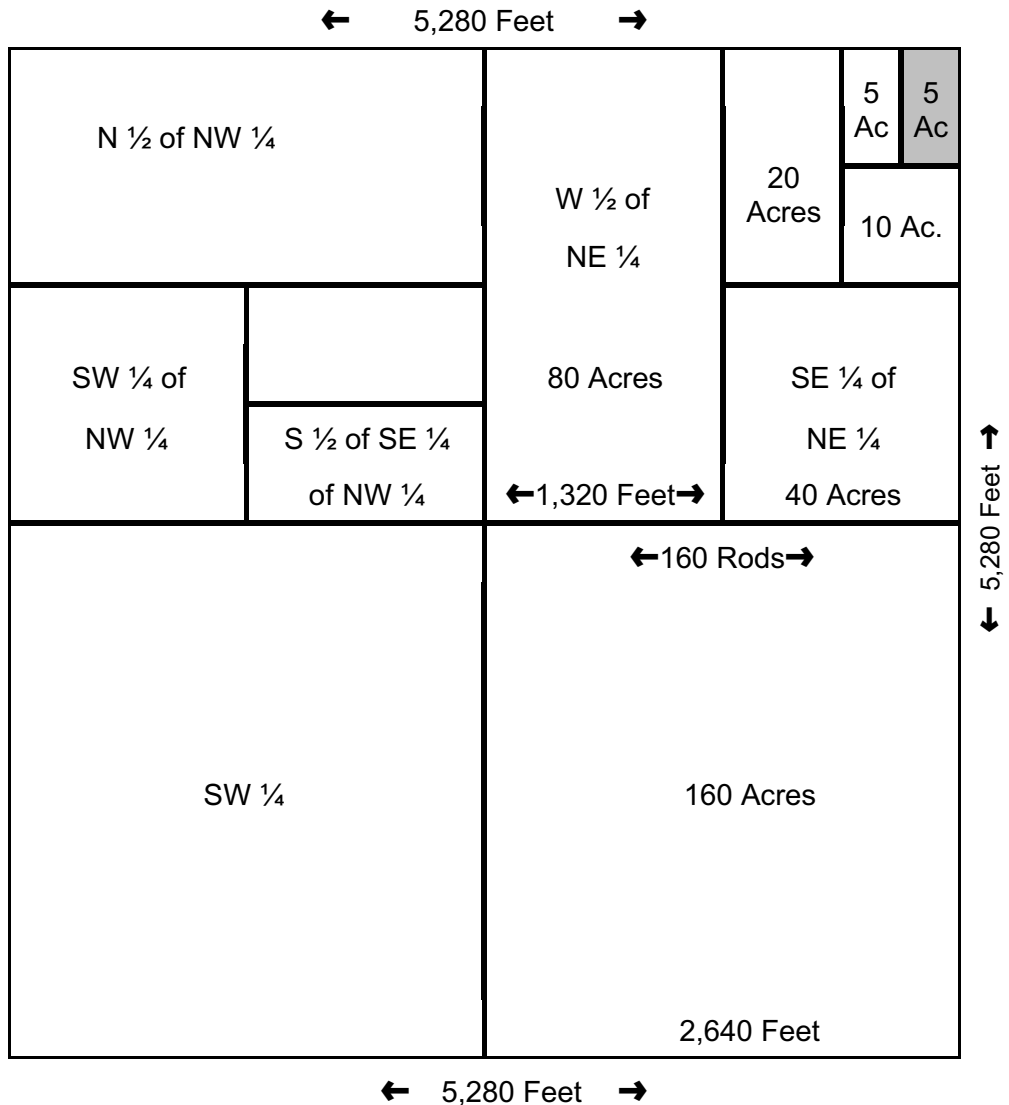
Land on each side of a principal meridian is divided into six-mile-wide strips known as *ranges*, which are numbered consecutively, east or west, from the principal meridian. Range lines run north and south. Lines running parallel to a base line and six miles apart are called *township lines*. Township lines run east and west. The range and township lines form the basic unit of the system, the township, which is six miles

square. Townships are referred to by the intersection of a principal base line and meridian – for example, Township 5 North, Range 3 West. This uniquely describes a quadrant of approximately 36 square miles. (The area is an approximation because of the curvature of the earth.)

Finally, each township is divided into 36 sections of approximately one square mile (640 acres). Section 1 is in the northeast corner of the township. Section numbers proceed westward to the boundary of the township, then southward one section, and eastward again. This process continues until all the sections are numbered. Sections may be further divided into fractional portions.

Example: East ½ NE ¼ NE ¼ NE ¼ Sec. 12 T. 3N., R2 W M.D.B. & M. which would equal 5 acres, shown as the upper corner of the following section.

**Depiction of a Section (1 section = 1 square mile)**



### Subdivision Maps

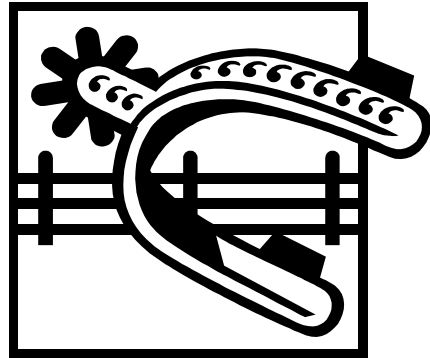
A common modern method of legal description is based on recorded subdivision maps. This method is also referred to as description by *lot and block* or by *recorded plat*. Most local governments, as part of the development approval process, require the preparation of a subdivision map showing the streets and lots in the new development. A subdivision map divides the property into lots, and for larger subdivisions, into blocks of lots. Each block and lot on the map is identified by a number, and the subdivision map itself is also given a number. When the development is approved, the subdivision map is recorded and becomes a part of public record. Recorded maps are filed using a system of books and pages. A legal description using this method contains the lot number, the block number (if applicable), and the number of the subdivision map. A legal description by recorded map is short and easy to understand.

Example: Jones Sub. – M.B. 16-86, Lot 16 Blk. 10 (Read as Jones Subdivision, Map Book 16-86, Lot 16 of Block 10.)

*Condominium units* are described using a slight variation of the subdivision map method. A condominium map is recorded and filed, dividing the property into condominium units. Each unit is given a number on the condominium map. The map also shows the areas of the project under common ownership. A legal description using this method contains the unit number of the condominium, the number of the condominium map itself, and a reference to the fractional share of the common area which is owned by a particular unit.

### Spanish Land Grants

When the federal government surveyed the land, Spanish land grants were excluded from the survey. Because the ranches were privately owned when California became part of the United States, only their exterior boundaries were surveyed, as a necessity of sectionalizing all adjoining land; however, many ranches were sectionalized by the owners, who hired private surveyors.



If a Spanish grant has been sectionalized according to the United States system of Surveying the Public Lands, it is not sufficient to describe the property by section, township, and range. Since it was not surveyed under the authority of the United States, it is necessary to give the name of the rancho.

Example: Rho. El Sobrante Sec. 16 T.8 S., R. 12 W., M. D. B. & M.--640 acres

The rancho name should always be used in a description of property within a rancho, unless the description is by reference to a map.

## Official Maps and Owners' Maps

*Official maps* are made by the city engineer or county surveyor under the direction of the city council or board of supervisors. Each map must be properly certified and filed. The sizes and scales of maps are not specified by law.

*Owners' maps* are filed, under the provisions of Sec. 326, by the owner, claimant, or user of the land. They must contain enough information to clearly identify the land and be properly filed with the assessor or the board.

## Hybrid

A legal description is sometimes a combination of the above methods. For example, the rectangular survey method works well for describing large agricultural tracts. However, this method is less suitable for use in urban areas, where lot sizes are much smaller. Thus, a legal description of a smaller parcel might use a combination of rectangular survey and metes and bounds. For example, a rectangular survey description might be used to get to the *point of beginning* of the metes and bounds description, which is thereafter employed. In the case of urban lots, a combination of metes and bounds and subdivision description might be used. A metes and bounds description may be used to first describe the boundaries of the entire development or subdivision, with individual lots described using a subdivision map.

A special case arises when individual parcels or subdivisions are created above the ground and sold to purchasers by the sale of **air rights**. Residential and office condominiums are typically sold using the concept of air rights. Typically, these air-rights real property ownership units are described by identifying and describing the ground parcel (e.g., by metes and bounds description), and then noting the vertical measurements of the airspace above the ground lot. Vertical measurements refer to a known point of vertical height known as a *datum*. A subdivision map can then be based on this description.

## Assessment Parcel Identification Systems

In property tax appraising, the primary means of parcel identification is the *assessor's parcel numbering system*, which links property ownership, the assessor's maps, and the assessment roll entry. In essence, this is the use of a taxpayer's account number to identify each parcel uniquely in a manner that is far less cumbersome than with legal descriptions.

All assessors maintain sets of assessor's maps for identifying property. These maps are created from the legal descriptions contained in recorded documents; thus, they are based on the several methods of legal description described above. The assessor's parcel numbering system consists of a *map book number*, a *page number* within the map book, a *block number*, and the *parcel number* within the block. The assessor's parcel number or *APN* is thereby logged into the geographical areas called *map books*. By such a system, each county is divided into map books, each map book is in turn divided into geographical areas called map pages, each page is divided into areas known as blocks (in urban areas), and each block is divided into parcels owned and

leased. The Board of Equalization maintains a similar identification system for state assessed property. However, land may not be described by assessor’s parcel map in any deed or conveyance, unless the map has been filed for record with the county recorder.

**Differences between the Ownership Unit and the Assessment Unit**

Occasionally, ownership boundaries will overlap governmental tax rate areas. When this occurs, the assessor will assign multiple parcels to the ownership unit to facilitate taxation by the taxing agencies. Where the same owner owns contiguous parcels that make up one economic unit, the assessor will normally agree to consolidate the pieces into one assessor’s parcel.

**Expansion of the APN System under Proposition 13**

After Proposition 13, assessors were required to assess the same parcel more than once a year when a change in ownership occurred. As a result, an expanded numbering system has evolved, with numbers added to the end of the basic parcel number to indicate supplemental assessment and escape assessments. In Orange County, for example, the first supplemental assessment for parcel 120-56-08 would be numbered 120-56-08.5010. While the counties’ systems vary, they all use a basic map/page/parcel system with expanded numbers to track multiple owners and assessments.

**Summary of Physical Real Property** =====

Real property has an exterior dimension described by the assessor’s parcel boundaries, extending from the subsurface to the sky. The property can be described in terms of its composition and nature, and it can also be described by facts about the property, information about its history and operating characteristics, and a variety of external influences that have an impact on the desirability and utility of the property.

|                                      |                           |
|--------------------------------------|---------------------------|
| <b>The Physical Property is</b>      |                           |
|                                      | Space defined by the APN  |
| +                                    | Physical Composition      |
| + -                                  | Attributes & History      |
| + -                                  | <u>Outside Influences</u> |
| Sum = <u>Total Physical Property</u> |                           |

|   |  |
|---|--|
| <b>Possible Fractions and Combinations:</b>                                     |  |
| <u>APN:</u>   |  |
| Parts or combinations of an ownership unit                                      |  |
| <u>Major Components:</u>  |  |
| Land, Land Improvements,<br>Building Improvements, Trade<br>Fixtures, Minerals, |  |
| Sum = <u>Total Physical Property</u>  |  |