



Real Estate Drafting for City Attorneys

TCAA Summer Conference
Galveston - 2022

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City of Bryan, Texas

Anatomy of a deed

1. Heading
2. Grantor/Grantee
3. Consideration (BFP)
4. Words of grant
5. Legal description
6. Exceptions/reservations
7. Warranty
8. Execution by Grantor

[confidentiality statement]

State of Texas

County of _____

Know all persons by these presents, That I, (Seller), of the City of __, __ County, Texas, for and in consideration of, to me in hand paid by (Buyer), have granted, sold, and conveyed, and by these presents do grant, sell, and convey unto the said (Buyer), of the City of __, __ County, Texas, all that certain property (metes and bounds, lot and block, or Vol., Pg. ref.).

To have and to hold the above described premises, together with all and singular the rights and appurtenances thereto in any wise belonging, unto the said Buyer, his heirs or assigns forever. And I do hereby bind myself, my heirs, executors, and administrators to warrant and forever defend all and singular the said premises unto the said Buyer, his heirs, and assigns, against every person whomsoever, lawfully claiming or to claim the same, or any part thereof.

"Witness my hand, this _____ day of _____, A.D. 20____.

Anatomy of a deed

1. Confidentiality Statement and Heading
 - Property Code § 11.008

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

State of Texas

County of Grayson

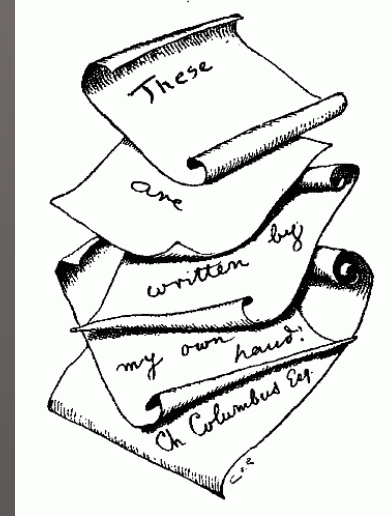
Know all persons by these presents



Anatomy of a deed

2. Grantor/Grantee –

- City and/or county of residence
- Grantee's address
- Spelling and accuracy crucial



For example:

City of Pawnee and Swanson County
Transportation Corporation

Anatomy of a deed

3. Consideration

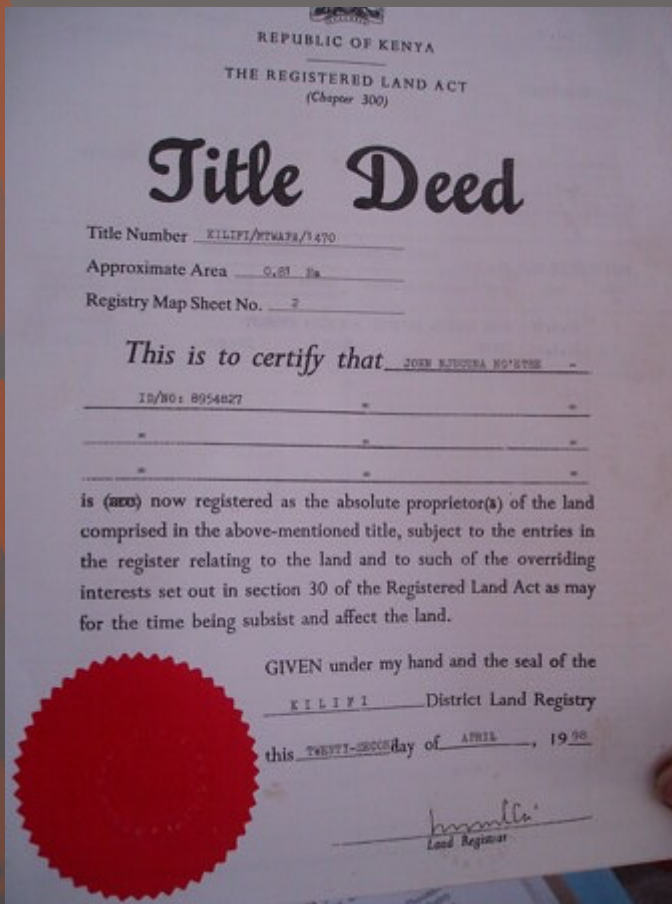
Not necessary (e.g. gift), unless

Bona Fide Purchaser for **Value**



“Ten dollars and such other valuable consideration the receipt and sufficiency of which is hereby acknowledged”

Anatomy of a deed



4. Words of grant

- Grant, sell, and convey
- Alternatives to "sell":
 - dedicate, demise, gift

Anatomy of a deed

5. Legal description

- Must be sufficiently clear that the land can be ascertained

- Three types:

- Lot and block
- Metes and Bounds
- Reference to one of above



- Beware CAD descriptions

Anatomy of a deed

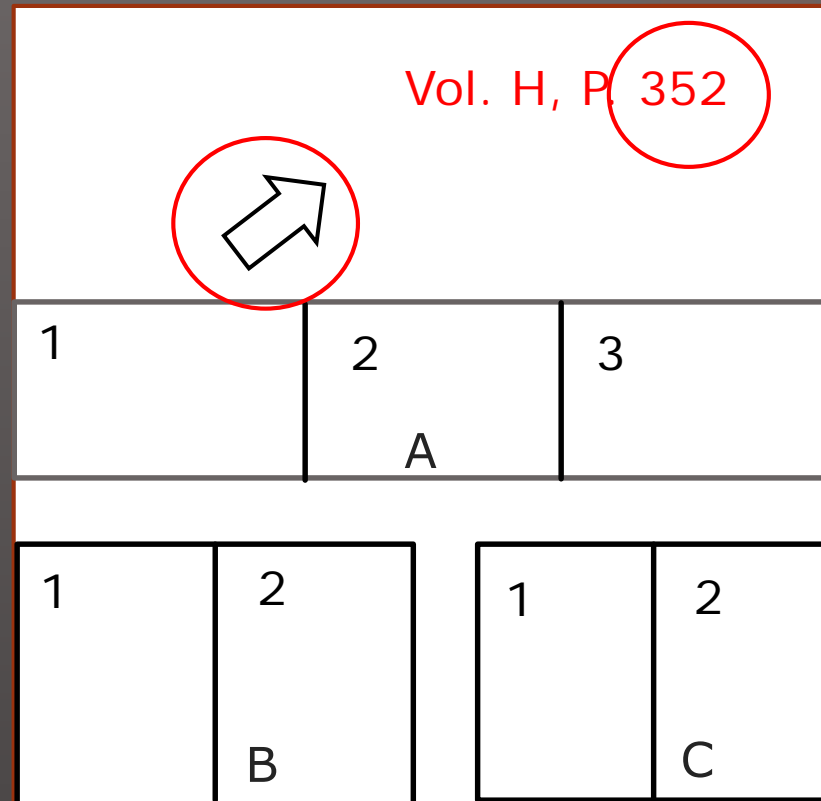
5. Lot and Block

- Refers to recorded plat
 - Include Vol. and P.
- Review plat
 - Make sure reference is complete and accurate
 - Check for re-plats



Anatomy of a deed

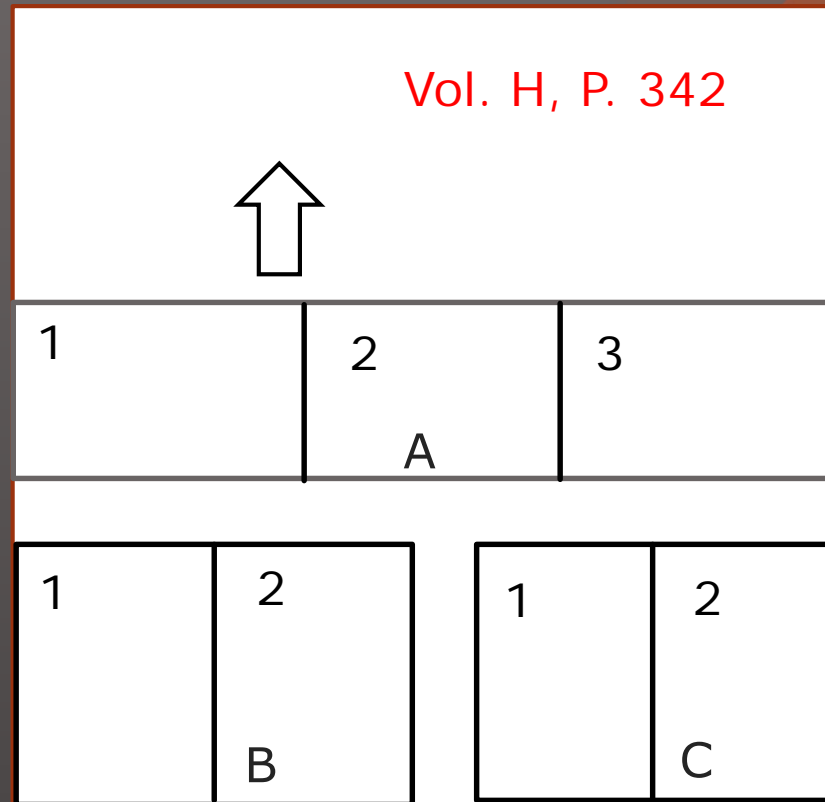
e.g. North half
of Lot 1, Block
C, Auburn
Heights
Addition
Pawnee, Texas
according to the
plat thereof
recorded in
Volume H, Page
342, of the
Swanson
County Property
Records



Anatomy of a deed

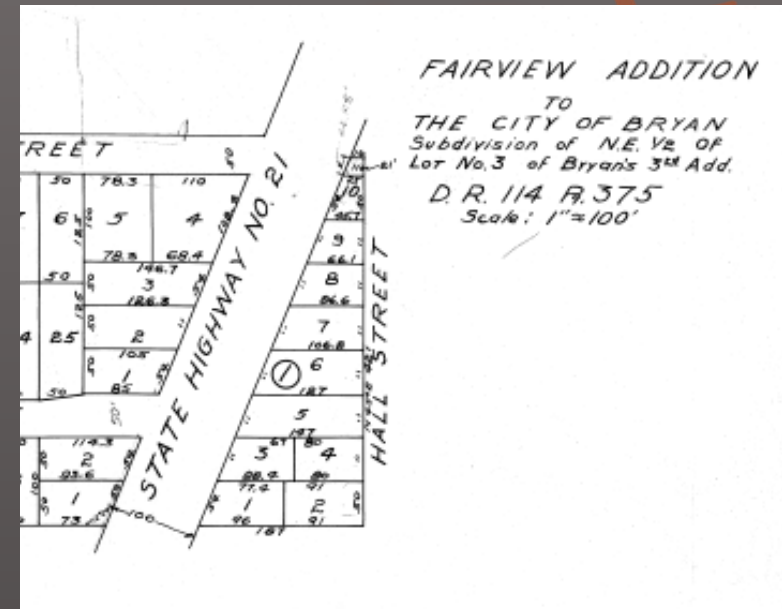


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Anatomy of a deed

- 5. Lot and Block, cont'd
 - Conduct a physical inspection.
 - How it started
 - How its going



Anatomy of a deed

5. Legal Description – Metes and Bounds

- Boundary survey, field notes, metes and bounds,
- Surveyor should recreate the steps of original survey if possible.
- Order of priority
 1. Natural objects
 2. Artificial objects
 3. Course
 4. Distance

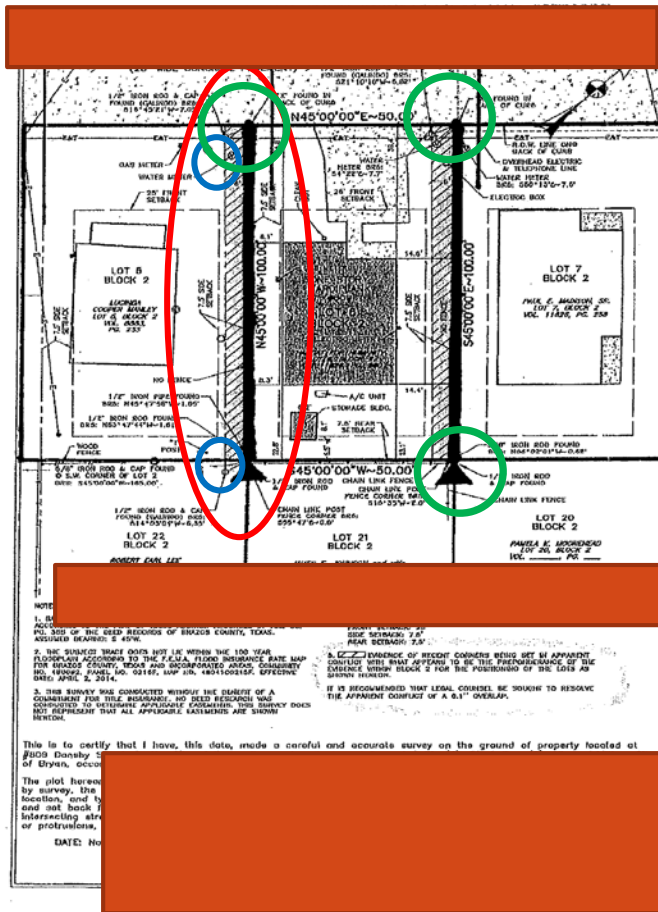


Anatomy of a deed

Shaded area
potential boundary
dispute

Created by iron
rods set, per
distances and calls

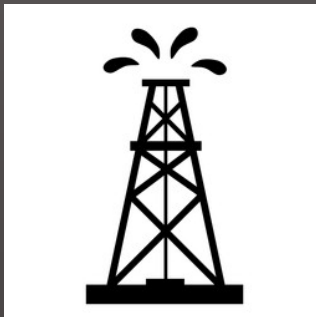
Replacement
survey found
corners based on
existing fenceline,
no overlap



Anatomy of a deed

6. Exceptions and Reservations

- Exceptions = Existing title issues
 - Listed in title commitment
 - e.g. Easements, mineral leases, liens, etc.
 - Waived or cured



If “waived” must be in the deed
“All matters of record”
list specific exceptions from
title commitment

Drafting pitfalls
Unrecorded easements

Anatomy of a deed

6. Exceptions and Reservations cont'd

Reservations = new title issues created by the deed

- Minerals and water reservations
 - Reservation of rights previously severed
 - Surface waivers

- New easements or rights of access



Anatomy of a deed

6. Reservations cont'd

- ROFR – right of first refusal

- Reversion – a condition subsequent upon which property reverts back to prior owner, such as
 - a. To the City for so long as used as a park
 - b. To Buyer provided that new building is completed within 24 months
 - c. To [charity] for so long as [charitable purpose] is maintained



Anatomy of a deed

6. Reservations cont'd

- Pitfalls for reservations
 - Restraint on alienation
 - e.g. Must sell back to grantor at fixed price
 - Secured transactions
 - Consider subordination
 - Rule against perpe...you are already asleep
 - Prop Code § 5.043 reforms grants to achieve goal of grantor

Anatomy of a deed

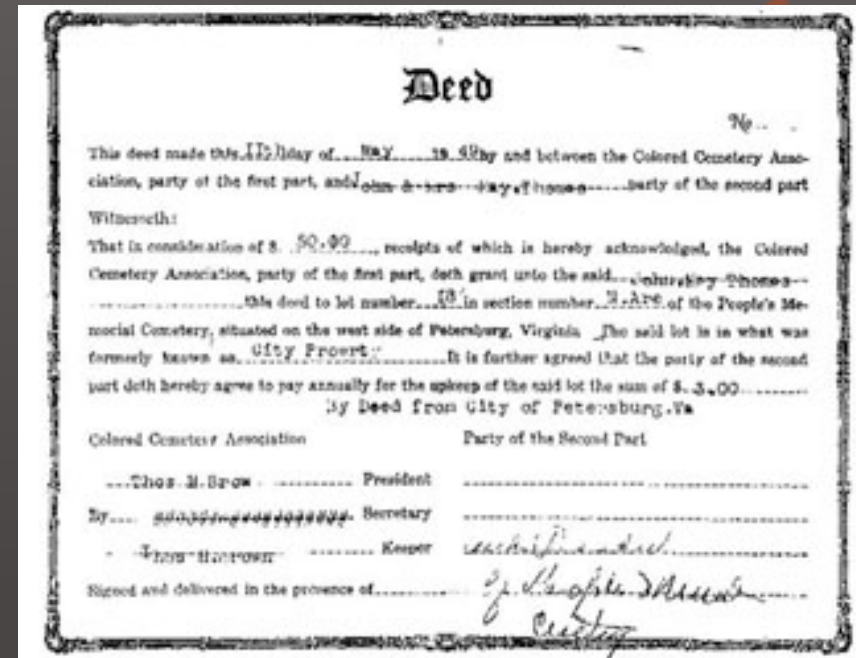
7. Warranty

- General Warranty
 - Conveyance of the interest and obligates the grantor to indemnify against any loss resulting from a title defect "against anyone"
- Special Warranty
 - Conveyance of the interest and obligates the grantor to indemnify against any defects caused by the grantor "against any person claiming though grantor, but not otherwise"
- Deed without Warranty
 - Conveyance of the interest stated, but no guarantee
- Quitclaim
 - Conveyance of any interest owned by grantor, but no description or guarantee

Anatomy of a deed

7. Warranty

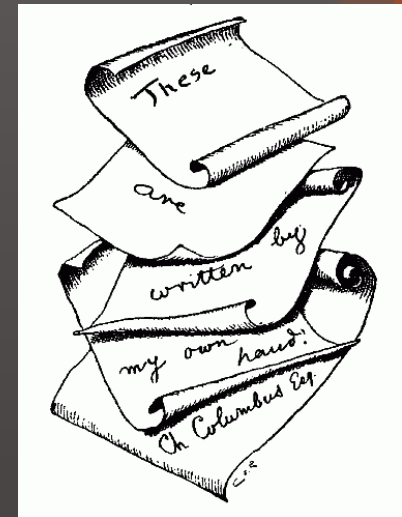
- The warranty is the guaranty by the grantor against defects in title.
- It is a contractual obligation, with a legal i.e. monetary, remedy
- Can cities convey a warranty?
- Role of title insurance
 - Current transaction
 - Prior transaction



Anatomy of a deed

8. Execution

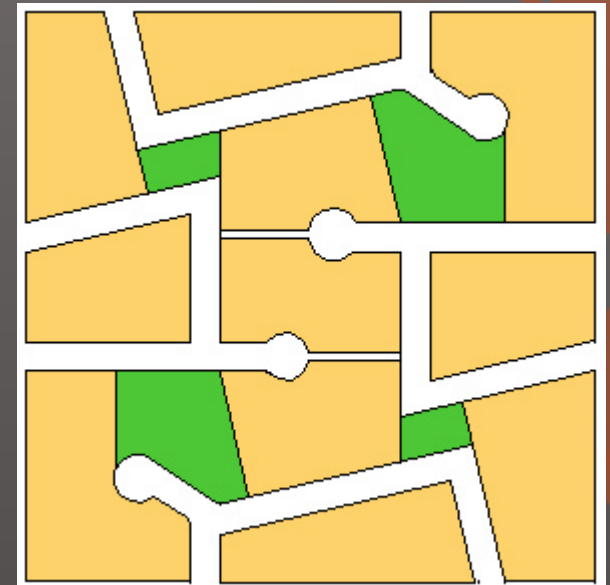
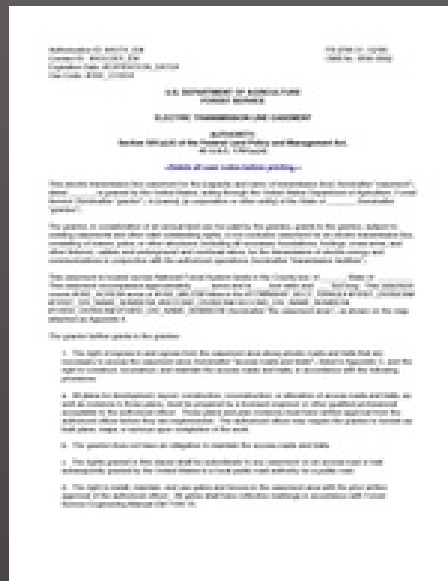
- Only execution by Grantor is a requirement
 - Acceptance of a deed is a requirement
 - How do you document that?
- Look to charter and code of ordinances for signatory authority
- Notary required?



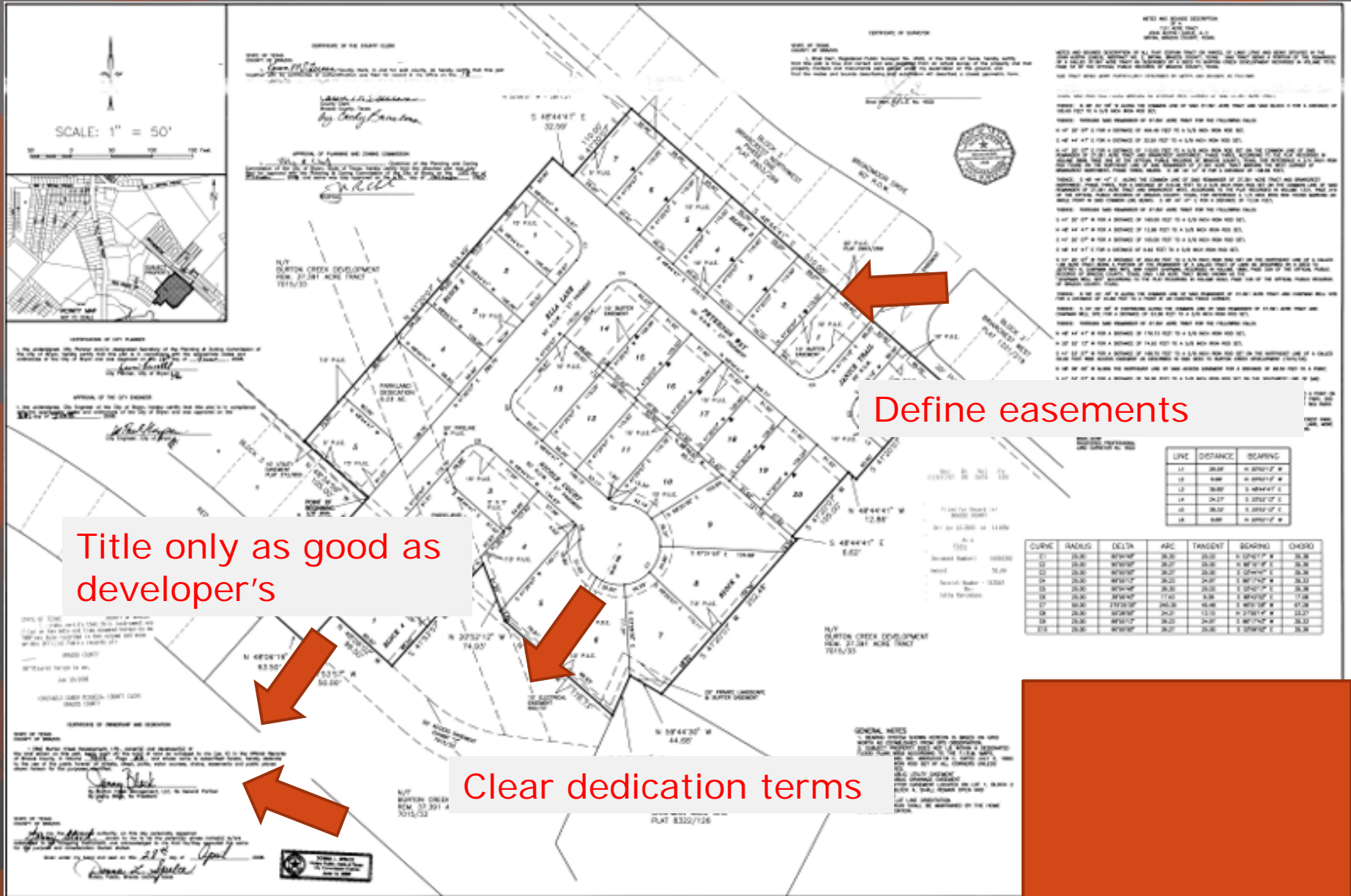
Anatomy of an easement

Form of Easements

1. Dedicated via plat
2. Separate instrument



Anatomy of an easement 2. Dedication by plat



Anatomy of an easement

3. Separate instrument

- A. Heading
- B. Grantor/Grantee
- C. Property Affected
- D. Easement Area
- E. Uses
- F. Reservations
- G. Other
- H. Execution

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THE STATE OF TEXAS §
COUNTY OF GRAYSON §

KNOW ALL PERSONS BY THESE PRESENTS:

RIGHT-OF-WAY EASEMENT

That Ron Swanson, the undersigned property owner ("Grantor"), with residence in Pawnee, Texas for good and valuable consideration, the receipt of which is hereby acknowledged, do grant, sell, and convey, and by these presents has granted, sold, and conveyed unto the City of Pawnee, a Municipal Corporation of Grayson County, Texas, with offices at 900 Main St., Pawnee, Texas, as well as its successors and assigns ("Grantee"), a **Right-of-way Easement**, on, over, under, and across a certain tract of land situated in Brazos County, Texas, and described as Lot 1, Block A, Clinton Addition, V. 12, P. 34, OPRGC.

Said **Right-of-way Easement** being over and across land as shown in the survey and more particularly described by metes and bounds in **Exhibit "A"** which is attached hereto and incorporated as if fully set forth herein ("Easement Area").

This is a **non-exclusive** easement for the benefit of Grantee for the purpose of surveying, inspecting, constructing, repairing, maintaining, replacing, or removing a public road, street, alley, sidewalk and/or right-of-way, including without limitation, the installation and maintenance of public utilities within the Easement Area. Grantor may continue to use and enjoy the benefit of the land within this Right-of-Way Easement, provided that such use and enjoyment does not interfere with Grantee's use of the Easement Area, and is otherwise in compliance with City ordinances regarding public rights of way. Grantee has a right of ingress and egress over the portions of the ~~above described~~ property to the extent necessary to access the Easement Area. Grantor further grants to Grantee the absolute right to assign this Right-of-Way Easement, in whole or part, to other utility providers without having to seek further consent from Grantor. Grantee may remove any improvement, obstruction, or other hindrance, without compensation to Grantor, in the course of construction, repair, or maintenance of the improvements to the Right-of-Way Easement. Grantor expressly subordinates all rights of surface use, incident to the mineral estate owned by Grantor to the Right-of-Way Easement uses of said surface by Grantee.

TO HAVE AND TO HOLD unto the said Grantees aforesaid, for the purposes aforesaid, the premises above described.

WITNESS my hand at Pawnee, Texas, this ___ day of _____, 20__.

GRANTOR: Ron Swanson

THE STATE OF TEXAS §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, a Notary Public in and for Brazos County, Texas on this day personally appeared Ron Swanson, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he), (she) executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ___ day of _____, 20__.

NOTARY PUBLIC
GRAYSON COUNTY, TEXAS

Anatomy of an easement

A. Heading

B. Grantor/Grantee

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

THE STATE OF TEXAS §

KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF GRAYSON §

RIGHT-OF-WAY EASEMENT

That Ron Swanson, the undersigned property owner ("Grantor"), with residence in Pawnee, Texas for good and valuable consideration, the receipt of which is hereby acknowledged, do grant, sell, and convey, and by these presents has granted, sold, and conveyed unto the City of Pawnee, a Municipal Corporation of Grayson County, Texas, with offices at 900 Main St., Pawnee, , Texas, as well as its successors and assigns ("Grantee"), a **Right-of-way Easement**, on, over, under, and across a certain tract of land situated in Brazos County, Texas, and described as Lol, Block A, Clinton Addition, V. 12. P. 34, OPRGC.

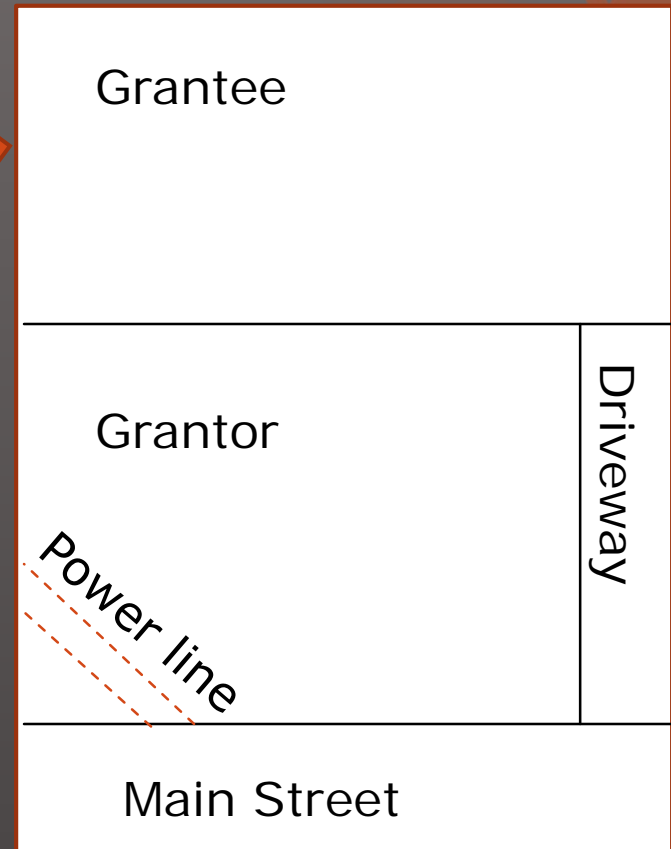
Anatomy of an easement

C. Property Affected

Grantee's property (typically) –
dominant estate

Grantor's property –
servient estate

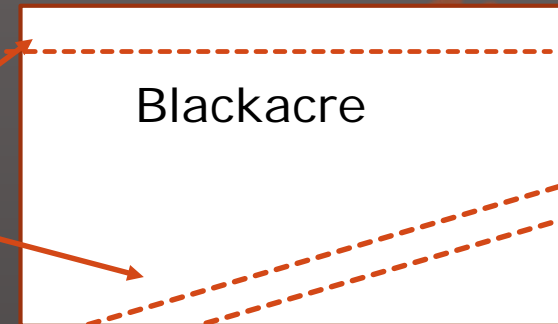
Easement in gross



Anatomy of an easement

D. Easement Area

- Blanket easement –
 - Eg. 10' wide 5' from power line as a center
 - Replace, additional lines?
- Defined easement
 - 10' from property line adjacent to right of way
 - Metes and bounds description of easement area
- Rights to adjacent property (access, trimming, etc)



Anatomy of an easement

E. Uses

- With exception of streets/rights of way, easements are limited to the uses provided
- Grantee typically prefers general terms. Grantors typically prefer specific terms.
- Beware of engineers
 - Public vs. private
 - Commonly used uncommon terms

Anatomy of an easement

F. Reservations

- Exclusive vs. non-exclusive
- Grantor reserves the right to ... [be specific]
- Shall not unreasonably interfere



Anatomy of an easement

G. Other common terms

- Consideration
- Duration – typically perpetual but can be limited to a period of years, or
- Termination for non-use (funny when easement is sewer)
- Indemnification



Anatomy of an easement

H. Execution

- Grantor obviously
- Grantee??
- After recording

GRANTOR: **[TYPE GRANTOR'S NAME HERE]**

By: _____
Printed Name: _____
Title: _____

THE STATE OF TEXAS §
COUNTY OF GRAYSON §

BEFORE ME, the undersigned authority, a Notary Public in and for Grayson| County, Texas on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he), (she) executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this ____ day of _____, 20____.

SEAL

NOTARY PUBLIC
_____, COUNTY, TEXAS

EASEMENT ACCEPTED:

Mayor, City Manager, Chairperson of P&Z, etc.

AFTER RECORDATION RETURN TO:
CITY OF PAWNEE
900 Grand Street
Pawnee, Texas 75309
ENGINEERING DEPT



THE END