
LEGAL DESCRIPTIONS

Question: Is the street address a sufficient legal description in a purchase and sale agreement? If not, how about a tax parcel number?

Answer: A purchase and sale agreement that lacks a legal description does not comply with the statute of frauds and is unenforceable. The street address alone does not constitute a sufficient legal description. *Key Design v. Moser*, 138 Wn.2d 875, 983 P.2d 652 (1999). However, a tax parcel number has been held to be sufficient to comply with the statute of frauds under the incorporation by reference doctrine.

"We have held consistently that, in order to comply with the statute of frauds, a contract or deed for the conveyance of land must contain a description of the land sufficiently definite to locate it without recourse to oral testimony, or else must contain a reference to another instrument which does include a sufficient description. *Martinson v. Cruikshank*, 3 Wash.2d 565, 101 P.2d 604; *Barth v. Barth*, 19 Wash.2d 543, 143 P.2d 542; *Fosburgh v. Sando*, 24 Wash.2d 586, 166 P.2d 850. That is certain which can be made certain. *Ontario Land Co. v. Yordy*, 44 Wash. 239, 87 P. 257; *Wingard v. Pierce County*, 23 Wash.2d 296, 160 P.2d 1009. This is consistent with the rule announced in *Martin v. Seigel*, 35 Wash.2d 223, 212 P.2d 107. '... the following described real estate situated in Garfield County, State of Washington, to-wit:

'Tax No. 3, in Section Thirty-one, in Township Twelve, North, of Range Forty-two [E. W. M. being furnished by judicial notice], as at present designated on the tax rolls in the office of the County Assessor of said county, ...'

as set forth in the option to purchase pleaded in the amended complaint, meets these requirements. Oral testimony is not necessary to determine the exact legal description of the land upon which the minds of the parties met, the one to sell, the other to buy. It must be assumed, for the purpose of testing the amended complaint by demurrer, that the county assessor has performed the duty imposed upon him by statute, and that a reference to this public record furnishes the legal description of the real property involved with sufficient definiteness and certainty to meet the requirements of the statute of frauds."

Therefore, a tax parcel number is sufficient, but a street address alone is not sufficient.

Question: I have a listing that involves two tax lots. The larger lot is owned by the seller in severalty, but there is a long narrow lot on the back side of her lot that is owned jointly with the neighbor. They have entered into an agreement to split the back lot in two. The seller wants to sell both lots. Should I write-up a separate purchase and sales agreement for the back lot? Should it reference the main purchase and sale agreement?

Answer: The sellers and neighbors probably will have to apply with the City or County, as applicable, for a lot line adjustment to split the back lot. Once divided, the sellers' half of the back lot and the front lot will become a single legal lot in the eyes of the City or County and cannot thereafter be sold separately. Therefore, they must be sold together on a single P&SA.

Question: What source(s) of a legal description are acceptable and defensible other than a preliminary title report? It seems that many legals (especially land) are inaccurate and there is really no true legal until closing. Is there any verbiage that could be included that would cover non-existent or inaccurate legals between the time the contract is entered into and a true legal can be established?

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Answer: The purchase and sale agreement must contain a sufficient legal description or incorporate by reference another writing containing a sufficient legal description (e.g., tax parcel number or recording number for prior deed). The test of the adequacy of a legal description is whether it is sufficiently definite to enable a registered surveyor to locate the boundaries of the property without resort to guesswork or extrinsic evidence (i.e., information outside the purchase and sale agreement). Unless exempt, property must be subdivided or short platted before any portion of a parcel may be sold separately. The parcel must legally exist before it can be sold.

Under these rules, where the sellers intend to sell all property owned by the sellers at that location, the best source for the legal description is the deed, contract, will or court order through which the sellers acquired the property. In such cases, ask the title company for the most recent conveyance. If the property must be subdivided or short platted, then individual lots cannot even be *offered* for sale until preliminary plat approval, at which time legal descriptions will exist. If the property is exempt from platting requirements, then a surveyor should create the legal description, unless it is simple enough for us to handle (e.g., "the west half of the northwest quarter of the southeast quarter of Section XX, Range XX, Township XX West, Willamette Meridian"). If we create the legal description, be careful not to create overlapping or gapping descriptions. If the property has not been surveyed, use fractions (e.g., "west half"), rather than dimensions (e.g., "west 660 feet"). Also, be sure to grant or reserve appropriate easements.

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