

**LS Exam Review Seminar 2012**

# **Sequential Conveyances**

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## Definition of Sequential Conveyance

A common grantor subdivides land into smaller parcels and conveys these parcels by deeds recorded in chronological order.

1964

1968

1966

1964

1968

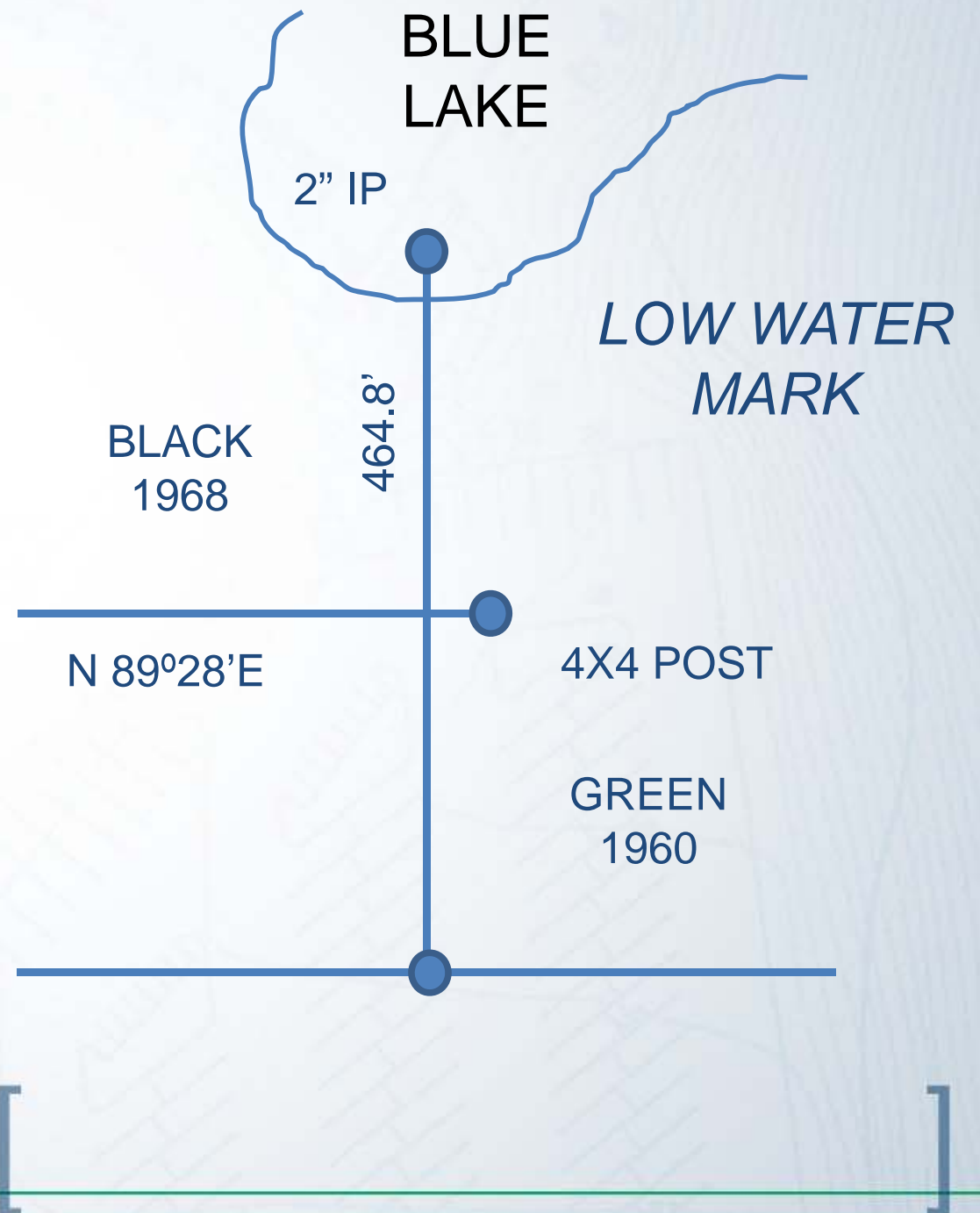
1966



# Deed Conflicts

“....East 200.00 feet to a 4”x 4” post in the Westerly line of Wilson;

thence North  $00^{\circ}20'$  East along said Westerly line 450.00 feet to a 2” iron pipe at the low water mark of Blue Lake”



# Hierarchy of Conflicting Deed Elements

...a set of Rules of Construction used by the courts in resolving deed discrepancies.

- ◆ UNWRITTEN RIGHTS
- ◆ SENIOR RIGHTS
- ◆ WRITTEN INTENTIONS OF THE PARTIES
- ◆ CALL FOR A PRIOR SURVEY
- ◆ CALL FOR A MONUMENT
- ◆ NATURAL MONUMENT
- ◆ ARTIFICIAL MONUMENT
- ◆ RECORD LINE OR ADJOINER
- ◆ CALL FOR DIRECTION AND DISTANCE OR
- ◆ CALL FOR DISTANCE AND DIRECTION
- ◆ CALL FOR AREA
- ◆ CALL FOR COORDINATES

# Unwritten Rights...

Parol Agreement

Acquiescence

Prescriptive Rights

Adverse Possession

Practical Location

Estoppel



# Junior/Senior Rights...

Relative dates of creation important

Precedence given by time



298'

[300']

[150']

[150']

GREEN  
1964  
West 150'

BROWN  
1968  
East 150'



305'

[300']

[150']

[150']

GREEN  
1964  
West 150'

BROWN  
1968  
East 150'

"It has been held frequently by this court that there is a presumption of law **against a grantor retaining a long, narrow strip of land** next to one of his outside lines, when the description of the land granted approximates the description under which he holds."

"Generally, in the absence of facts or circumstances explanatory, it will **not be presumed that a party granting land intends to retain a long, narrow strip next to one of his lines**; but if the courses and distances approximate closely to a line or corner of the tract owned by the grantor, especially if the description in the deed corresponds, exactly or substantially, with the description in the title papers under which the land is held , it will be presumed that the lines mentioned are intended to reach the corners and run with the lines of the tract "

*United Fuel Gas Co. v. Townsend*  
*Supreme Court of Appeals of W. Virginia, 1927, 139 SE. 856,*  
quoting *Western Co. v. Peytona Co.*, 8 W. Va 406,418



# Thomas M. Cooley on The Judicial Functions of Surveyors

1881

When a man has had a training in one of the exact sciences, where every problem within its purview is *supposed to be susceptible of accurate solution*, he is likely to be not a little impatient when he is told that, under some circumstances, he must recognize inaccuracies, and govern his action by facts which lead him away from the results which theoretically he ought to reach. **Observation warrants us in saying that this remark may frequently be made of surveyors.**

Unfortunately, it is known that surveyors sometimes, in supposed obedience to the State statute, disregard all evidences of occupation and claim of title and **plunge whole neighborhoods into quarrels and litigation** by assuming to "establish" corners at points with which the previous occupation cannot harmonize.

He has no right to mislead, and he may rightfully express his opinion that an original monument was at one place, when at the same time he is satisfied that acquiescence has fixed the rights of parties as if it were at another. But **he would do mischief** if he were to attempt to "establish" monuments" which he knew would tend to disturb settled rights

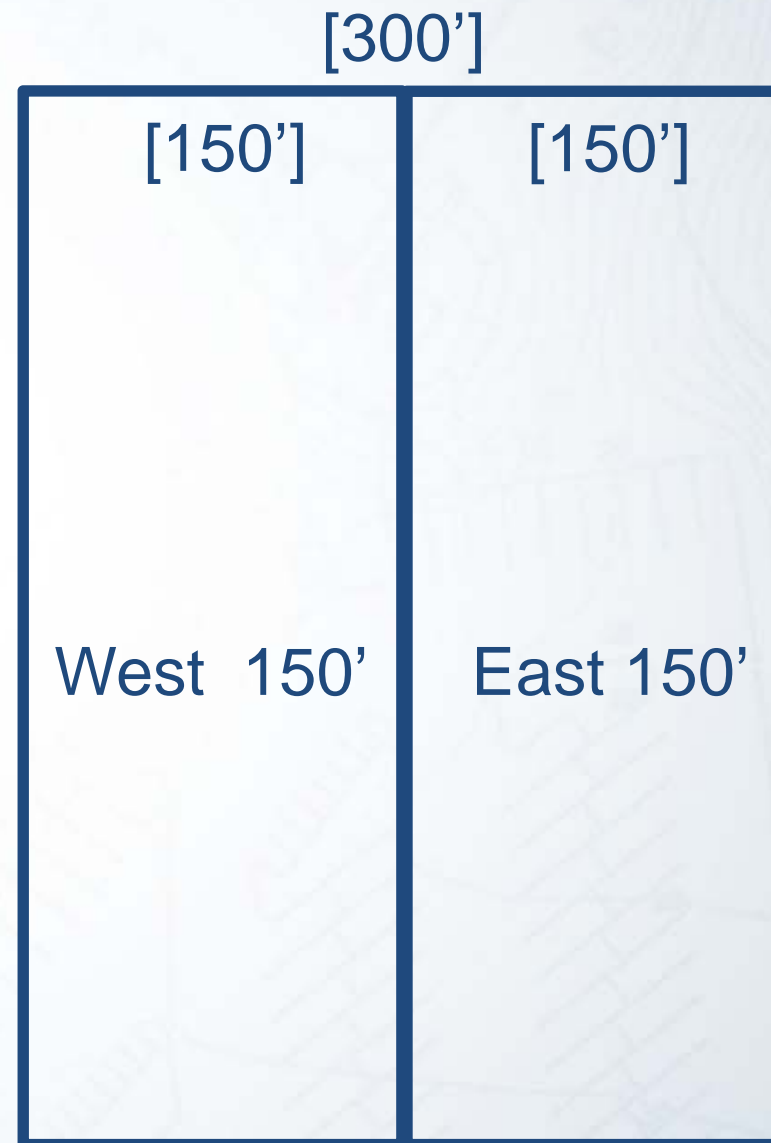


# Reservations and Exceptions

Used to allow Grantor to create a senior interest for himself...

*Lot 6 except the west 150'.*

*Lot 6 reserving the west 150'.*



# First Division Determines Seniority



## Chain of White:

Blue to White 1971  
Green To Blue 1960  
Red to Green 1958  
Brown to Red 1947

## Chain of Black:

Pink to Black 1968  
Yellow to Pink 1958  
Brown to Yellow 1952

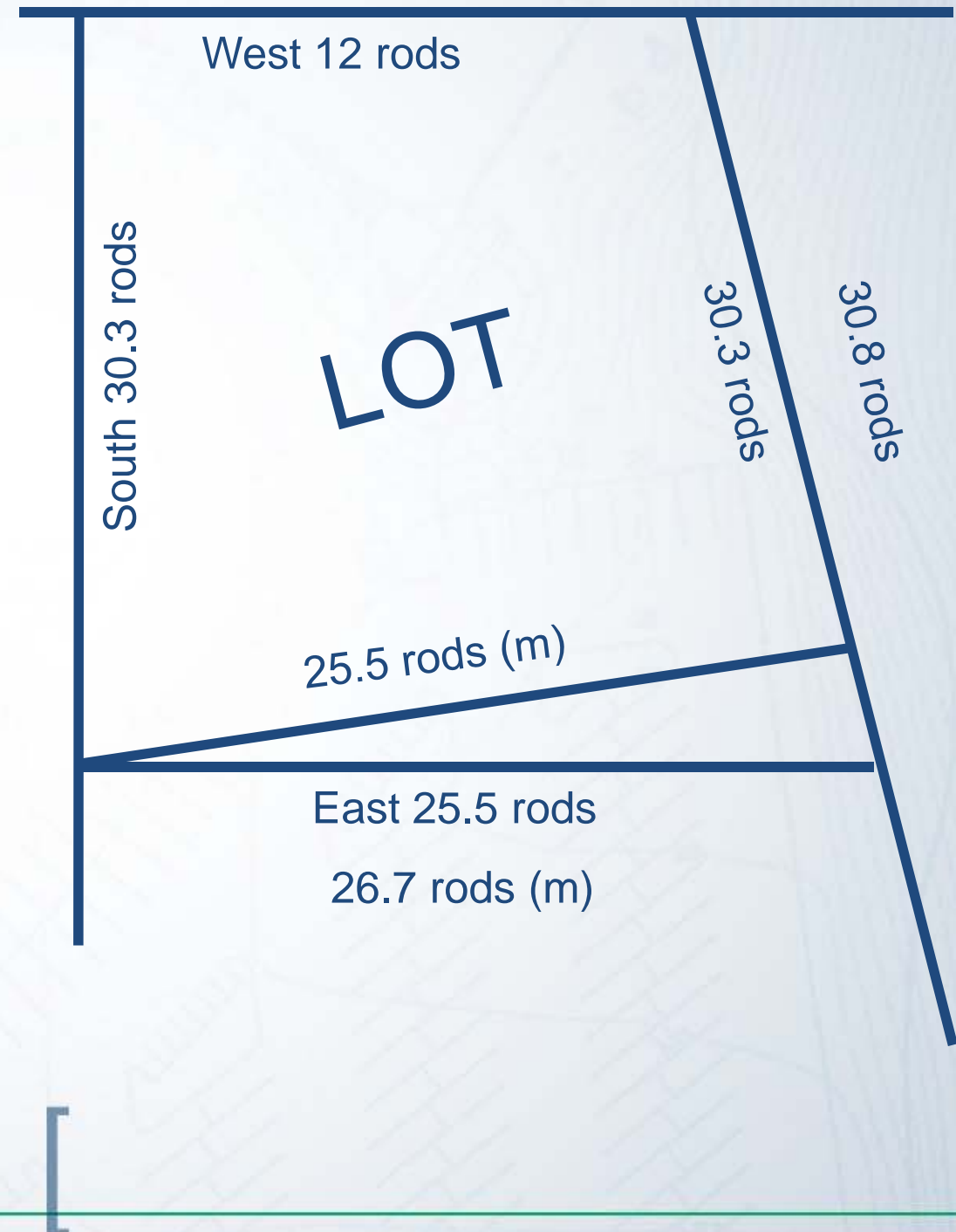
## Written Intentions of the Parties

.....beginning at the NE corner of said Lot, thence West along the north line of said Lot 12 rods to the NW corner;

thence South, 30.3 rods, along the West line of said Lot;

thence East 25.5 rods to the East line of said Lot;

thence northwesterly along the East line 30.3 rods to the point of beginning.





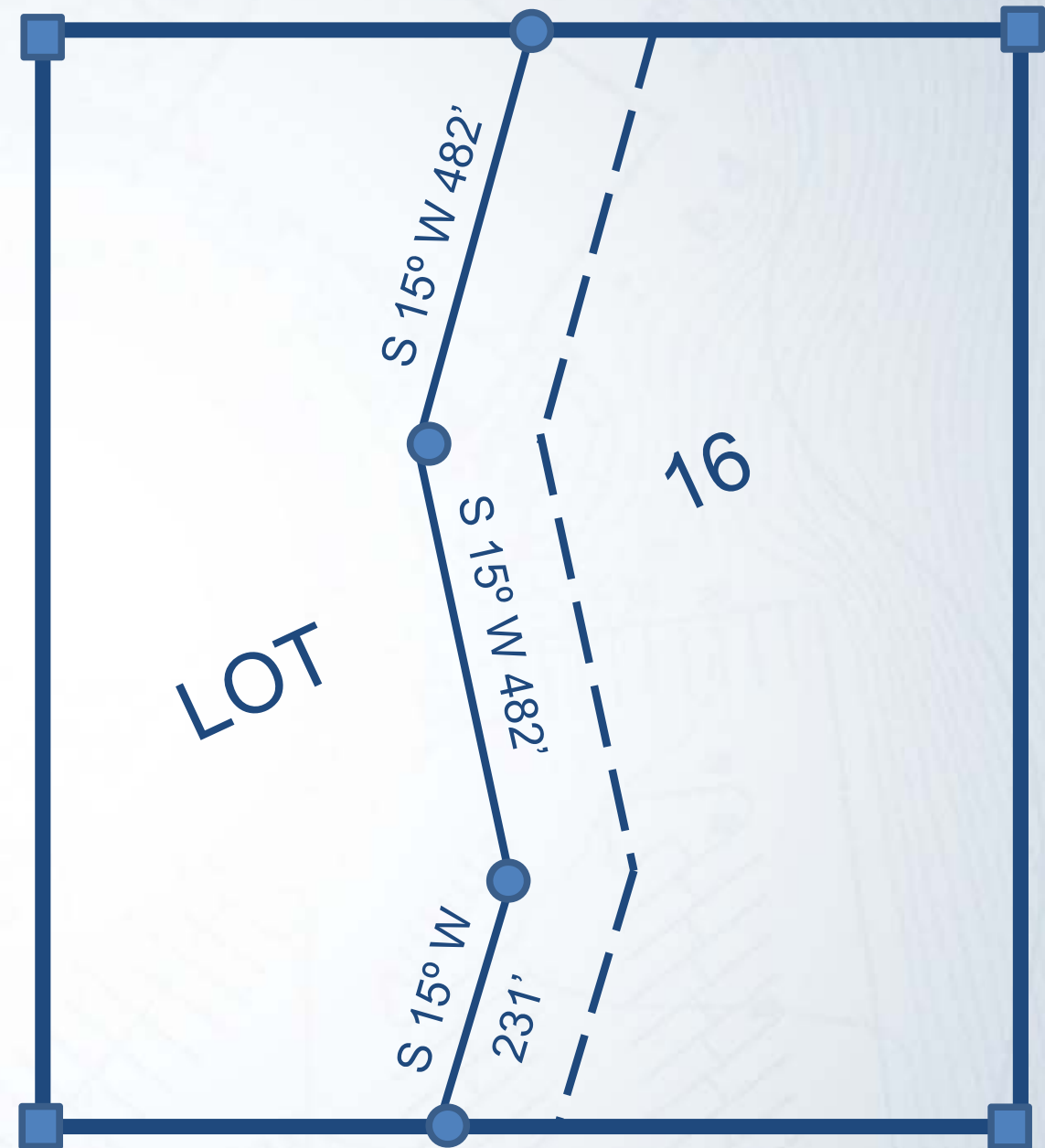
“ Where the courses called for in a deed were described as east, west, south and north, and were controlled by other well defined and certain descriptions, in order to harmonize all the calls of the deed, these words might be read easterly, westerly, southerly and northerly”.

*Faris v. Phelan (1870) 39 C. 612*



## Calls to a Prior Survey

All of Lot 16 lying east of the following line, as shown on the Plat of Survey by....:  
Beginning at the midpoint along the north line; thence S 15° W 482 feet; thence S 15° E 537 feet; thence S 20° E 231 feet to the south line.



# Calls for Monuments

## Monument

A physical structure which marks the location of a *corner* or other survey point

## Corner

The intersection of two or more lines, one or more of which may be curved

**MONUMENT ≠ CORNER**

## The Word “TO”

In any call, everything *before* the word “to” can be omitted and the course still makes sense.

INFORMATIVE

...Thence North 57°36'29" East, a distance of 1,564.13 feet,  
TO an iron pipe marked with a tag stamped LS 7010;

...is equivalent to...

LOCATIVE

...Thence North 57°36'29" East, a distance of 1,564.13 feet,  
TO an iron pipe marked with a tag stamped LS 7010;



395

31

32

6

5

PRESCRIPTIVE  
HIGHWAY





# Natural Monuments

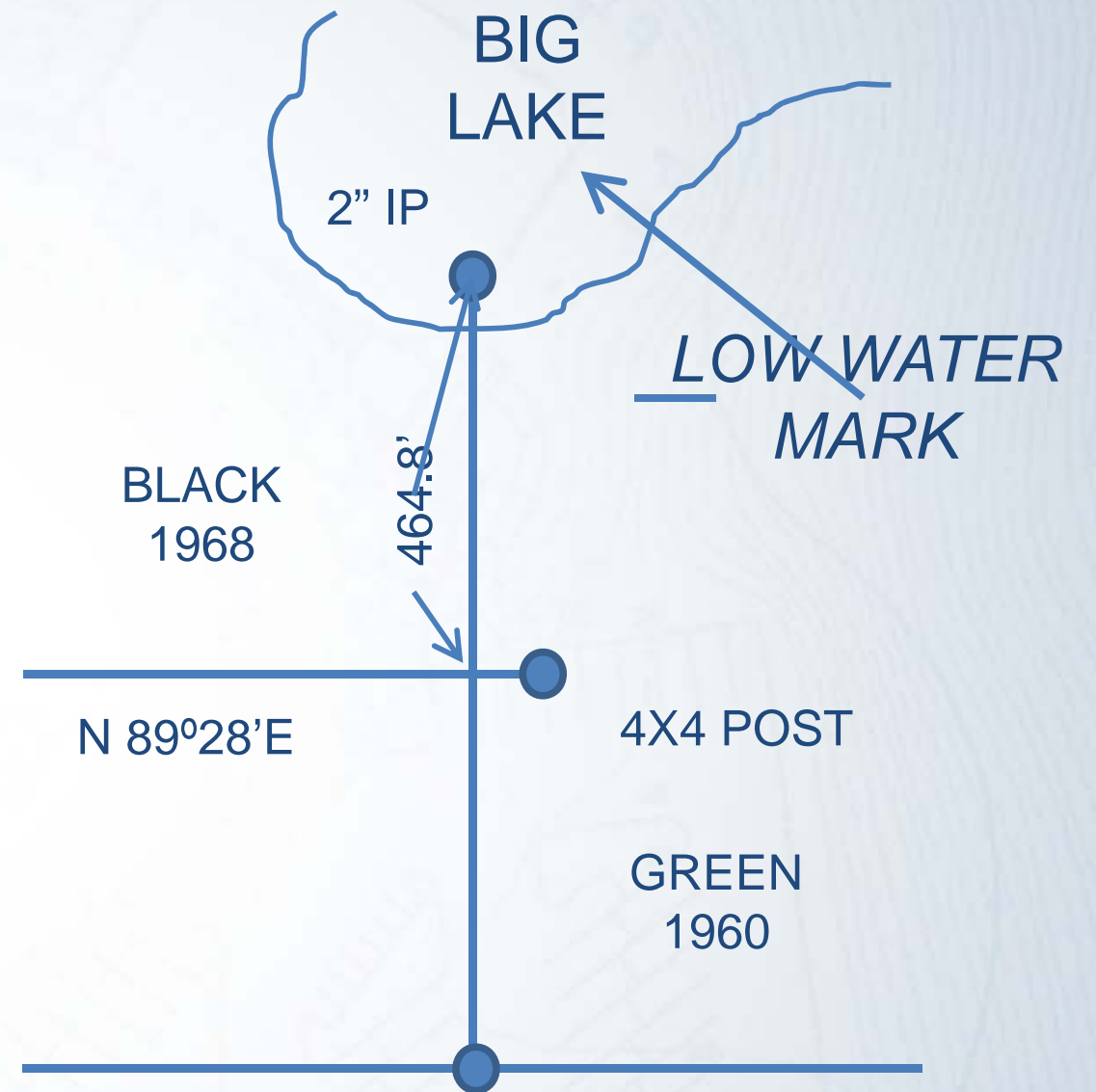
*“...permanent objects that are works of nature, such as streams, rivers, lakes, ponds, trees, ledges, and rock outcrops...”*

Conflict between natural and artificial monuments...

...tie goes to the natural monument...

...unless, if held, the natural monument would defeat the description...

“....East 200.00 feet to a 4”x 4” post in the Westerly line of Green; thence North 00°20' East along said Westerly line 450.00 feet to a 2” iron pipe at the low water mark of Big Lake”



# Artificial Monuments

Called for in that deed...

Easily identified...

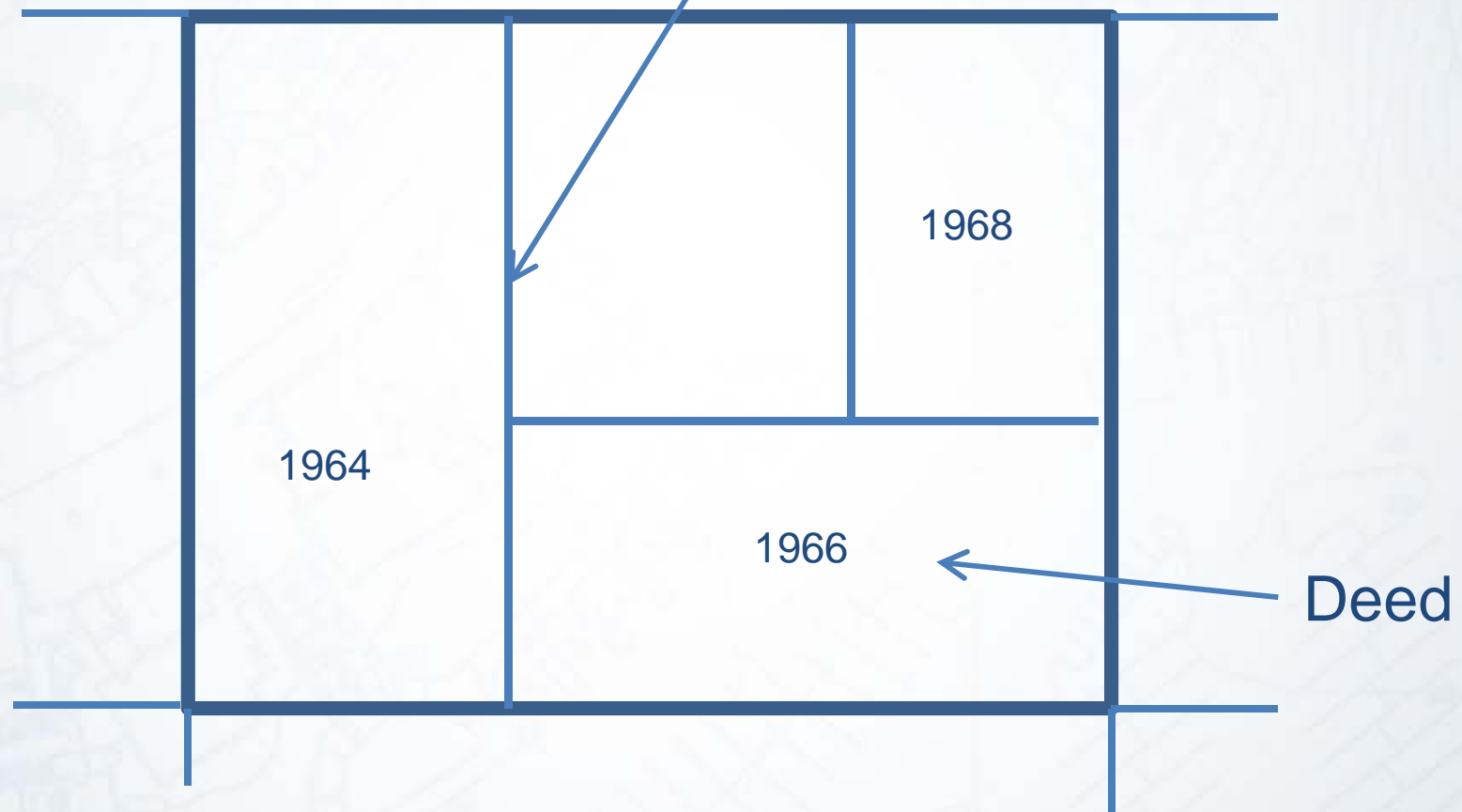
Undisturbed...



## Adjoiner or Record Line

“Adjoin means to be in contact with; hence the adjoiner is the land in contact with the instant property.

Call to this line holds over distance, short OR long!



## Senior lines control...

Green's deed:

"...to the east line of Brown..."

Brown's deed:

"...to the west line of Green..."

**NOW WHAT?!?!?**



## Calls for Direction & Distance or Calls for Distance & Direction

*“...Thence North 46°27’17” East, a distance of 188.14 feet to an 1” iron pipe tagged LS 7010...”*

Field Survey does not turn up any evidence of the monument. A recently constructed dirt road falls right where the monument *should* be...

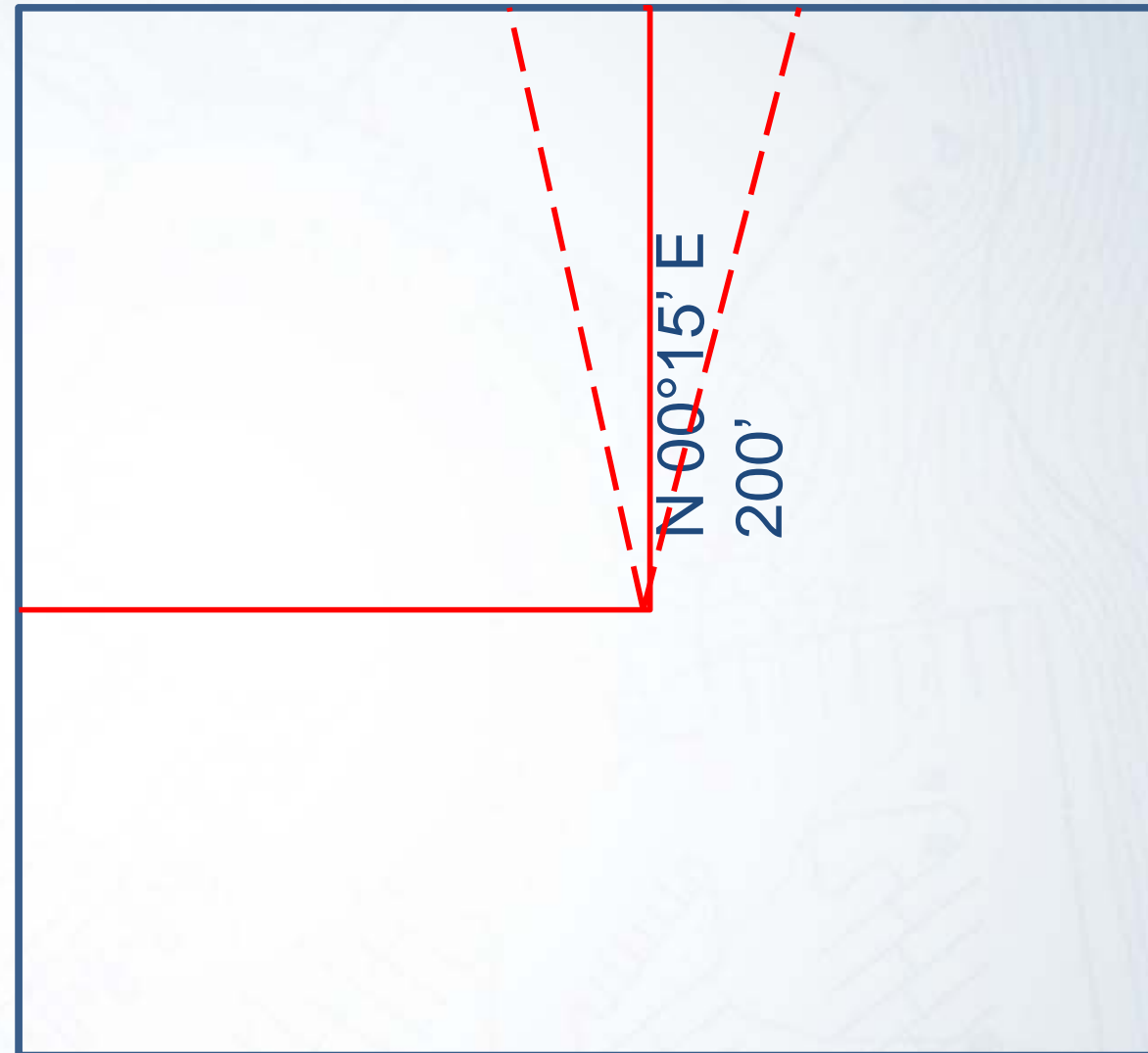
**NOW WHAT?!?!?**

## Calls for Direction or Distance

*“...thence North 00°15’ East,  
a distance of 200 feet,  
to the North line...”*

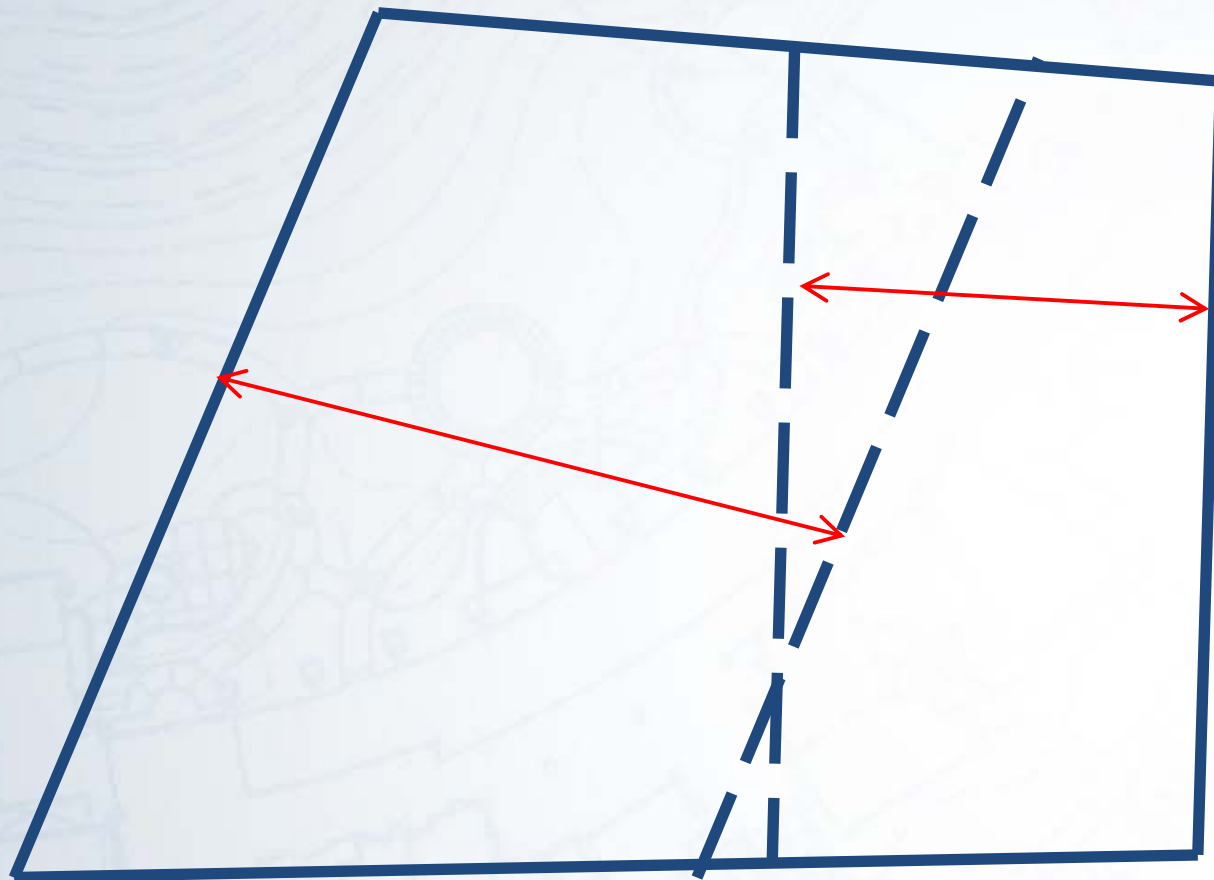
*Between different  
measurements which are  
inconsistent with each  
other, that of angles is  
paramount to that of  
surfaces, and that of lines  
paramount to both.*

CCP §2077



## Calls for Area

*...the east 10.66 acres of Farm Lot 900...*



Where land is described ...by acreage...the courts will construct a survey of the designated acreage, by the lines drawn parallel with the designated line or lines of the larger tract...and the presumption that they so intended is deduced from what men ordinarily would do...

*Woods v Shelby Oil and Gas Co.,  
2 SW 2<sup>nd</sup>, 895 (1929)*



Quantity...itself is no description. It does not give boundaries of course (bearings and distances), therefore, metes and bounds will prevail where there is conflict. But when boundaries are doubtful in themselves, quantity often becomes the controlling fact.

*Winans v. Cheney, 55 C 567 (1880)*

Area may become important when...

...there are no superior calls ....

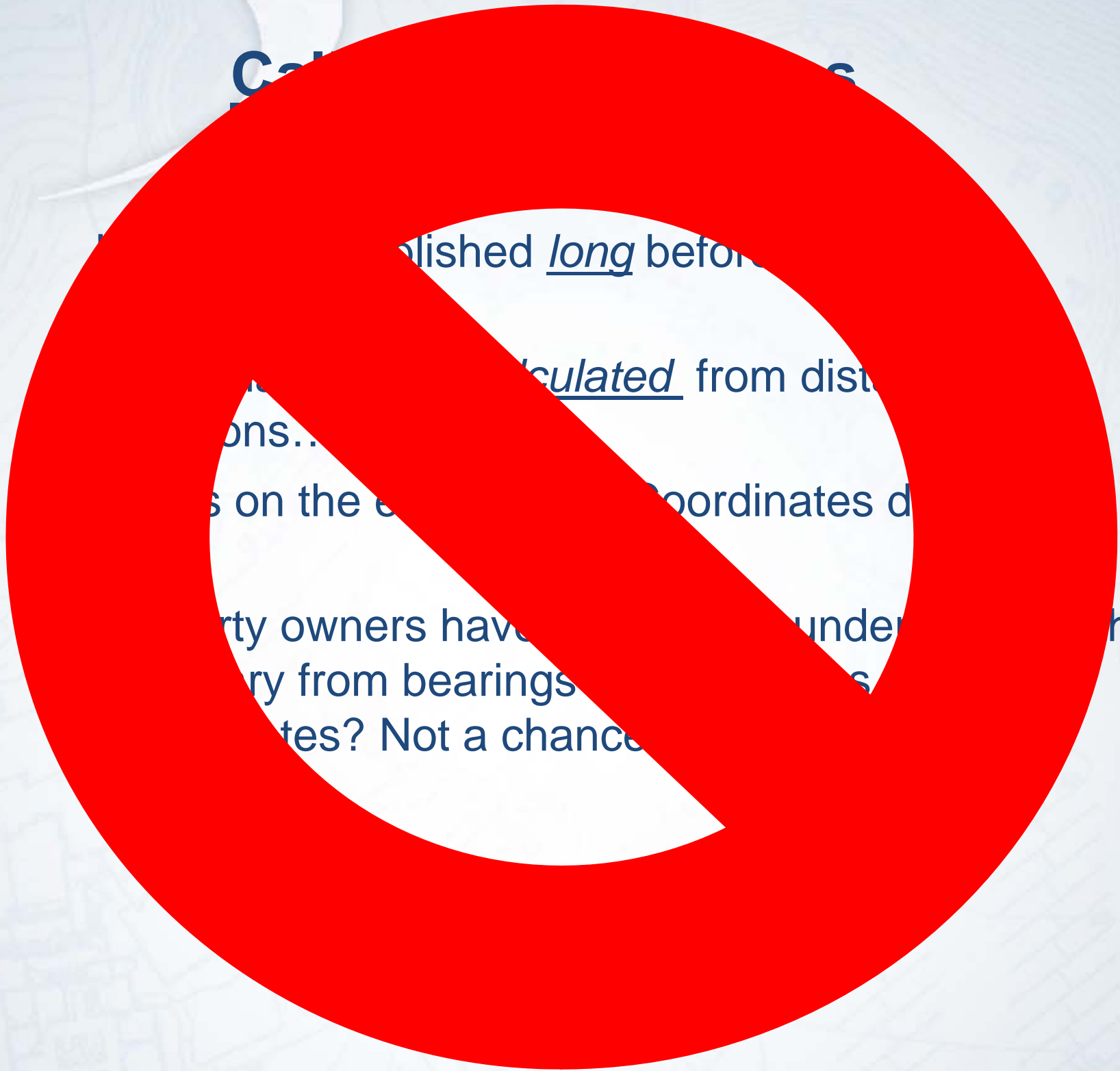
...the superior calls leave the boundary doubtful...

...quantity is the essence of the conveyance...

...quantity complies with the intention as established by the deed...

...courses run outside the grantor's property...

# Calculations



calculated long before

calculated from dist

ons..

s on the e coordinates d

erty owners have under their

ry from bearings

ates? Not a chance



The cardinal rules for the interpretation of deeds and other written instruments is the expressed intention of the parties, gathered from all parts of the instrument, giving each word its due force, and read in the light of existing condition and circumstances. It is the intention effectually expressed, not merely surmised. This rule controls all others.

*Perry v. Buswell, 113 Maine 399, 94 Atl. 483, 484 (1915)*

The only rule of much value – one which is frequently shadowed forth, but seldom, if ever, expressly stated in book-is to place ourselves as nearly as possible in the seats which were occupied by the parties at the time the instrument was executed; then, taking it by the **four corners**, read it.

*Walsh v Hill, 38 Cal. 481, 487*

# Extrinsic Evidence

Aids...

...the North Half of Lot (illegible) in the Morton Tract...

Explanation...

...to the west bank of the San Joaquin River as it exists on march 3, 1893...

Limitation...

Cannot refute or correct the deeds.