

STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

February 8, 1978

ATTORNEY GENERAL OPINION NO. 78-59

Mrs. Charlotte Olander
Executive Secretary
Kansas State Board of Technical Professions
Suite 1105
535 Kansas Avenue
Topeka, Kansas 66603

Re: Professional Engineers' License Act -
Land Surveying - Definitions.

Synopsis: "Original description", as that term is used in K.S.A. 1977 Supp. 26a-128, refers to that description which first delineates the boundaries of a specific parcel of land, as opposed to pre-existing descriptions of land areas of which the specified parcel is a part.

Dear Mrs. Olander:

You have asked for a definition of the term "original description" as it is used in K.S.A. 1977 Supp. 26a-128. That statute provides in part:

The term land surveying shall include the measurement and calculation of land areas; the preparation of the original descriptions of real property for conveyance or recording; and the preparation of maps or certificates of survey thereof. (Emphasis supplied.)

You inquire concerning the underscored language.


As applied to entire sections of land, "original description" would

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logically refer to the description in the patents issued by the United States government to the State of Kansas or to an individual at the time the subject land was first conveyed out of the possession of the U. S. government. Some land is still held by the original recipient of title from the United States. However, most Kansas land has changed hands one or more times since that original conveyance. Many times it is conveyed in parcels that are not complete sections. Parcels of land are often conveyed by deeds describing them in general terms taken from the deed of the last previous grantor - for example, "the Northwest Quarter of the Southwest Quarter of Section 15, Township 29 South, Range 5 West, Balderdash County, Kansas." However, if at some point a detailed description is required, wherein markers are referenced and appropriate distances noted, a survey would be required if there were none already on file, and the resulting description used for conveyance or recording would be an "original description" as the term is used in 26a-128. City lots are commonly conveyed by title documents describing them by lot number, street, and subdivision. However, subdivision plats must be recorded with the register of deeds in that county, and the plat is required to show locations of monuments; bearings and distances between monuments; closure calculations; and all horizontal lot calculations and street calculations. (K.S.A. 50-2004) The plat thus constitutes an "original description for conveyance or recording" within the meaning of 26a-128. If the subdivision constituted one section of land, the section could have been described, perhaps, by reference measurements from the triangulation stations established by the United States Coast and Geodetic Survey of Kansas made in 1865, or from some subsequent survey and marker placement. But carving lots from a section previously conveyed only as a whole obviously requires that the exact location and measurement of the lots be determined; thus, as to the subdivision, the required survey would result in an "original description" despite the pre-existence of an accurate description of the section as a whole.

In the final analysis, it appears that an "original description", as that term relates to any particular parcel of land, is that description which first delineates that parcels in detail, in contrast to pre-existing descriptions of larger areas of which the specified parcel is a part, or descriptions derived therefrom. Whether or not a particular description is an "original description for conveyance or recording" will be determined by the use of the description.

Very truly yours,


CURT T. SCHNEIDER
Attorney General