

## 2 Real Property And the Law

Although most people think of **land** as the surface of the earth, land is the **earth's surface** and also the **mineral deposits under the earth** and the **air above it**. The term **real estate** further expands this definition to **include all natural and man-made improvements attached to the land**. **Real property** describes real estate plus the "bundle of legal rights" associated with its ownership.

The different rights to the same parcel of real estate may be owned and controlled by different parties, one owning the **surface rights**, one owning the **air rights** and another owning the **subsurface rights**.

All property that does not fit the definition of real estate is classified as **personal property, or chattels**. When articles of personal property are affixed to land, they may become **fixtures** and as such are considered a part of the real estate. However, personal property attached to real estate by a tenant for business purposes is classified as a **trade, or chattel, fixture** and remains personal property.

The special nature of land as an investment is apparent in both its economic and physical characteristics. The economic characteristics are **scarcity, improvements, permanence of investment** and **area preferences**. Physically, land is **immobile, indestructible** and **unique**.

Even the simplest real estate transactions reflect a complex body of laws. A purchaser of real estate actually purchases from the seller the **legal rights** to use the land in certain ways.

Every state and Canadian province has some type of **licensing requirement** for real estate brokers and salespeople. Students should become familiar with the licensing requirements of their states.

Also members of the National Association of REALTORS® (NAR) are required to abide by a strict Code of Ethics.

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## KEY TERMS

accession \_\_\_\_\_

air rights \_\_\_\_\_

attorney \_\_\_\_\_

bundle of legal rights \_\_\_\_\_

chattel \_\_\_\_\_

fixture \_\_\_\_\_

improvement \_\_\_\_\_

land \_\_\_\_\_

personal property \_\_\_\_\_

real estate \_\_\_\_\_

real estate license law \_\_\_\_\_

real property \_\_\_\_\_

severance \_\_\_\_\_

subsurface rights \_\_\_\_\_

surface rights \_\_\_\_\_

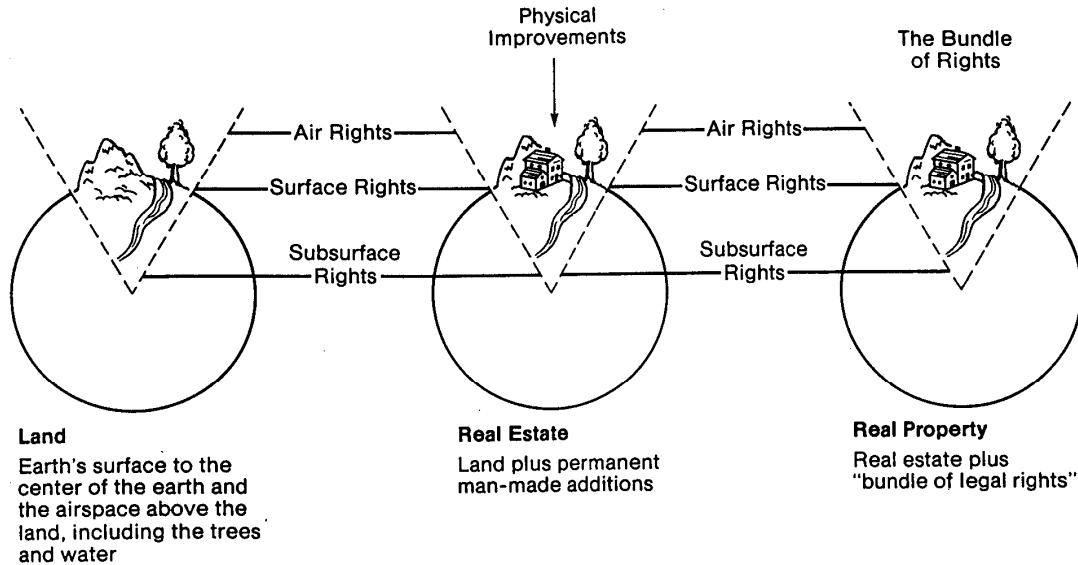
trade fixture \_\_\_\_\_



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## ILLUSTRATIONS

Study the following illustration and fill in the blanks below.



1. "The earth's \_\_\_\_\_ extending downward to the \_\_\_\_\_ of the earth and extending upward to infinity, including things \_\_\_\_\_ attached by \_\_\_\_\_" is a definition of \_\_\_\_\_.
2. "All the components of land plus man-made additions called \_\_\_\_\_, such as buildings, streets and roads and utilities" is a definition of \_\_\_\_\_.
3. What items apply to both the terms *land* and *real estate*?  
\_\_\_\_\_  
\_\_\_\_\_
4. What items apply **only** to the term real estate? \_\_\_\_\_
5. How can a person other than the landowner have an ownership interest in the same real estate?"  
\_\_\_\_\_
6. Terms synonymous with *real estate* are \_\_\_\_\_ and \_\_\_\_\_.



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Read the description in the column at the left below; then decide whether each item is real or personal property. Place a check in the appropriate column to indicate your choice. Then go back and decide which item(s) are (fixtures or trade fixtures, if applicable.

PERSONAL OR REAL PROPERTY

Real Property   Personal Property   Fixture   Trade Fixture

7 Sidewalks and Sewers in a Subdivision				
8 Bushes Surrounding a Residence				
9 Wheat or Corn Crops on a Farm				
10 Kitchen Sink Installed in a Home				
11 Booths In a Restaurant leased by a Tenant				
12 Venetian Blinds Installed by a Tenant				
13 Gas Pumps Installed by a Tenant in a Rented Service Station				
14 Machinery in a Factory Installed by the Landowner				



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### SELF-EVALUATION QUESTIONS

1. The economic characteristics of land include:
  - a. immobility.
  - b. permanence of investment.
  - c. uniqueness.
  - d. indestructibility.
  
2. "No two pieces of real estate are exactly alike," describes a physical characteristic of land called uniqueness, also referred to as:
  - a. nonhomogeneity.
  - b. immobility.
  - c. scarcity.
  - d. indestructibility.
  
3. After a railroad sells air rights for construction of a building over its tracks, trains usually may:
  - a. operate normally.
  - b. no longer run under the buildings.
  - c. operate only with permission of the building owners.
  - d. operate only at night.
  
4. The professional activities of real estate brokers and salespeople are not always affected by:
  - a. real estate license law.
  - b. contract law.
  - c. REALTORS Code of Ethics.
  - d. agency law.
  
5. Trade fixtures:
  - a. belong to the owner of the real estate.
  - b. are considered a permanent part of the building.
  - c. are considered real estate.
  - d. are considered personal property.
  
6. Which of the following items would **not** be real estate?
  - a. Fence
  - b. Permanent building
  - c. Farm equipment
  - d. Growing trees
  
7. A chattel:
  - a. is an item of personal property.
  - b. may not be converted to an item of real property.
  - c. is part of the land.
  - d. is immobile.



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8. Betty, a buyer, contracted to purchase Sam's home. Prior to the closing, Sam may remove:

- a. the built-in dishwasher.
- b. the wall-to-wall carpeting.
- c. the drapery rods.
- d. the refrigerator.

9. An item of real property may become an item of personal property through:

- a. annexation.
- b. severance
- c. fixture.
- d. improvement.

10. Tammy, a tenant, rented a storefront and installed chairs and sinks to be used in her hair salon. Before her lease is up she may remove them because they are:

- a. fixtures.
- b. chattels.
- c. trade fixtures.
- d. part of the real estate.



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### SOLUTIONS

#### KEY TERMS

**accession**-Acquiring title to a fixture when it is left behind by a tenant at the termination of their lease term.

**air rights**-The right to use the open space above real property, generally allowing the surface to be used for another purpose.

**attorney**-One who is licensed to practice law.

**bundle of legal rights**-Ownership of all legal rights to the land, including possession, control, disposition and enjoyment.

**chattel**-An item of personal property.

**fixture**-An article of personal property that has become real property because it has been permanently affixed to the realty.

**improvement** -Any man-made addition to real property, such as buildings, fence, driveways

**land**-The earth's surface, downward to the center of the earth and upward indefinitely into space, including things permanently attached by nature.

**personal property**-Items that do not fit into the definition of real property; movable objects; chattels

**real estate**-The earth's surface extending downward to the center of the earth and upward into space, including all things permanently attached to it, whether by nature or by people.

**real estate license law**-State statutes that establish the authority to license and regulate the business activities of real estate brokers and salespeople.

**real property**-The interests, benefits and rights inherent in the ownership of real estate.

**severance**-A method of changing an item of real property to personal property, such as by chopping down a tree or removing a fence from the land.

**subsurface rights**-Real estate ownership's rights to the water, minerals, gas, oil, and so forth, that lie beneath the surface of the property.

**surface rights**-Ownership rights in a parcel of real estate that are limited to the surface of the property and do not include the air above it or the minerals below it.

**trade fixture** - An article installed by a business tenant under the terms of a lease that is removable by the tenant before the lease expires.

#### ILLUSTRATIONS

1. surface; center; permanently; nature; land
2. improvements; real estate
3. land, including the earth's surface and soil, air rights, mineral rights; natural things, such as trees and water
4. man-made improvements, such as buildings, streets, utilities and sewers
5. One party may own the air rights and/or mineral rights, while the landowner owns the land plus improvements.
6. realty; real property



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7. real property; fixture
8. real property
9. personal property
10. real property; fixture
11. personal property; trade fixture
12. personal property
13. personal property; trade fixture
14. real property; trade fixture

### SELF EVALVATION QUESTIONS

1. **b.** The basic economic characteristics of land are: scarcity, improvements, permanence of investment and area preferences. Choices "a," "c" and "d" are all **physical** characteristics.
  
2. **a.** The physical characteristic of uniqueness or nonhomogeneity stems from the fact that no two parcels of land are ever exactly the same. Although there may be substantial similarity, all parcels differ in terms of geographic **location**. Watch for questions using *homogeneity* without the prefix *non*.
  
3. **a.** The railroad did not sell the surface rights, and may use the surface of the land however it wishes.
  
4. **c.** Brokers and salespeople are always affected by the license law of their state, as well as agency and contract law, but the REALTORS Code of Ethics affects only those licensees who also belong to a local board affiliated with the NATIONAL ASSOCIATION OF REALTORS.
  
5. **d.** Trade fixtures, also called chattel fixtures, are articles owned and attached by a tenant to a rented space or building for use in conducting the tenant's business. Trade fixtures usually belong to the tenant.
  
6. **c.** Farm equipment is not "attached" to the land. A fence or a permanent building is attached to the land, as are growing trees.
  
7. **a.** A chattel is an item of personal property, a movable object; as such, it may be converted into real estate by permanently affixing the item to a parcel of real estate. An example of this would be piles of wood (personal property) constructed into a fence (real property).





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8. d. A refrigerator would be considered an item of personal property by whatever test a court would apply. Without an agreement to the contrary, Sam would not be permitted to remove "a," "b" or "c" because these are all fixtures and, by definition, are real estate that must be transferred to the buyers at closing. -

9. b. An item of real property is converted to personal property through severance. An example of this would be a growing tree (real property) that is cut down and made into lumber (personal property). Of course, the lumber could once again become real property if it were constructed into a new home, again being permanently attached to the land.

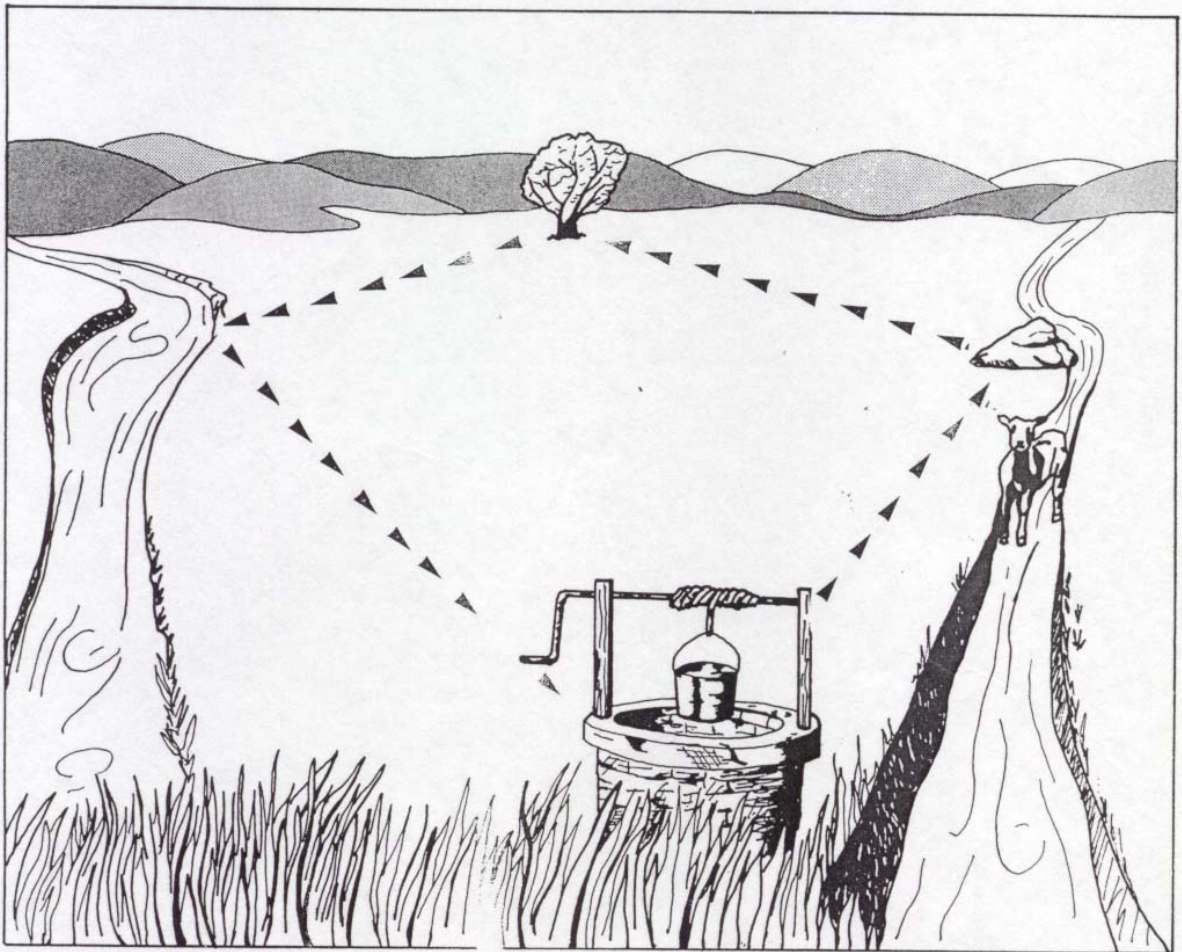
10. c. Items used in a trade or profession may be removed before the tenant's lease is up. Tammy would have to restore the building to its original state (repair holes made in the floor, for example).

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### LEGAL DESCRIPTIONS

A **legal description** is a precise method of identifying a parcel of land. There are three methods of legal description: metes and bounds, rectangular (government) survey system and lot-and-block (plat map) system. A property's description should always be the same as the one used in previous documents.

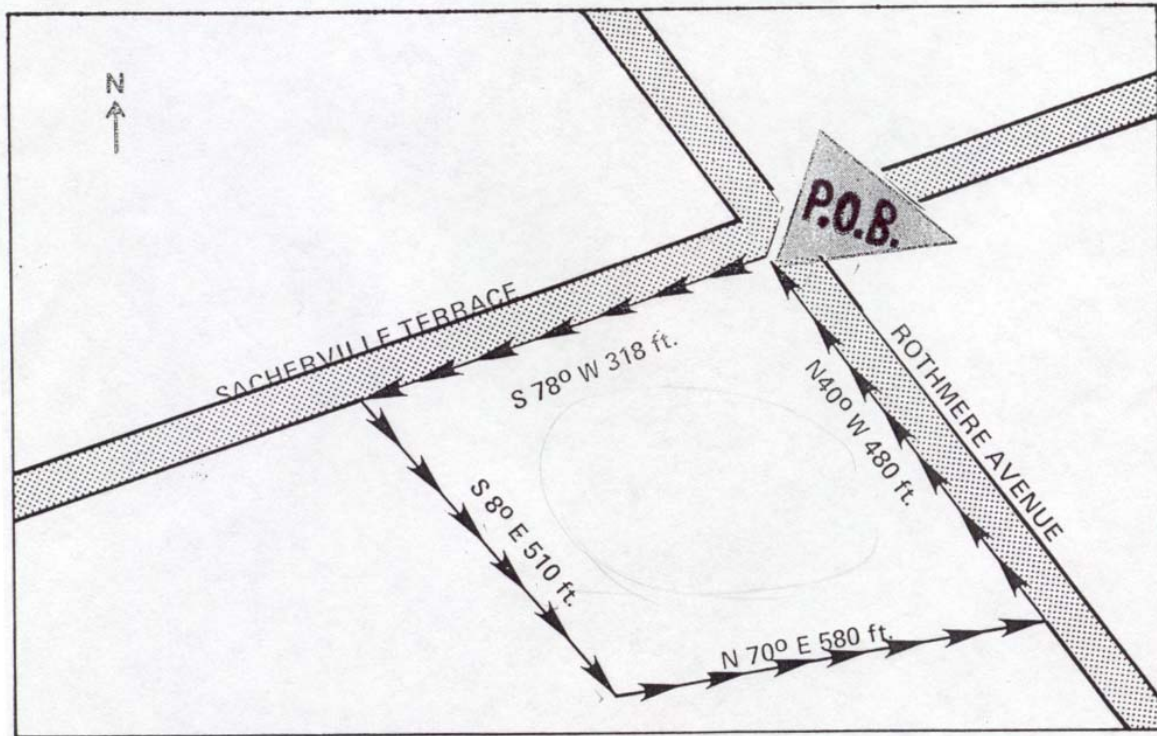
A **metes-and-bounds description** uses direction and distance measurement to establish precise boundaries for a parcel. Monuments are fixed objects used to establish boundaries. Their actual location takes precedence over the written linear measurement in a document. When property is being described by metes and bounds, the description must always enclose a tract of land; the boundary line must end at the point at which it started, the point of beginning.



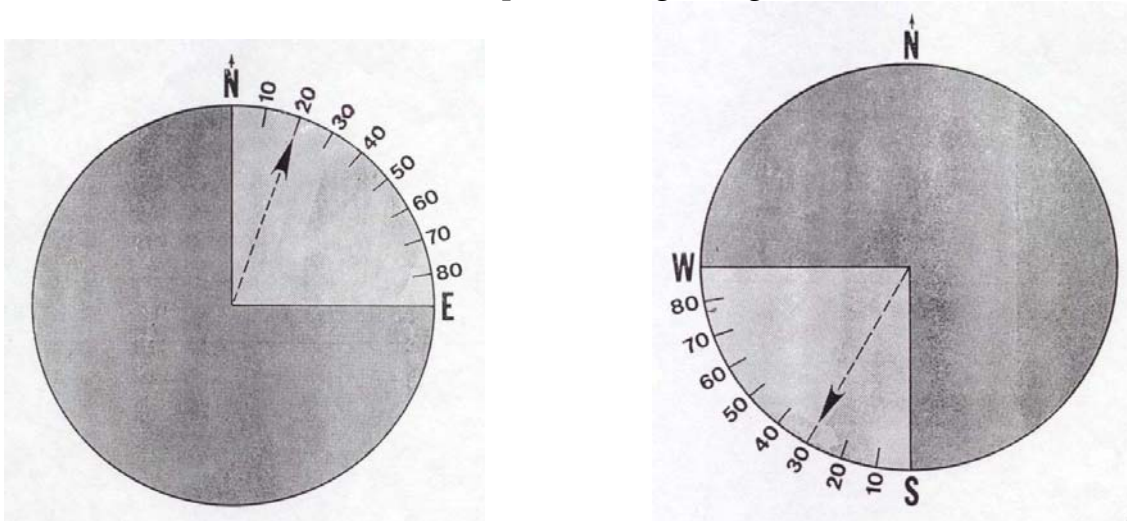
**Metes and Bounds Description:** Start at the old well, head north east 200 yards to the boulder by the path, then head northwest 175 yards to the big maple tree, then head southwest 150 yards to the bend in the creek, then southeast back to the old well.



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Modern Metes and Bounds Description: From the southwest intersection of Sacherville Terrace and Rothmere Avenue. Head south 78 degrees west for 318 feet along the south side of Sacherville Terrace, then south 8 degrees east for 510 feet then north 70 degrees east 580 feet, the north 40 degrees west 480 feet along the west side of Rothmere avenue back to the point of beginning.



Directions are given in degree increments east or west from either due north or due south.

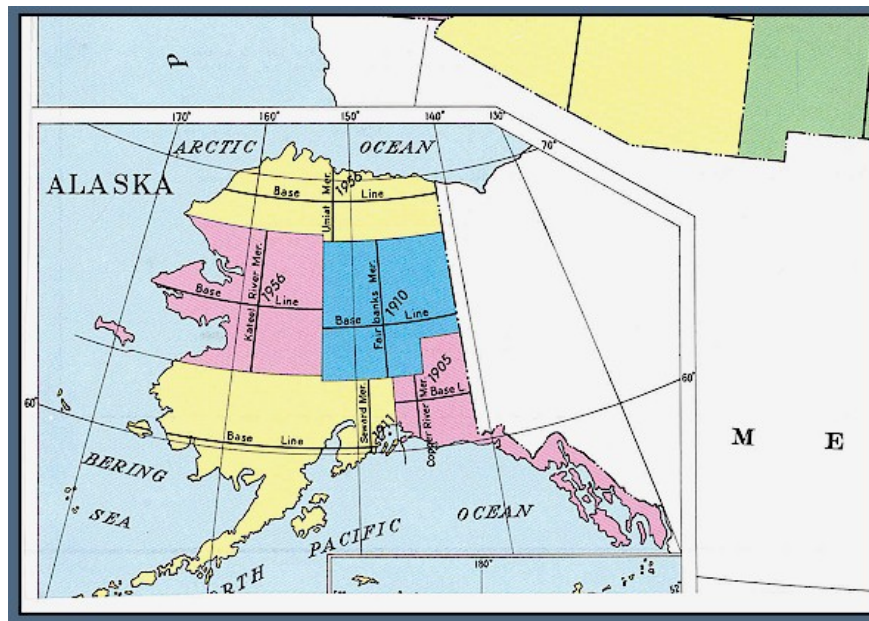
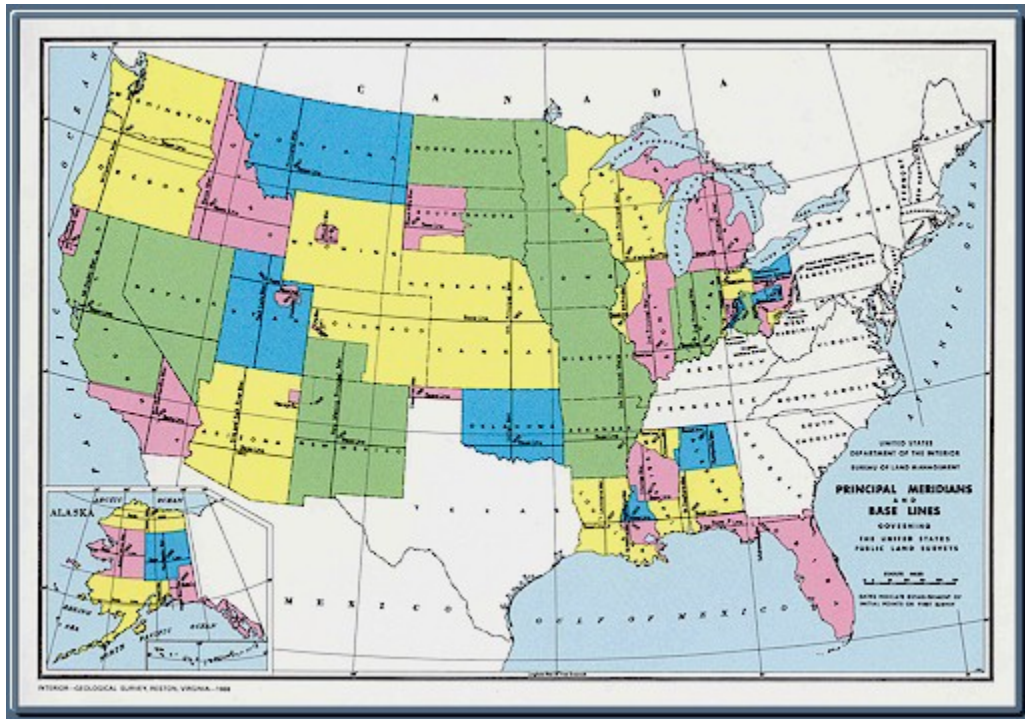




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The **rectangular (government) survey system** is used in 30 states. It involves surveys based on 35 principal meridians. Under this system each principal meridian and its corresponding base line are specifically located. Any particular parcel of land is surveyed from only one principal meridian and its base line.



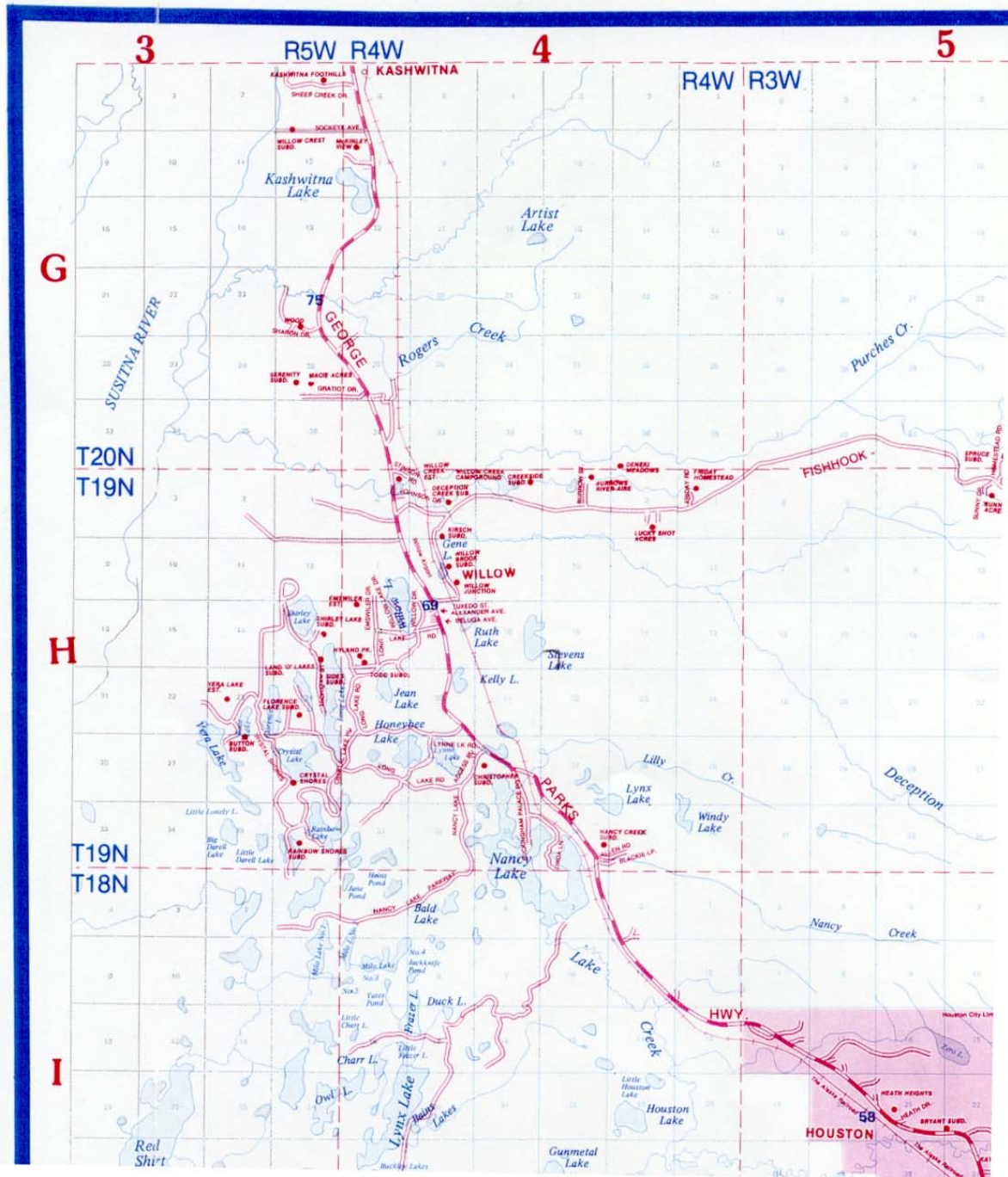
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East and west lines parallel with the base line form six-mile-wide strips called **township strips** or **tiers**. North and south lines parallel with the principal meridian form **range strips**. The resulting squares are each 36 square miles in area and are called **townships**. Townships are designated by their township and range numbers and their principal meridian--for example, Township 3 North, Range 4 east of the \_\_\_\_\_ Meridian.



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### SECTIONS IN A TOWNSHIP

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

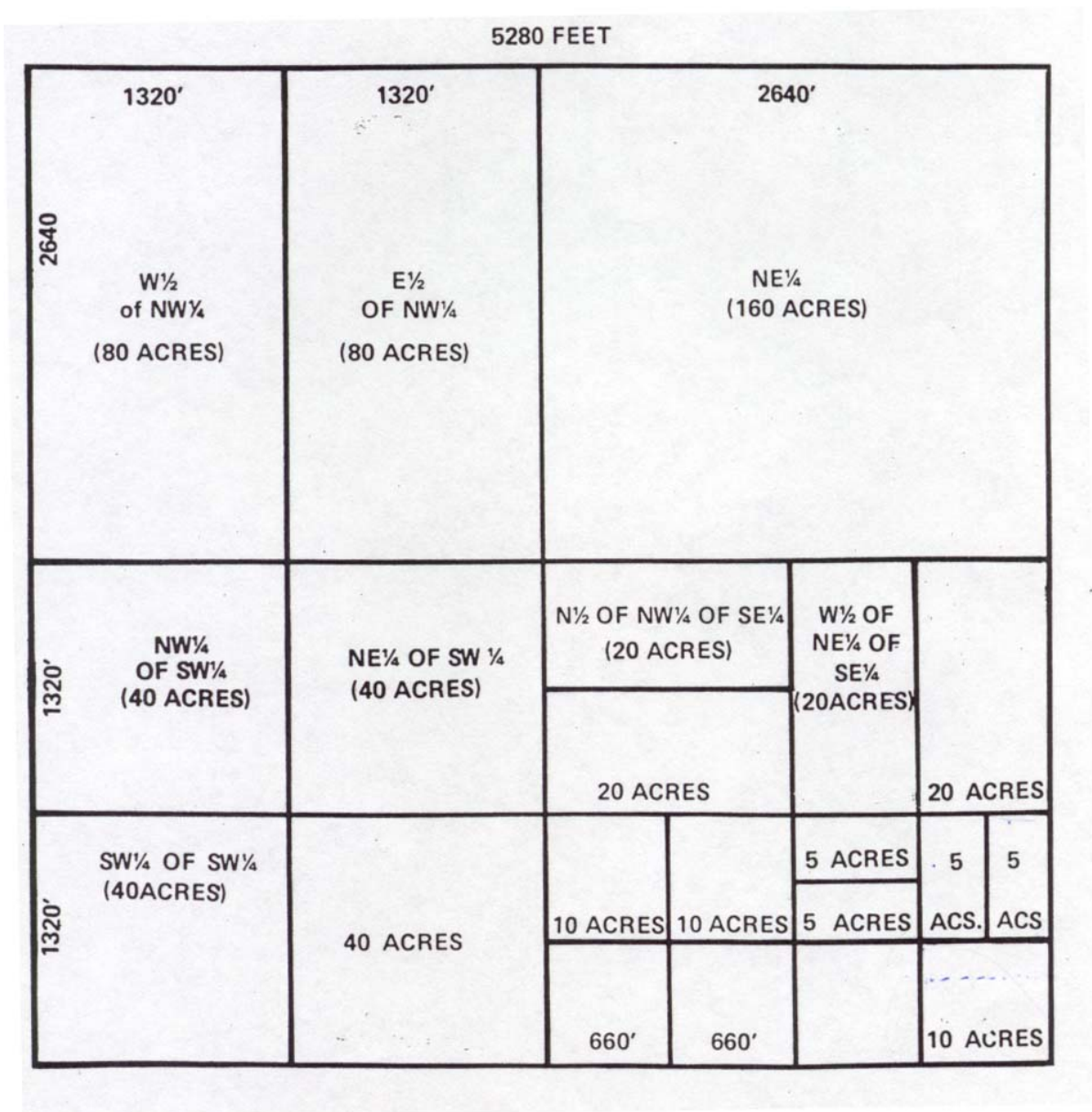
School Section →

**1 township contains 36 sections**  
**One section = one square mile**  
**one square mile= 640 acres**  
**one acre= 43,560 square feet**

Townships are divided into 36 **sections** of one square mile each.



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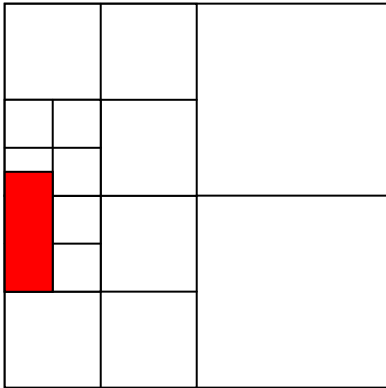


One Section

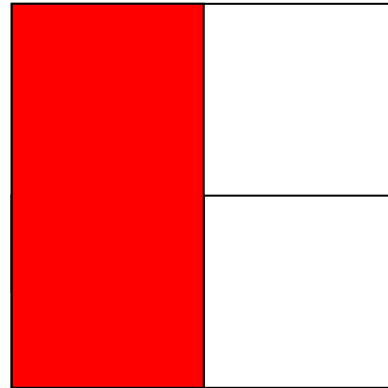
When a tract is irregular or its boundaries do not coincide with a section, regular fractions of a section or a boundary of a lot or block in a subdivision, a surveyor can prepare a combination rectangular survey and metes-and-bounds description.



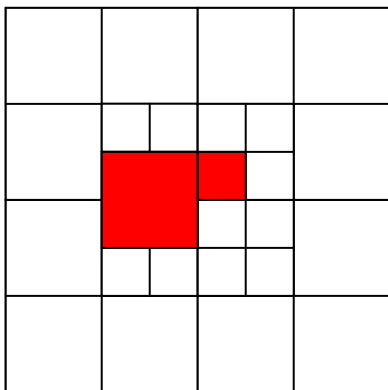
## Exercises in Rectangular Survey



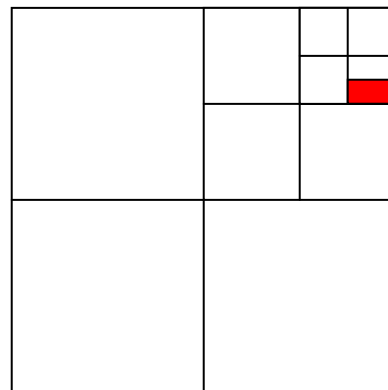
**A**



**B**



**C**

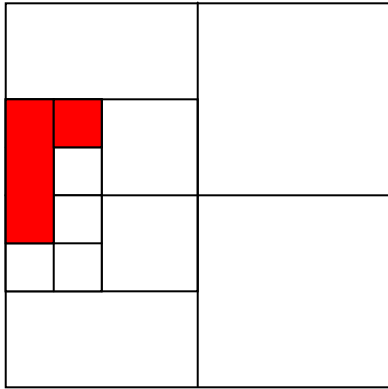


**D**

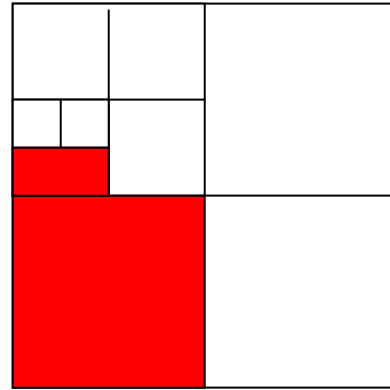




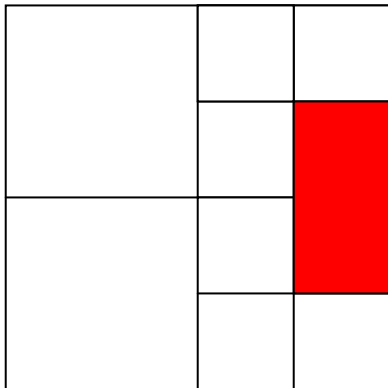
## 2 Real Property And the Law



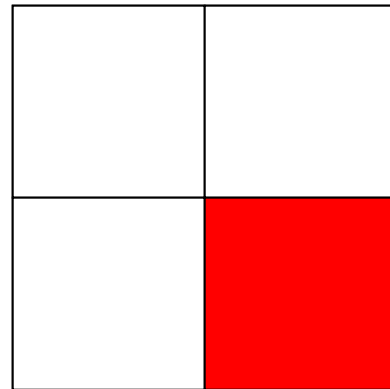
**E**



**F**



**G**



**H**



## 2 Real Property And the Law

Land in every state can be subdivided into lots and blocks by means of a **plat map**. An approved plat of survey showing the division into blocks, giving the size, location and designation of lots and specifying the location and size of streets to be dedicated for public use is filed for record in the recorder's office of the county in which the land is located. A subdivision plat will give the legal description of a building site in a town or city by lot, block and subdivision in a section, township and range of a principal meridian in a county and state.

Air lots, condominium descriptions and other measurements of vertical elevations may be computed from the United States Geological Survey **datum**, which is the mean sea level in New York Harbor. Most large cities have established local survey datums for surveying within the area. The elevations from these datums are further supplemented by reference points, called benchmarks, placed at fixed intervals from the datums.

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## KEY TERMS

air lot \_\_\_\_\_

base line \_\_\_\_\_

benchmark \_\_\_\_\_

correction lines \_\_\_\_\_

datum \_\_\_\_\_

guide meridians \_\_\_\_\_

government check \_\_\_\_\_

government lots \_\_\_\_\_

legal description \_\_\_\_\_

lot and block system \_\_\_\_\_

metes and bounds \_\_\_\_\_

monument \_\_\_\_\_

plat map \_\_\_\_\_

point of beginning \_\_\_\_\_

principal meridian \_\_\_\_\_

range \_\_\_\_\_

rectangular (government) survey system \_\_\_\_\_

section \_\_\_\_\_

township line \_\_\_\_\_

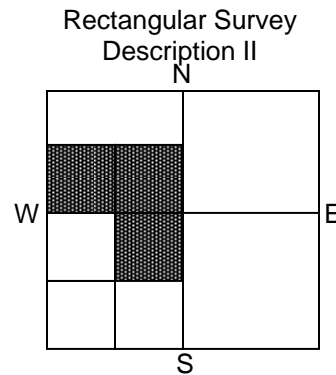
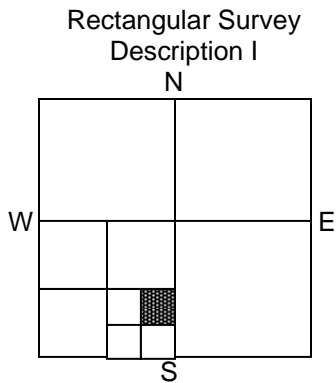
township square \_\_\_\_\_



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## ILLUSTRATIONS

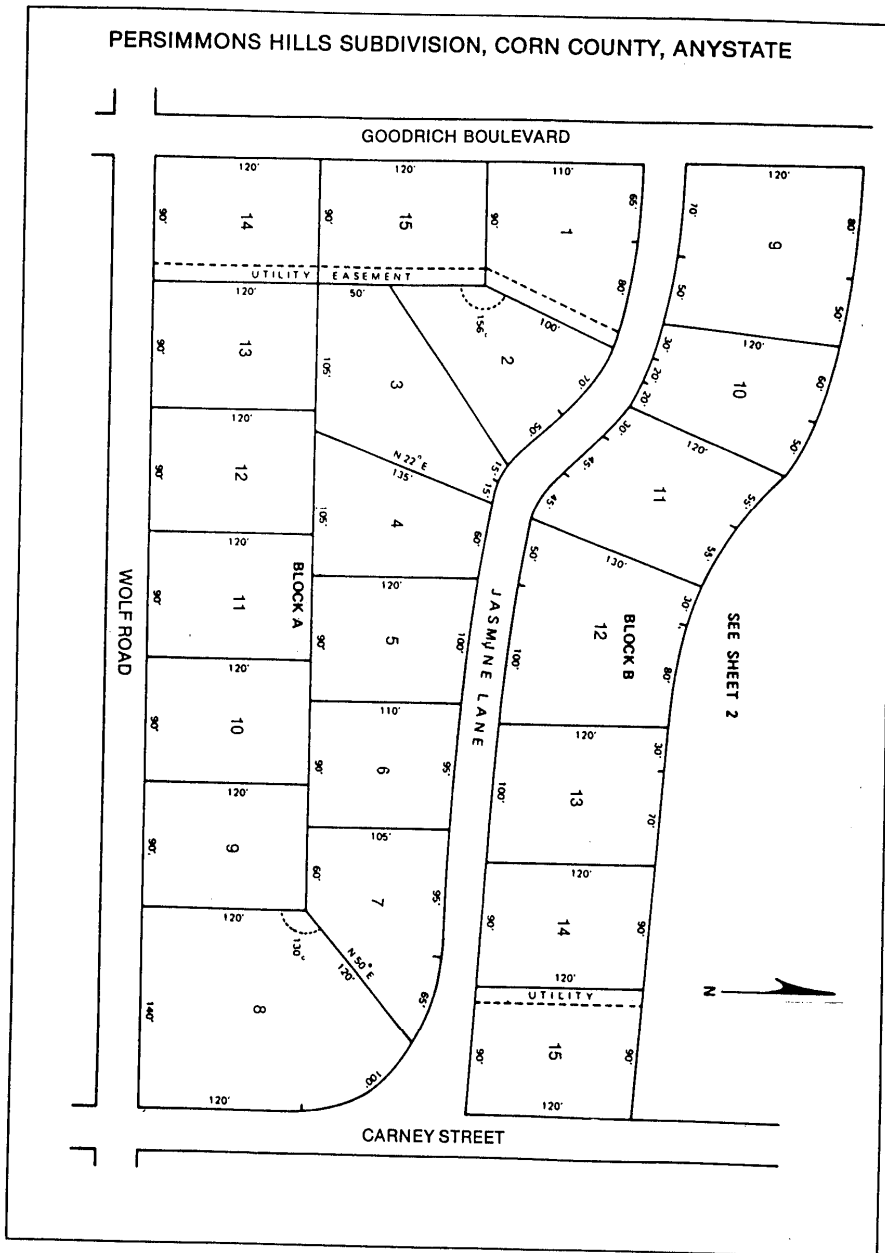
Study the following illustrations and fill in the accompanying blanks completely.



1. One section contains one square mile, or \_\_\_\_\_ acres.
2. One section can be divided into four quarters of \_\_\_\_\_ acres each.
3. In the first illustration, the SW 1/4 has been divided into four quarters of \_\_\_\_\_ acres each.
4. In the first illustration, the SE 1/4 of the SW 1/4 has been divided into four quarters of \_\_\_\_\_ acres each.
5. Describe the shaded portion of the first illustration. \_\_\_\_\_
6. In the second illustration, describe the area contained in the shaded portions.  
\_\_\_\_\_
7. What important word should you use in your second description to indicate that two different quarters are being described? \_\_\_\_\_
8. In the plat map of the Persimmons Hills Subdivision, which lots have easements? \_\_\_\_\_
9. Which lot on Block B has the most front footage on Jasmine Lane?  
\_\_\_\_\_ How many feet? \_\_\_\_\_



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10. Give the legal description by subdivided plat of the property on the corner of Wolf Road and Goodrich Boulevard. \_\_\_\_\_

11. Give a metes-and-bounds description of Lot 8, Block A (use the intersection of the streets as your POB) \_\_\_\_\_



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### SECTIONS IN A TOWNSHIP

SCHOOL SECTION →

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

**1 township contains 36 sections**  
**One section = one square mile**  
**one square mile = 640 acres**  
**one acre = 43,560 square feet**

### SELF-EVALUATION QUESTIONS

- A quarter section is:
  - 1/2 mile by 1/2 mile.
  - 1/2 mile by 1 mile.
  - 1/4 mile by 1/4 mile.
  - 1/8 mile by 1/4 mile.
- A description reading "The NE 1/4 of the NW 1/4 and the N 1/2 of the NW 1/4 of the NE 1/4 of Section 10" contains:
  - 40 acres.
  - 60 acres.
  - 70 acres.
  - 80 acres.
- The school section is numbered:
  - 10.
  - 12.
  - 16.
  - 36.
- Regular townships are located next to one another between meridian area boundaries. Which section number is next west of Section 6?
  - 1
  - 6
  - 31
  - 36



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### SOLUTIONS

#### LEGAL DESCRIPTIONS:

- A. S  $\frac{1}{2}$  of the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  and the W  $\frac{1}{2}$  of the NW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  (25 acres)
- B. W  $\frac{1}{2}$  (320 acres)
- C. N  $\frac{1}{2}$  of the NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  and the S  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  and the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  (50 acres)
- D. S  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  (5 acres)
- E. N  $\frac{1}{2}$  of the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  and the SW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  and the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  (40 acres)
- F. S  $\frac{1}{2}$  of the SW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  and the SW  $\frac{1}{4}$  (180 acres)
- G. SE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  and the NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  (80 acres)
- H. SE  $\frac{1}{4}$  (160 acres)

#### KEY TERMS

**air lot**-A designated airspace over a tract of land.

**base line**-One of a set of imaginary lines running east and west and crossing a principal meridian at a definite point, used by surveyors for reference in locating and describing land under the rectangular (government) survey system.

**benchmark**-A permanent reference mark or point established for use by surveyors in measuring differences in elevation.

**correction lines**-Provisions in the rectangular survey system made to compensate for convergence of range lines because of the curvature of the earth's surface. Every fourth township line (at 24-mile intervals) is used as a correction line on which the intervals between the north and

south (range) lines are re measured and corrected to a full six miles apart.

**datum**-A horizontal plane from which heights and depths are measured

**guide meridians** -Lines' running north and south and parallel to the principal meridians; spaced at 24 mile intervals.

**government check**-The area bounded by two guide meridians and two correction lines

**government lots**-Fractional sections in the rectangular (government) survey system that are less than one-quarter section in area.

**legal description**-A description of a specific parcel of real estate complete enough for an independent surveyor to locate and identify it.

**lot and block system**-A method of describing real property that identifies a parcel of land by reference to lot and block numbers within a subdivision as specified on a recorded subdivision plat.

**metes and bounds**-A legal description of a parcel of land that begins at a well-marked point and follows the boundaries (landmarks and monuments), using directions and distances around the tract back to the place of beginning.



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**monument**-A fixed natural or artificial object used to establish real estate boundaries for a metes-and-bounds description.

**plat map**-A map of a subdivision indicating the location and boundaries of individual properties.

**point of beginning**-In a metes-and-bounds legal description, the starting point of the survey situated in one corner of the parcel; all metes-and-bounds descriptions must follow the boundaries of the parcel back to the point of beginning.

**principal meridian**-One of 35 main survey lines running north and south established and defined as part of the rectangular (U.S. government) survey system.

**range**-A strip of land six miles wide, extending north and south, and numbered east and west according to its distance from the principal meridian in the rectangular (government) survey system.

**rectangular (government) survey system**-A system established in 1785 by the federal government, providing for surveying and describing land by reference to principal meridians and base lines.

**section**-A portion of a township under the rectangular survey system; a township is divided into 36 numbered sections, each one square mile (640 acres) in area.

**township line**-Lines running at six-mile intervals parallel to the base lines in the rectangular survey system.

**township square**-The principal unit of the rectangular survey system; a square with six-mile sides and an area of 36 square miles.

#### ILLUSTRATIONS

1. 640
2. 160
3. 40
4. 10
5. NE 1/4 of SE 1/4 of SW1/4
6. NE 1/4 of SW1/4 and S 1/2 of NW1/4
7. The word and indicates that two different quarters are involved.
8. Lots 1, 14, and 15, Block A; and Lot 15, Block B
9. Lot 12; 150 feet
10. Lot 14, Block A of the Persimmons Hills Subdivision, Corn County, Anystate
11. From the intersection of Carney Street and Wolf Road, west 140 feet, then north 120 feet, then north 50 degrees east 120 feet, then following the southeasterly curvature of Jasmine Lane for 100 feet, then south 120 feet to the point of beginning.



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"No matter how high you aim"





## 2 Real Property And the Law

### SELF-EVALUATION QUESTIONS

1. a. Unless you are a surveyor, the only way to determine the answer is to draw a section. From this sketch, we see that a quarter of a section is one-half mile on each side.

2. b. As you read this description, you see the warning word *and*. This description involves two parts of the section, which must be determined separately and added together; always work from right to left.

40acres      160acres      640acres  
NE 1/4 of    NW 1/4 of    Section 10

20acres      40acres      160acres      640acres  
N 1/2 of      NW 1/4 of    NE 1/4 of    Section 10

40 acres + 20 acres = 60 acres

3. c. Section 16 of every township was originally set aside by law for school purposes and the proceeds from the sale or renting of this land were available for school use. It is still called the school section whether the school board owns it or has sold it.

4. a. Look at the section numbers printed in the answer to question 9, and find Section 6 in the northwest corner of the township. The question asks what section is west, or, to the left. The answer is Section 1 of the next township.