

California Codes for Deeds

Civil Code

SECTION 1066-1073

1066. Grants are to be interpreted in like manner with contracts in general, except so far as is otherwise provided in this Article.

1067. A clear and distinct limitation in a grant is not controlled by other words less clear and distinct.

1068. If the operative words of a grant are doubtful, recourse may be had to its recitals to assist the construction.

1069. A grant is to be interpreted in favor of the grantee, except that a reservation in any grant, and every grant by a public officer or body, as such, to a private party, is to be interpreted in favor of the grantor.

1070. If several parts of a grant are absolutely irreconcilable, the former part prevails.

1071. Where a future interest is limited by a grant to take effect on the death of any person without heirs, or heirs of his body, or without issue, or in equivalent words, such words must be taken to mean successors, or issue living at the death of the person named as ancestor.

1072. Words of inheritance or succession are not requisite to transfer a fee in real property.

1073. The law of this State does not include (1) the common law rule of worthier title that a grantor cannot convey an interest to his own heirs or (2) a presumption or rule of interpretation that a grantor does not intend, by a grant to his own heirs or next of kin, to transfer an interest to them. The meaning of a grant of a legal or equitable interest to a grantor's own heirs or next of kin, however designated, shall be determined by the general rules applicable to the interpretation of grants. This section shall be applied in all cases in which final judgment has not been entered on its effective date.

Civil Code

1092. A grant of an estate in real property may be made in substance as follows:

"I, AB, grant to CD all that real property situated in (insert name of county) County, State of California, bounded (or described) as follows: (here insert property description, or if the land sought to be conveyed has a descriptive name, it may be described by the name, as for instance, "The Norris Ranch.')

Witness my hand this (insert day) day of (insert month),
20__.

A B"

1093. **Absent the express written statement of the grantor contained therein, the consolidation of separate and distinct legal descriptions of real property contained in one or more deeds, mortgages, patents, deeds of trust, contracts of sale, or other instruments of conveyance or security documents, into a subsequent single deed, mortgage, patent, deed of trust, contract of sale, or other instrument of conveyance or security document (whether by means of an individual listing of the legal descriptions in a subsequent single instrument of conveyance or security document, or by means of a consolidated legal description comprised of more than one previously separate and distinct legal description), does not operate in any manner to alter or affect the separate and distinct nature of the real property so described** in the subsequent single instrument of conveyance or security document containing either the listing of or the consolidated legal description of the parcels so conveyed or secured thereby.

This section does not constitute a change in, but is declaratory of, the existing law.

Civil Code

SECTION 1104-1134

1104. A transfer of real property passes all easements attached thereto, and creates in favor thereof an easement to use other real property of the person whose estate is transferred in the same manner and to the same extent as such property was obviously and permanently used by the person whose estate is transferred, for the benefit thereof, at the time when the transfer was agreed upon or completed.

1105. A fee simple title is presumed to be intended to pass by a grant of real property, unless it appears from the grant that a lesser estate was intended.

1106. Where a person purports by proper instrument to grant real property in fee simple, and subsequently acquires any title, or claim of title thereto, the same passes by operation of law to the grantee, or his successors.

1107. Every grant of an estate in real property is conclusive against the grantor, also against every one subsequently claiming under him, except a purchaser or incumbrancer who in good faith and for a valuable consideration acquires a title or lien by an instrument that is first duly recorded.

(1112.) Section Eleven Hundred and Twelve. A transfer of land, bounded by a highway, passes the title of the person whose estate is transferred to the soil of the highway in front to the center thereof, unless a different intent appears from the grant.

STREETS AND HIGHWAYS CODE

Street and Highway Code

23. As used in this code, unless the particular provision or the context otherwise requires, "highway" includes bridges, culverts, curbs, drains, and all works incidental to highway construction, improvement, and maintenance.

23.5. "Freeway" means a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access. If, in the judgment of the commission or the director, the public interest would be advanced thereby, a freeway, as defined herein, may be denominated a "controlled access highway". In all other respects, the "controlled access highway" shall be subject to all provisions of this code pertaining to freeways.

24. As used in this code, "State highway" means any highway which is acquired, laid out, constructed, improved or maintained as a State highway pursuant to constitutional or legislative authorization.

25. As used in this code, "county highway" means any highway which is:

- (a) Laid out or constructed as such by the county.
- (b) Laid out or constructed by others and dedicated or abandoned to or acquired by the county.
- (c) Made a county highway in any action for the partition of real property.
- (d) Made a county highway pursuant to law.

83. Any public street or highway or portion thereof which is within the boundaries of a state highway, including a traversable highway adopted or designated as a state highway, shall constitute a part of the right of way of such state highway without compensation being paid therefor, and the department shall have jurisdiction thereover and responsibility for the maintenance thereof.

104.5. The director may execute all deeds or conveyances necessary to convey any real property or interest therein to be sold or exchanged under the provisions of this code. He may insert in any such deed or conveyance such conditions, covenants, exceptions and reservations as in his opinion are in the public interest or may

convey in fee simple absolute. All statutes relating to State lands or to reservations of minerals therein or to reservations of rights to prospect for or mine or remove such minerals are inapplicable to lands heretofore or hereafter acquired by the State or conveyed by the State pursuant to the provisions of this code or pursuant to the provisions of previously existing statutes codified in this code, and no such statute in respect to State lands hereafter enacted shall be applicable thereto unless the Legislature expressly so declares.

It shall be conclusively presumed in favor of any purchaser for value and without notice of any real property or interest therein conveyed pursuant to the provisions of this code that the department acted within its lawful authority in acquiring the property, and that the director acted within his lawful authority in executing any deed or conveyance or lease authorized by this code.

8308. "Street" and "highway" include all or part of, or any right in, a state highway or other public highway, road, street, avenue, alley, lane, driveway, place, court, trail, or other public right-of-way or easement, or purported public street or highway, and rights connected therewith, including, but not limited to, restrictions of access or abutters' rights, sloping easements, or other incidents to a street or highway.

CODE OF CIVIL PROCEDURE

SECTION 1230.010-1230.070

1230.010. This title shall be known and may be cited as the Eminent Domain Law.

1230.020. Except as otherwise specifically provided by statute, the power of eminent domain may be exercised only as provided in this title.

1230.030. Nothing in this title requires that the power of eminent domain be exercised to acquire property necessary for public use. Whether property necessary for public use is to be acquired by purchase or other means or by eminent domain is a decision left to the discretion of the person authorized to acquire the property.

1230.040. Except as otherwise provided in this title, the rules of practice that govern civil actions generally are the rules of practice for eminent domain proceedings.

1230.050. The court in which a proceeding in eminent domain is brought has the power to:

(a) Determine the right to possession of the property, as between the plaintiff and the defendant, in accordance with this title.

(b) Enforce any of its orders for possession by appropriate process. The plaintiff is entitled to enforcement of an order for possession as a matter of right.

1245.010. Subject to requirements of this article, any person authorized to acquire property for a particular use by eminent domain **may enter upon property** to make photographs, studies, surveys, examinations, tests, soundings, borings, samplings, or appraisals or to engage in similar activities reasonably related to acquisition or use of the property for that use.

1245.020. In any case in which the entry and activities mentioned in Section 1245.010 will subject the person having the power of eminent domain to liability under Section 1245.060, before making such entry and undertaking such activities, the person shall secure:

(a) The written consent of the owner to enter upon his property and to undertake such activities; or

(b) An order for entry from the superior court in accordance with Section 1245. 030.

1245.030. (a) The person seeking to enter upon the property may petition the court for an order permitting the entry and shall give such prior notice to the owner of the property as the court determines is appropriate under the circumstances of the particular case.

(b) Upon such petition and after such notice has been given, the court shall determine the purpose for the entry, the nature and scope of the activities reasonably necessary to accomplish such purpose, and the probable amount of compensation to be paid to the owner of the property for the actual damage to the property and interference with its possession and use.

(c) After such determination, the court may issue its order permitting the entry. The order shall prescribe the purpose for the entry and the nature and scope of the activities to be undertaken and shall require the person seeking to enter to deposit with the court the probable amount of compensation.

(2077.) Section Two Thousand and Seventy-seven. **The following are the rules for construing the descriptive part of a conveyance of real property, when the construction is doubtful and there are no other sufficient circumstances to determine it:**

One--Where there are certain definite and ascertained particulars in the description, the addition of others which are indefinite, unknown, or false, does not frustrate the conveyance, but it is to be construed by the first mentioned particulars.

Two--When permanent and visible or ascertained boundaries or monuments are inconsistent with the measurement, either of lines, angles, or surfaces, the boundaries or monuments are paramount.

Three--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.

Four--When a road, or stream of water not navigable, is the boundary, the rights of the grantor to the middle of the road or the thread of the stream are included in the conveyance, except where the road or thread of the stream is held under another title.

Five--When tide water is the boundary, the rights of the grantor to ordinary high-water mark are included in the conveyance. When a navigable lake, where there is no tide, is the boundary, the rights of the grantor to low-water mark are included in the conveyance.

Six--When the description refers to a map, and that reference is inconsistent with other particulars, it controls them if it appears that the parties acted with reference to the map; otherwise the map is subordinate to other definite and ascertained particulars.

PUBLIC RESOURCES

8814. State plane coordinates may be used for property identification on any map, survey, conveyance, or other instrument which delineates or affects the title to real property or which delineates, describes, or refers to the property, or any part thereof. However, to constitute, when recorded, constructive notice thereof under the recording laws, the delineating, describing, or referring to the property, or part thereof, shall also refer to data appearing of record in any office, the records of which constitute constructive notice under the recording laws. That record data shall be sufficient to identify the property without recourse to those coordinates, and in case of conflict between them, the references to that recorded data shall be controlling for the purpose of determining constructive notice under the recording laws.

8815.1. When CCS83 coordinates are shown on any map or document, the map, corner record, or document shall state the epoch (date) that is the basis of the coordinate values shown. The epoch shall be shown on the map, corner record, or document by an appropriate note on the map, corner record, or document or by adding a suffix in parentheses after CCS83 which states the epoch; for example, "CCS83" is the epoch in a decimal year format.

