

Boundary Line Agreements
House Bill 3089
March 26, 2013
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What is a Boundary Line Agreement (BLA) and why is Legislation required?

A boundary line agreement is a legal remedy to fix a boundary that is uncertain, indeterminate, or in dispute. There are at least ten Oregon Appellate Court cases that address BLAs. They all define a valid BLA as having the following three elements:

1. The line between coterminous property owners must be “disputed, indefinite, or uncertain.” *Kincaid v. Peterson et al*, 135 Or 619 (1931)
2. The owners must come to an agreement as to the location of the line. The agreement may be either explicit or implied. “Second, the uncertainty must be resolved by an agreement, express or implied, to recognize a particular line as the boundary.” *Ross v. Delorenzo et al* 65 Or. App. 586 (1983)
3. The parties must witness their agreement by their subsequent actions. “Finally the parties must evidence their agreement by subsequent activities.” *Ross v. Delorenzo et al* 65 Or. App. 586 (1983)

So, since the Oregon Courts, along with most other States, have given property owners the right to this type of agreement, what is the justification for this legislation?

There are many reasons, but two exigent reasons are that in at least two Oregon counties, namely Deschutes and Washington, the County Clerk will not record a document entitled “Boundary Line Agreement”. This fact has caused documents to be recorded that contain conveyance language, which, if legally challenged could conceivably negate the agreement.

The other reason is closely tied to the first, namely, to require that the agreement be entered into the public record. This requirement can serve the purpose to obviate the need for future “spiteful and vexatious” litigation and to place any successive purchaser on notice of the agreement.

Another benefit of this legislation is the requirement that the agreed upon line be monumented by a Surveyor along with the survey map of the agreement being filed in the office of County Surveyor.

The boundary line agreement is not a “one-size fits all” remedy. As you can see, it is very specific in its application and should not be entered into lightly. But, if all of the elements are satisfied, it is a very equitable way of fixing an uncertain or

disputed boundary and can potentially save some property owners tens of thousands of dollars in legal fees.

Some may ask “How does this agreement not violate the Statute of Frauds?”

As I am sure you know, the Statute of Frauds basically states that all transfers of property must be in writing. The BLA does not violate the Statute of Frauds in that “The reason that an oral agreement that meets these requirements does not violate the statute is that it interprets, rather than alters, the property deed description and, therefore, does not effect a conveyance or transfer of real property.” *Hammack v. Olds*, 93 Or. App 161 (1988)

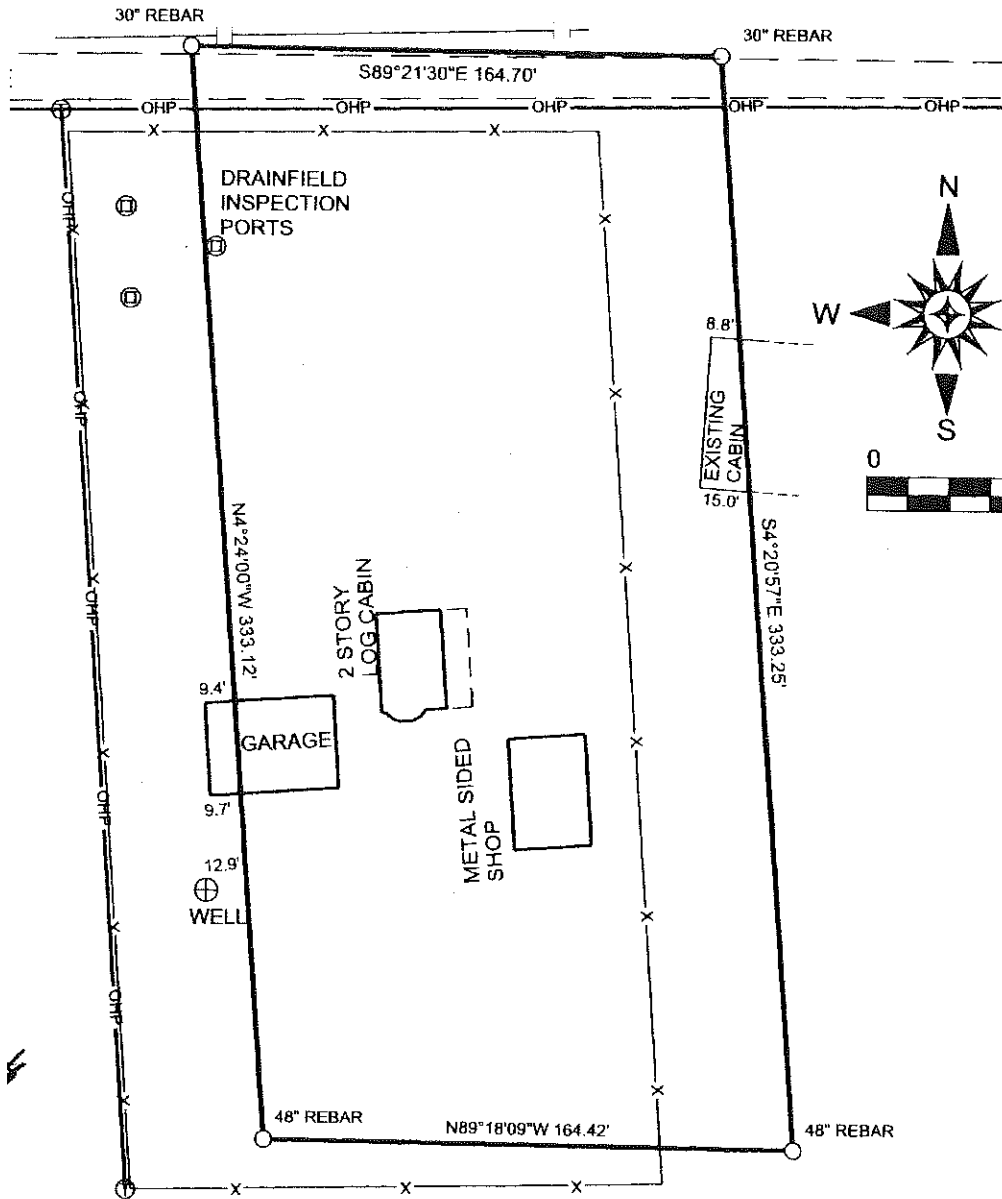
I have attached some examples of property lines that I have encountered in my practice where BLA’s could exist, but are undocumented.

In conclusion, I would like to thank you for taking the time to hear this testimony and for giving this proposed legislation your thoughtful consideration.

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Y OF THAT PARCEL OF LAND DESCRIBED AS THE SW1/4NE1/4 OF SECTION 2 IN TOWNSHIP 22 S., CITY OF LA PINE, DESCHUTES COUNTY, OREGON



WAS TO SET THE PROPERTY AS PER PAGE 32612 OF OFFICIAL RECORDS 4SW1/4NE1/4 OF SECTION 2 WITH AN DOWN WILLOW FORMED ABOUT N RIGHTS BEING

LEGEND	
●	FOUND AN UNRECORDED MONUMENT AS DESCRIBED
⊕	MIDSTATE ELECTRIC CO-OP POWER POLE
— — —	BOARD FENCE
-X-X-	WIRE FENCE
-OHP-	OVERHEAD ELEC. LINE
---	EDGE OF GRAVEL
□	CALCULATED MONUMENT POSITION, NO MONUMENT FOUND OR TIED

NARRATIVE

THE PURPOSE OF THIS SURVEY WAS TO SET THE MONUMENTS THAT DEFINE TAX LOT 400 THAT LIES SOUTH OF BURGESS ROAD. THE CONTROL FOR THIS SURVEY WAS PROVIDED BY JEFF KERN AS EXPLAINED IN MY NARRATIVE FOR SURVEY CS17903. THE SECTION DATA IS THE SAME AS SHOWN ON KERN'S SURVEYS FILED AS CS11859 & CS1731 OF BURGESS ROAD IS AS DETERMINED ON MY SURVEY FILED AS CS17903. THE N DESCHUTES COUNTY OFFICIAL RECORDS AS 2009-30539 DEFINES THE ALIQUOT PART OF SECTION 4 THAT COMPRISES THIS LOT. ALL ADJOINER'S DEEDS WERE EXAMINED, ALL ARE DESCRIBED BY ALIQUOT PART.

