

HB 3089 - CHANGE IN LAW TO ALLOW RECORDING OF PROPERTY LINE BOUNDARY AGREEMENTS BY ADJOINING OWNERS WHERE THE COMMON BOUNDARY LINE IS UNCERTAIN. As the recording law exists today a number of County Recorders will not record a Boundary Line Agreement.

As a Professional Land Surveyor and County Surveyor for Clackamas County, I have particular interest in House Bill 3089; this bill will be coming up in the House Land Use Committee at the Legislature.

Why is HB 3089 important?

This particular bill is one that will help land owners that have occupied boundaries that do not match the written deed location by codifying a practice that has been accepted by the Courts in the state, more commonly called “parole boundary agreements”. The problem that exists is that around the state we have many County Clerk/Recorders that will not allow these agreement documents to be recorded (because it is not on their list of documents that can be recorded). We have found it very helpful for citizens that have come to us with an occupation line problem and are looking for a solution other than going to court. In Clackamas County our Recorder and will allow boundary line agreements to be recorded. Our county planning staff understands that what happens with these agreements does not change the actual use and locations on the ground; therefore they often refer citizens with these types of boundary issues to our office. We often suggest Boundary Line Agreements as a viable solution when citizens come in with boundary lines that clearly have a potential multiple solution locations on the ground or boundaries where the long occupation does not match the deed dimensions when the deed is placed on the ground. As a State we clearly need opportunities for citizens to resolve problems without resorting to costly court actions. Another advantage of this bill is that controls are put in place to prevent inappropriate use of this proposed law. It would require that the County Surveyor concur that the Boundary Line Agreement was the appropriate solution rather than a Property Line Adjustment process or a Platting process.

A “Boundary Line Agreement”

1. Does not change the existing conditions on the ground.
2. Is not a conveyance of land or property. The ownership is acquired in the deeds that the owners received from the grantors this document just acknowledges the position on the ground of the recognized common line.
3. It is a permanent and acknowledged recognition by the owners of each of the adjoining properties the common line that has been lived and occupied to is and has always been the intended boundary line between those adjoining land owners.
4. It estoppels future owners, their successors, assigns, heirs and devisees from making a legal challenge to the land boundary once it has been recorded in the deed records. Therefore providing certainty for the effected adjoining land owners.
5. It requires a “Gate Keeper” to assure that the rules are being appropriately used. The “Gate Keeper” duties are assigned to the County Surveyor to

examine and agree that this is the appropriate process to determine the boundary line, and that the parties are not circumventing the Platting laws or Property Line Adjustment laws. This proposal provides that the County Surveyor will attach or sign a Certificate of Compliance prior to recording the agreement with the County Clerk/Recorder thus approving the appropriate use of the “Boundary Line Agreement”.

6. It would allow agreeing owners the ability to avoid going to court for a “Suit to Quiet Title”. Thus freeing up valuable court time for agreeing owners.
7. Will it require the services of Legal Counsel and Professional Surveyors? It most certainly seems that those professions would need to guide the owners through the process. As in almost all cases it will require a Record of Survey that has or will be filed with the County Surveyor as part of the process.
8. Will it change zoning or planning lines? No it should not, as those lines should already be following the intended lines of occupation or current ownerships.

I would be happy to respond to any questions or talk with you further about the background of this bill or any other property or survey questions or issues that you have.

Please support approval of HB 3089