

# LEGAL PARCELS

## What is a Certificate of Compliance?

It's a certificate from the County Planning and Public Works Director stating that a particular piece of property complies with the County Code and the State Subdivision Map Act and is a lawfully created parcel. The Certificate is recorded with the Yolo County Recorder and serves as an official record of the legal status of the property. A Certificate of Compliance is also filed for record by the County Planning Department when an application for a Lot Line Adjustment has been approved.

The term "legal parcel" relates to how the parcel was created and not to title or ownership status. In addition, all parcels deemed legal by the County are not necessarily developable and permits may not be approved for reasons other than legality.

## Why is one needed?

A Certificate of Compliance is needed for circumstances where the legality of a parcel must be determined, such as for financing or for securing various types of County approvals. Before permission can be granted by the County for development in the unincorporated area, an owner must be able to show that he/she has a legal parcel. A Certificate of Compliance is not required to demonstrate the legality of a parcel; however, it does provide the most certainty to the owner and lending institutions.

## What is a legal parcel?

Over the years, there have been a number of ways to create a legal parcel. Each parcel is evaluated individually, with consideration given to the specific facts and circumstances involved in its history. As a result, the County does not know how many legal parcels there are within the unincorporated area.

The most common means of establishing the creation of a parcel are deeds from one owner to another describing a precisely delineated (metes and bounds) portion of a larger property, and/or reference to a land division map formally approved by the county under the Subdivision Map Act or its predecessor statutes (known at various times as a plat map, parcel map or tract map). Requirements for creating parcels often change due to state legislation and local ordinances. Knowing the dates that the parcels were created is important so they can be compared to the requirements that were in place at that time. Key dates for Yolo County include:

- December 18, 1963: All land divisions of five or more parcels after this date require a parcel map approved by the County.
- March 4, 1972: All land divisions require approval by the County of either a parcel map or a subdivision map.

## **What are not considered legal parcels?**

### Assessor Parcels

Please note that Assessor Parcels are not necessarily reflective of legal lots. Although they are often used by planners as a convenient way to describe real estate, their only legal purpose is for calculating property tax. An Assessor Parcel may coincide with the boundaries of a legal parcel, although there may be several legal parcels within a single Assessor Parcel, and vice-versa.

### Government Lots

Government lots are typically quarter-quarter sections along the north and west boundary of a township and are generally around 40 acres. Government lot numbers may also have been assigned to oddly shaped parcels of various acreages along grant lines or to oddly-shaped sections of the General Land Offices' original land surveys. A quarter-quarter section or government lot is considered a separate legal parcel only if it was granted separately by the government or conveyed individually by a subsequent owner. The original government grants of land, called patents, are generally recognized as legally created parcels.

### Records of Survey

A record of survey is a record of an actual survey of a property showing placement of monuments and measured distances and bearings in the field. Records of survey are generally conducted to determine the physical location and/or acreage of existing parcels. They do not create legal lots of record, except for those completed to record an approved subdivision of 5 or more lots of one acre or less in size. Evidence that the subdivision was approved by the Board of Supervisors must be provided. A record of survey may no longer be recorded for a parcel without a determination that the parcel was created in compliance with the Subdivision Map Act and County ordinance.

### Court Decisions

A court decree partitioning real property does not singularly create separate legal parcels. Code of Civil Procedure section 872.040 requires partition actions to comply with the Subdivision Map Act and local ordinances in order to create separate legal parcels. In most instances, applications involving court decrees will need to be reviewed by staff and County Counsel.

### Roads & Rights-Of-Way

Roads, streets, utility easements or railroad rights-of-way do not create separate parcels. Under the Subdivision Map Act, legal parcels are considered as a whole even when roads, streets, utility easements or railroad rights-of-way bisect the parcel.

## **What are antiquated subdivisions?**

An "antiquated subdivision" is a term generally used to refer to subdivisions shown on maps recorded prior to 1929, when the Legislature amended the Map Act to allow for local government review and approval of the design and improvement of subdivisions. There are an estimated 400,000 to 1,000,000 antiquated subdivision lots in California. A 1984 survey found that there may be up to 10,000 antiquated lots in the Santa Monica Mountains, another 10,000

in the Lake Tahoe area, and another 40,000 along the California coast. Hundreds of maps depicting thousands of such lots were also recorded in Yolo County prior to 1929. Many antiquated subdivision maps were drawn without regard to topography or consideration of fundamental access, safety, and development issues.

Recent court decisions have clarified the role of antiquated subdivisions.

- Gardner v. County of Sonoma (2003): California Supreme Court established that antiquated subdivision maps recorded before 1893 may not be used to legally create separate parcels.
- Witt Home Ranch, Inc. v. County of Sonoma (2008): California First District Court of Appeal established that antiquated subdivision maps recorded before 1915 may not be used to legally create separate parcels.

It is Yolo County's position that antiquated subdivision maps recorded prior to 1929 also may not be used to legally create separate parcels. This determination is consistent with the opinions decided in the two above cases, although neither case directly addressed the legality of antiquated subdivision maps recorded between 1915 and 1929.

#### **What if the parcel was illegally created?**

If your parcel is illegal, you are not allowed to develop the property or do anything on it requiring a building permit. The County may file a Notice of Violation with the County Recorder's Office. This notice would show up in any future title report and warn any buyers of the property's status.

#### **What is the recourse for purchasing an illegally created parcel?**

If you purchased the property within the past year, you have two options under the subdivision law: either void the sale, or sue for damages. You can also apply to have the parcel legalized through a Conditional Certificate of Compliance. However, the development standards and regulations that were in place at the time the parcel was illegally created will be applied.

#### **How do I apply for a Certificate of Compliance?**

The property owner or authorized representative must fill out and sign an application and submit it to the Planning Department along with a Certified Chain of Title and other information that confirms the legal creation of the subject parcel.

After receipt of the application and appropriate documents and fees by the Planning Department, staff must make a determination whether or not the property complies with State and County Codes and notify the applicant.

If the property is found to be in compliance with applicable codes, staff must record a Certificate of Compliance with the County Recorder. The Certificate of Compliance must identify the property and state that the division complies with the applicable State and County Codes.

If the Director determines that such real property is not in compliance, the Director may issue a Conditional Certificate of Compliance, which imposes conditions which must be satisfied before the property can be considered legally established.