

Published on Yamhill County, Oregon (<https://www.co.yamhill.or.us>)

With permission and courtesy of Yamhill County Surveyor

Case Law [1]

Note: this list of specific Oregon caselaws is not intended to be complete, instead it merely represents cases and opinions determined to be of interest to the surveying community in Oregon. Please contact an attorney for applicability or questions.

Selected Oregon Case Laws relating to property and surveys:

5 OR 65 (1853) Goodman v. Myrick: Lines run on the ground by Government surveyors control: courses and distances yield to marked lines and corners.

27 OR 315 (1895) Robinson v. Laurer: Government survey field notes yield to actual corner monuments located on the ground.

41 OR 117 (1902) Trotter v. Stayton: Evidence of original street, lot and block lines control over expressed city council desire to correct mis-alignments or other errors on town plat.

42 OR 239 (1902) Trinwith v. Smith: Lost Government survey corners: restoration methods, evidence discussion.

54 OR 30 (1909) Bernheim v. Talbot: Division of Donation Land Claim into halves.

56 OR 117 (1910) Talbot v. Smith: Evidence; description construction; Estoppel; Adverse Possession.

60 OR 111 (1911) Bayne v. Brown: Fence construction; Abandonment; Adverse Possession, including tacking, proof requirements, tenancy.

61 OR 293 (1912) Whitcomb v. Town of Milwaukie: location of a centerline of a street (previously a county road) held to have been the true north line of a D.L.C., rather than another line fixed by subsequent survey.

67 OR 19 (1913) Crandall v. Mary: Boundary evidence; location of corners; artificial monuments; acquiescence.

89 OR 557 (1918) Bernitt v. City of Marshfield: Town plat ambiguities; fences & improvements show long time occupancy; subsequent survey ordered by city does not change vested interests.

92 OR 352 (1919) Ogilvie v. Stackland: boundary by mutual agreement held over subsequent survey; issues of warranted area quantities addressed.

93 OR 326 (1919) Robertson v. Martin: Clear and cogent testimony of mistake in Government survey notes; the term "more or less" acreage in deed not to be held against grantor on finding of less area.

99 OR 525 (1921) Hickey v. Daniel: despite a 19° discrepancy in bearings of a U.S. Lot line, a line between found original monuments controls.

193 OR 385 (1951) Longview Fibre Co. v. Johnston: Lost corner establishment; true line; county surveyors survey; boundary line exact location not determined

281 OR 65 (1978) Nelson v. Vandemarr: Adjoining lots, always conveyed by lot/block descriptions, must be in conformity with the plat; Adverse possession / burden of proof / prima facie evidence / hostile and exclusive use.

Selected Oregon Appeals Court Decisions:

4 OrApp 237 (1970) Port of Newport v. Haydon: Condemnation action; property boundaries and dimensions may be proved by every type of evidence generally admissible to establish any fact.

30 OrApp 889 (1977) Voelz v. Board of Engineering Examiners: gross negligence definition.

37 OrApp 889 (1978) Voelz v. Board of Engineering Examiners: ordinary negligence versus gross negligence defined; Board authority to formulate, prosecute and adjudicate charges affirmed.

Selected Oregon Attorney General Decisions:

20 AttyGenOp 447 (1941) Co. Surveyor as custodian of various records.

23 AttyGenOp 137 (1941) Where corners are established or re-established by survey made by private surveyors or engineers, complete notes of such survey shall be filed with the county surveyor.

23 AttyGenOp 204 (1941) Deputy County Surveyor; authority; compensation

23 AttyGenOp 447 (1941) County surveyor as custodian of road records.

23 AttyGenOp 511 (1948) County Surveyor can reject offered plats not in compliance with statutes.

26 AttyGenOp 140 (1953) Timber cruisers attempting to establish boundaries in laying off timber cutting lines may subject themselves to provisions of land surveyors registration law.

29 AttyGenOp 165 (1959) Filing of maps; failure may result in revocation of license.

29 AttyGenOp 344 (1960) Filing of maps; receipt of funds when ordered by court to perform survey.

30 AttyGenOp 183 (1961) A County Surveyor may not approve the plat of a subdivision he has prepared.

31 AttyGenOp 6 (1962) A Deputy County Surveyor may not approve survey of a subd. made by the County Surveyor in his private capacity.

31 AttyGenOp 249 (1963) A county may require the filing of subdivision of plats for partitioning of less than the number of parcels specified in ORS 92.010.

31 AttyGenOp 385 (1964) In order to establish permanent corners and boundaries under ORS 209.160 and 209.170, affected persons must be given notice by the county surveyor.

34 AttyGenOp 409 (1969) Condominium ownership plan does not fall under ORS 92.

34 AttyGenOp 846 (1969) Private road establishment within subdivisions are legal.

36 AttyGenOp 89 (1972) City limits annexations; legal descriptions; fee collection for plat checking for compliance with ORS 92.100(2) to City Engineer or City Surveyor not legal.

39 AttyGenOp 467 (1979) Conditional granting of zone change by city legal given certain conditions; condition to pay appraised value of vacated property between city or county and petitioner of street vacation held legal.

41 AttyGenOp 48 (1979) County may require the County Surveyor to account for all fees received by the county surveyor received in his or her official capacity.

41 AttyGenOp 181 (1980) Licensed land surveyor not required to be physically present when field crew is engaged in the practice of land surveying as defined in statutes.

Corpus Juris cites

32 C.J.S. 639 Public land office records, patents and grants, and surveys and maps are ordinarily admissible as evidence of their contents.

Source URL: <https://www.co.yamhill.or.us/content/case-law>

Links:

[1] <https://www.co.yamhill.or.us/content/case-law>