Chapter 2: Property Rights and Legal Descriptions

Real vs. Personal Property
- Real estate – land and things attached to it
- Property – things that can be owned or possessed
- Real property – legal interests in land and things attached to it
- Personal property – legal interests in things other than land and things attached to it
- Title (ownership) to real property is transferred from one part to another using a document called a deed.
- Tenants acquire rights to use property owned by others via leases.

Fixtures
- A personal property item that has become a part of the real property is called a fixture.
- Tests for fixture status include:
  - Intent of parties
  - Test of attachment
  - Test of adaptability

Mineral and Air Rights
- Mineral rights refer to the legal interests associated with oil, gals, coal, or other minerals that may be located beneath the surface of a parcel of land.
- Air rights refer to the legal interests associated with the space above the surface of a parcel of land.

Water Rights
- Water rights refer to the legal interests associated with water that flows across, touches, or is located in or under a parcel of land.
  - Owners of land that touch a navigable body of water are called littoral proprietors.
  - Owners’ of land that joins non-navigable bodies of water may or may not have rights to use the water, depending on the state in which the property is located.
    - States that follow the riparian rights doctrine allow owners of land touching the water to use all the water needed as long as the use does not deprive other landowners who are entitled to some of the water.
    - States that follow the prior appropriation doctrine recognize that the first person to use the water for some beneficial economic purpose has the right to use all the water needed.

Estates in Land – Figure 2.1 on page 18
- Estates in land are collections or “bundles” of ownership rights in real property.
- Estates can be divided into two general categories:
  - Freehold estates are ownership interests in real property
  - Leasehold estates are rights to use and possess (but not own) property owned by someone else.
- Freehold estates can be divided into “present” and “future” interests.
Present interests include:
- Fee simple absolute estate – the fullest and most complete estate in land
- Qualified fee estate – an estate that cannot be lost should some condition or event come to pass
- Life estate – an estate that terminates upon the death of a named person (or other stated event).

Future interests include:
- Reversion interests – the future interest associated with a qualified fee (or a life estate if no remainderman is named).
- Remainder interest – the future interest associated with a life estate

Leasehold estates can be divided into four categories:
- Tenancy for a stated period – rights held by a tenant with a known starting and ending date.
- Tenancy from period to period – rights held by a tenant that continues from month to month, or year to year, as the parties agree.
- Tenancy at will – rights held by a tenant that continues only as long as both parties agree.
- Tenancy at sufferance – rights held by a tenant who is occupying a premises against the wishes of the property owner.

Concurrent Estates
- Concurrent estates refer to rights to a property that are held simultaneously by two or more owners (joint ownership).

- The most common types of concurrent estates include:
  - Tenancy in common – two or more owners hold undivided interests in the entire property
  - Joint tenancy – two or more owners hold equal, undivided interests in the entire property that carry the right of survivorship (if one owner dies, the surviving owners divide the deceased party’s share equally).
  - Tenancy by the entirety – special type of joint tenancy that exists only between husbands and wives (carries the right of survivorship).
  - Community property – some states recognize that all property acquired during a marriage is property of the “marital community” and is thus equally owned by the husband and wife. Property acquired before the marriage by either party remains the property of that party alone.

Condominium and Cooperative Ownership
- In a condominium arrangement, individual units in a building (or collection of buildings) are owned with fee simple title, but all of the unit owners hold title to the common areas of the property as tenants in common.
- In a cooperative arrangement, the building is owned by a nonprofit corporation that is, in turn, owned by shareholders. The shareholders are entitled to occupy one of the units in the building.

Time Share Ownership
- Especially popular in vacation resort developments, time share arrangements split ownership or use rights associated with a particular parcel of real estate by time.
- The holder of a fee interest time share actually owns the property during a specified time interval each year.
- Similarly, right-to-use time shares create a leasehold estate in the property that is active for a specified time interval each year.

Legal Descriptions
- Each parcel of real estate must have a unique legal description. There are three commonly used methods for specifying the precise legal description of land:
  - Metes and Bounds
  - Rectangular Survey
  - Recorded Plats

- Metes-and-bounds descriptions start at a designated point of beginning and, through specific distances (metes) and directions (bounds), locate the boundary lines of the parcel (see Figure 2.3 on page 27).
  - Distances are measured in feet (to the nearest tenth or hundredth).
  - Directions are measured in degrees, minutes, and seconds. (See Figure 2.2 on page 26)
  - Property corners are marked by reference points.

- Rectangular survey descriptions are based on a grid system.
  - Principal meridians are north-south lines that pass through established landmarks around the U.S. (see Figure 2.4, page 29).
  - Base lines are east-west lines that intersect principal meridians at the landmark.
  - The land on each side of each principal meridian is divided into six-mile-wide strips by range lines that are numbered consecutively east or west of the principal meridian (see Figure 2.5, page 30).
  - The land to the north and south of the base line is divided into six-mile-wide strips by township lines that are numbered consecutively north or south of the base line.
  - The six-mile by six-mile squares that are formed by the intersection of range lines and township lines are called townships.
  - Each township is divided into 36 sections, each containing one square mile of land area. Sections are numbered from 1 to 36, beginning in the northeast corner of the township moving westerly, then southerly one section, and back easterly, repetitively (see Figure 2.6, page 31).
  - Each section consists of 640 acres of land area. Sections are divided into quarters, halves, and smaller portions (see Figure 2.7, page 32).

- Reference to Recorded Plats
  - As part of the land subdividing process, many jurisdictions require developers to prepare accurate engineering drawings of their subdivision projects called plats. (See figure 2.12, page 37)
These plats are then entered into the public record as legal documents that can be referred to as needed to identify individual parcels of land that are included in the plat.

With a properly prepared and recorded plat, a legal description for a property can be as simple as “Lot 4 of Block G of Grassy River Estates.”