

Evidence Hierarchy Guide

Priority of Boundary Evidence for California Land Surveyors

THE GOLDEN RULE: The evidence hierarchy is a "good disputable presumption" - any element may control any other when evidence shows that was the parties' intent. Always ask: What did the parties intend?

The Evidence Hierarchy (Highest to Lowest)

- 1 Senior Rights & Adjoiners**

Rights established by earlier patents, grants, or conveyances. Senior rights rank FIRST. A call for an adjoiner is a call for ALL lines of that adjoiner.
- 2 Intent of the Parties**

The paramount consideration in interpreting written deeds. Read the ENTIRE deed, consider circumstances at time of conveyance, and examine what parties actually did.
- 3 Monuments (Natural > Artificial)**

Physical markers called for in the description. Natural monuments (rivers, ridges, marked trees) control artificial monuments (iron pipes, concrete markers). Even if gone, the position monument once occupied controls.
- 4 Courses (Bearings)**

Direction of lines expressed as bearings or azimuths. Subject to compass variations and magnetic declination changes. Courses are 'pointers and guides' not absolute determiners.
- 5 Distances**

Length of lines in chains, feet, or meters. Subject to measurement errors (tape sag, temperature, slope). In GLO surveys, distances are 'more or less' by statute.
- 6 Area (Quantity)**

Stated acreage or square footage. The LOWEST in hierarchy - serves as 'rule of last resort.' Often estimated, not calculated. 'More or less' indicates estimate only.

Memory Aid: "SIAM-CDA"

S - Senior Rights | I - Intent | A - Adjoiners | M - Monuments | C - Courses | D - Distances | A - Area

Common Exam Scenarios

Monument vs. Distance Conflict

Q: A deed calls for "200 feet to an iron pipe." The iron pipe is found at 195 feet. Which controls?

A: The monument (iron pipe) controls. Distances yield to monuments.

Senior vs. Junior Rights

Q: A 1920 deed calls for "the Smith property line." A 1950 survey shows a different location than 1920 distances.

A: The Smith property (senior right) controls. The 1920 deed takes subject to where Smith's line actually was.

Key Case Law

- *Ookala Sugar Co. v. Wilson*, 13 H 127 (1900) - Hierarchy is presumption, not absolute rule
- *Rivers v. Lozeau* (Fla. 1989) - Original monuments control over later surveys
- *Diehl v. Zanger*, 39 Mich. 601 (1878) - Call for adjoiner is call for all lines

California-Specific Applications

- CCP §2077: Establishes hierarchy of calls - monuments, courses, distances, quantity
- B&P §8762: Record of Survey must show monuments found/set and discrepancies
- Subdivision Retracements: Original subdivision monuments control