

Executive Director's Report

Monuments Removed By Utility Construction

By Carl J. Rooth, O.L.S.

One of our members, namely Don Galbraith, O.L.S., forwarded to the Association of Ontario Land Surveyors' Offices, copies of correspondence and a letter to the Editor of the magazine "Municipal World". We feel that all our members have at one time or another experienced the destruction of survey fabric by utility construction which indirectly affects the members of the public who own the abutting lands. At this time, we have confirmation from "Municipal World" that Mr. Galbraith's letter will be printed in the next issue. The following is Mr. Galbraith's letter:

"In the area comprising the northern part of the County of Simcoe and the southern part of the District Municipality of Muskoka, we have conducted a practise in land surveying for in excess of forty years, and while admittedly the recurring problem of monumentation of survey fabric being destroyed during construction projects has always been with us, the damage done by utility companies burying their services is reaching calamitous proportions.

For instance, we were recently instructed by a private client to prepare a Surveyor's Real Property Report of a parcel of land described in accordance with one of our 1971 Reference Plans, in a rural area, along one limit of a municipal road, where a utility company has buried services. And for more than a kilometre along that limit, at least, all monumentation has been destroyed. Since many kilometres of these services were buried in several municipalities, we can presume that this portion where we have recently acquired knowledge of the situation, is representative of the conditions throughout the entire project. As may be readily understood, without that

evidence on the ground, it is necessary that the road limit be reconstructed from the best evidence available, which can be time consuming and costly for the client requiring the Report. Of course, when evidence of the property owner's limit is destroyed, the road authority suffers a loss as well, but its loss, like the property owner's, doesn't become evident until the location of the limit is required for the purpose of road widening, drainage facilities or municipal servicing.

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As a taxpayer, it has always been a concern of ours: Why would municipal officials permit utility companies carte blanche authority to construct buried services on public road allowances without requiring that they first present a current plan of survey showing owners' parcels fronting thereon and the monumentation marking the front corners, at least, prior to issuing authority for construction? These plans of surveys could be compiled from Land Registry Office searches, research of local surveyors' offices and interviews of property owners, with minimal field work, to ensure that the monumentation marking the limit, or limits, did, in fact, exist prior to construction. Following the completion of construction, an updated certificate, on the same plan, with a statement to the effect that the conditions of the monumentation were the same as prior to the date of the

granted approval, would suffice, similar to the present requirements of subdivisions agreements.

Although we have been informed recently that many municipalities in southern Ontario have methods to deal with this problem, it is our opinion, that all municipalities should have by-laws requiring utility company's initially burying services, or maintaining buried services, to be subject to compliance with the proposal outlined in the immediately foregoing paragraph.

With this kind of help, practising surveyors could maintain and extend survey fabric with much less difficulty and more readily provide a more affordable product to the public."

Mr. Galbraith's letter and initiatives will be brought forward for our Association Council to consider. Regional Groups may want to deal with some of these issues on a local basis. The removal of survey monuments during any construction should be replaced by the party initiating the work. The Criminal Code of Canada, Chapter 46, Section 442 states "everyone who wilfully pulls down, defaces, alters or removes anything planted or set up as a boundary or part of the boundary line or part of the boundary line of land is guilty of an offence punishable on summary conviction." Having due regard for the law, Municipalities and Utilities must reset or witness, where possible original monuments were in place prior to construction. The public (the adjoining owners) will then not be faced with additional costs in future when they require to know the physical position of their boundaries on the ground.



"Never hit 17 when you play against the dealer"

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