

# The Land Surveyor as a Public Officer

By G.K. Allred, A.L.S. (Reprinted with permission.)

The land surveyor is a public officer. He does not represent a single client in establishing the client's boundaries, but rather he represents society at large. Every boundary monument marks a boundary between at least two unique properties. The surveyor therefore, must be fair and impartial to all parties; he cannot give undue consideration to his client's interest in disregard to the interests of his client's neighbour and potential adversary. Here, his responsibilities are quite different than those of a doctor, lawyer, or accountant, each of whom normally need act only with the interest of a single party in mind. "He must preserve in all his work the judicial mind and the impartial attitude of an arbiter, rather than the bias of an advocate..."

## • Historical

Throughout history, the cadastral surveyor has exercised public functions that are normally reserved for members of the judiciary and other officers of the state.

By virtue of the Law of Twelve Tables, the Roman "agrimensores ... acted simply as skilled judges giving their verdict in the ordinary form; and in such cases the usual legal questions of possession .... were allowed their due weight."

As Cassiodorus stated in a letter dating from the reign of Theodoric, (AD 493-526): "But the land surveyor is like a judge; the deserted fields become his forum, crowded with eager spectators.

*You would fancy him a madman when you see him walking along the most devious paths. But in truth he is seeking for the traces of lost facts in rough woods and thickets. He walks not as other men walk. His path is the book from which he reads; he shows what he is saying; he proves what he hath learned; by his steps he divides the rights of hostile claimants, and like a mighty river he takes away the fields of one side to bestow them on the other.*

*Wherefore, acting on our instructions, choose such a land surveyor, whose authority may be sufficient to settle this dispute, that the litigants may henceforth cultivate their lands in peace."*

In a letter of Pope Gregory I, dated 597 AD, regarding boundary disputes: "To prevent dispute... it must be settled by a surveyor's ruling. We have therefore written to Fantinus the lawyer to send John the surveyor, who has set out from Rome for Palermo, to your brotherhood. We accordingly urge you to go with him to the areas in dispute, and by the presence of both parties on the spot to make an end to a dispute."

***"... the surveyor from earliest times to the present day was mandated to exercise a public duty as a land judge and officer of the state."***

The concept of a land surveyor as a public officer is not new. As the forego-

ing references illustrate, the surveyor from earliest times to the present day was mandated to exercise a public duty as a land judge and officer of the state.

## • What is a "Public Officer"?

The legal definition of *public officer* is not clear but it seems certain that it is not restricted to those in the employ of a public institution. Perhaps the term *public officer* can best be summed up by a quotation from the United States case of *Bender v Cushing* (1903): "the incumbent, in an independent capacity, is clothed with some part of the sovereignty of the state, to be exercised in the interests of the public as required by law."

I would suggest that regardless of the jurisdiction, the function of the cadastral surveyor the world over is de-facto that of a public officer. Surveyors have, for all time, played an important role in serving the public, establishing and adjudicating on boundary problems in the greater public interest. The role of the surveyor is very clearly established by statute whereby the state delegates its sovereign powers over boundary functions to professionally qualified land surveyors.

We as a profession -- not just as professionals -- but as quasi-judicial servants of society must exercise our authority equitably and in the interests of all.



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