

Survey Review Department Educational Corner "Stones" New Products for the Real Estate Transaction

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Introduction

Some of the members had expressed an interest in the development of *new products* to facilitate productive competition with *title insurance* regarding the real estate transaction. The Survey Review Department commented on a consultant's report prepared with these requirements in mind. Recently, the Council of the Association of Ontario Land Surveyors considered the consultant's report, the report from the manager of SRD, letters from the membership and discussions that had taken place at the regional group meetings. Having considered all of these items, a motion was carried to take no further action on the consultant's recommendations to change our products for the real estate transaction.

Background

In the early 1980s diverse survey "products" were provided to the public which were almost as varied as the number of firms in the province. Ultimately, the profession recognized that the public was being neither served nor informed by the plans and reports provided; and that the quality of much of the work was inadequate, non-professional, and often little more than a guess as opposed to a true survey. In assessing the needs of the public, research was undertaken with lending institutions, and the legal, engineering and architectural professions to understand what was required. What they assumed they were receiving while still expecting professional liability from the surveyor, was far in excess of the standard then in practice.

These findings, together with consideration of the liability expectations, and the broad variation of "products" led to the standardization of the real estate transaction survey as the Building Location Survey and the introduction of the Standards for Surveys. The Standards for Surveys were approved by the membership and provided the same effect as

Regulations. They represent the **minimum** standard. This "standard" survey format created equitable competition between firms and protected the public interest.

The further evolution of the standard survey, to become the Surveyor's Real Property Report, has resulted in a very professional looking product which addresses all the relevant needs of the consumer, particularly when the PART 2 component is provided as a separate reporting letter to the client. This format can provide full explanation and identification of any contentious matters relating to the extent of ownership. The department believes that the current S.R.P.R. meets the needs of the consumer fully but also provides a medium by which subsequent surveyors can review/assess the evidence used in the past survey to ascertain whether the remaining evidence of the survey retracement should be accepted, rejected or possibly researched further.

***“A full presentation
of all data on the final plan
and within the field notes
is vital
for use by the profession.”***

Survey Review / Analysis - Benefits

The department recognizes that some of the requisite information for an SRPR may prove redundant or possibly confusing to purchasers, their lawyers and mortgagees involved in the real estate transaction. However, the long-term benefit to subsequent surveyors must be recognized. Often, this excess information assists in understanding the method of survey employed, provides a clearer presentation and supports the decision-making for subsequent surveyors. The review/analysis/assessment of past surveys, either by this department or our

fellow surveyors, should be conducted by the comparison of the final survey plan against the corresponding field notes to determine completely the method of survey employed and to assess evidence used/rejected and why. Most often, the plan provides the majority of the *clear precise* information needed to understand how the survey was conducted. Sometimes, this survey resolution can not be achieved by using both the field notes and the plan due to shortcomings in the presentation of either component. Hence, if the presentation of either component relative to "standards" was reduced further, concerns regarding the long-term effects to the cadastral survey base must be expressed.

During the past couple of decades, significant changes to the technical approach (total stations, data collectors, etc.) to surveying have evolved. These new systems allow surveyors to be more time-effective but have caused field notes to deteriorate and be less informative. Frequently, surveys are done by random radial survey methods with virtually no boundary resolution expressed in the notes or the supporting file. How was the survey done? The Survey Review Department has experienced problems reviewing plans because the "graphic" portion of the field notes do not adequately illustrate extent of field research conducted, evidence used or rejected, and the eventual method of survey employed. The explanatory information resides in the digital file without expression in the graphic notes or retention in a simplistic readable form in the surveyor's file. Only by comparing the final survey plan results showing all data used, including the supposed excess information, against the field notes, can the reviewer possibly assess and resolve the survey method. With the continued technical advancements and its potentially negative impact on field notes, this difficulty in survey evidence/boundary comprehension will only continue.

Both components of a survey, a full plan and accompanying field notes, are needed to fully understand how each survey has been completed.

Consultant's Report

The consultant's report provided for three alternative products for consideration. The suggested alternatives allowed for varying formats of plans/sketches and correspondence/certificates being one of:

- i) an altered version of an SRPR (reduced plan presentation); or,
- ii) a very detailed written report without benefit of a survey plan providing a graphical presentation; or,
- iii) a similar detailed report with a supporting "sketch" of illustration;

These survey products could be produced at a marginally lower price but with a significant negative impact upon our existing standard of surveying.

All suggested products placed a great deal of reliance upon the completeness of the field notes as well as the calculation diagram to illustrate the survey evidence and method of survey employed. The current SRPR plan presentation would be negatively impacted by not displaying elements considered superfluous: supporting evidence, method of survey and others. Ultimately, the true savings would involve mostly drafting and checking time only. Could subsequent surveyors fully resolve the surveys depicted by the new products or make use of same in their future efforts? The Survey Review Department expressed serious concern.

The advantages are minimal. The costs (disadvantages) to the public and fellow surveyors in terms of professional quality, are far in excess of the savings. These new products make significant inroads into Standards. Could this further reduction in the Standards lead surveyors into more significant substandard work? As an example, the SRPR as it presently exists, lessened Standards to allow for non-monumentation of the rear limit which has caused a further decline in the

effort taken to define the limit. Non-monumenting the rear boundary is suitable and practical, due to the difficulty experienced in physically monumenting the corners. The department has too often seen the rear limit being re-established by adoption of deed/plan depth without apparent investigation of the limit. Will further inroads occur? Our Standards must be maintained.

Undoing the Done

Over the past fifteen years, extensive seminar presentations were made to the bar association, local law societies, financial institutions, and real estate lenders and organizations. The purpose was to acquaint those bodies with the survey profession's role in the real estate transaction, the liabilities, the responsibilities, and the like. Those presentations were given validity by the implementation of the Standards for Surveys. The paper by our former Executive Director, Lorraine Petzold, O.L.S., *The Survey and the Real Estate Transaction*, has been judicially referred to in recent court cases. It has been provided to other professions and represents one of our better public relations papers. These alternate products fly in the face of those presentations.

"If the profession were to reduce the Standards ... Would it suggest that our past efforts were overkill or simply overcharged?"

The Standards set out the **minimum** requirements for the provision of professional survey services, and are, essentially, the foundation of our self-governing and professional standing. The alternate products represented a lowering of the Standards, and potentially, a return to a time when poor practice and inadequate work could be hidden from scrutiny by obscure field notes, and uninformative plans; a tilting of the playing field away from the protection of the public interest to protection of the professional interest.

It is quite apparent that the introduction of title insurance is part of the impe-


tus behind the proposals provided in the report. **Title insurance is not a survey.** The profession cannot, on one hand, advise the public that their interests in the "extent" of title and the potential problems or contentious issues associated with each property are not determined, reported or resolved by title insurance and then, on the other hand, lower standards to try to compete with title insurance.

Conclusion

The basis for the profession's self-governing status is the protection of the public interest. If the public's interest is served and protected, then the profession also benefits. However, professional self-interest does not necessarily result in benefits to the public.

The public is entitled to purchase title insurance. The public is entitled to **not** get a survey at all, in some circumstances. Those are not situations with which the profession should be competing by lowering or undercutting Standards. They are situations that the profession **should be advising the public against**, by informing the public about the benefits, assurance, and value of getting a survey. The quality, and the public benefits, assurance, and value of getting a survey is enhanced by the Standards and "... playing on the same ballfield, by the same rules."

If the profession were to reduce the Standards for the typical product provided to our knowledgeable customers simply for the price difference, would it raise questions regarding our past efforts? Would it suggest that our past efforts were overkill or simply overcharged? What impact would this change have upon our professional image?

These proposals were suggesting a "backward step," and posed a threat to the Standards, to the capability to competently carry out the SRD mandate based upon current staff and budgetary constraints, and pose a threat to the public interest. It would obviously impact how reviews would be conducted and the depth upon which the department would have to operate to ensure that the public interest is being protected. 

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