

Educational Corner "Stones"

RESEARCH REVISITED

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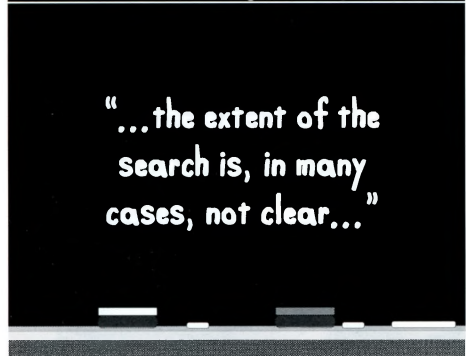
In the same manner in which a solicitor must Research a subject in order that he or she can render an opinion to a client or to the courts, so too, must a Surveyor Research all documentary evidence prior to the preparation of a survey

"When undertaking a survey, a licensed member shall, refer to the documentary evidence related to the land under survey and the land adjoining the land under survey". [O.Reg. 42/96, S3(a)]

This section of the regulation does not appear to be ambiguous, however the returns that accompany files submitted during a Comprehensive Review would indicate that some surveyors are still failing to research properly.

In most cases, the files reviewed by the Survey Review Department contain information con-

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firming that research has been conducted at the Land Registry Office. The majority of returns include one or all of the following, a block map, a parcel register, an abstract sheet, a search summary and a sketch, to name a few, and copies of the last registered deeds for the subject and the adjoining property. However, even with all this data, the extent of the search is, in many cases, not clear as the only documents abstracted are the latest deeds. It is not always apparent that prior documents were examined.

Many older documents, that form a part of the title chains for the subject and adjoining lands, may refer to survey monumentation, a previous survey or a plan or sketch attached. This type of evidence is often overlooked when

only the last documents are examined. In some cases, the surveyor may find it necessary to search back to the original patent to ensure that all the documentary evidence is obtained. This is especially important in situations where "Priority of Title" is involved in the re-establishment of boundaries.

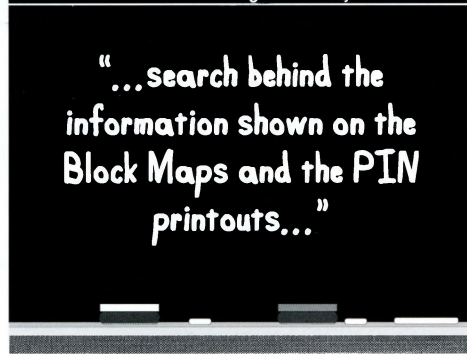
Poor conveyancing practices have occasionally resulted in prior easements and exceptions from deed descriptions, being omitted in the carry forward from later documents to current deeds. The description of a parcel of land may also change from transaction to transaction, due to poor editing or outright errors, causing additional title problems or complications when conducting a new survey.

When a project is being researched in the Land Registry Office the surveyor should, at least, pose the following questions:

Are there sufficient copies of documents to support the title decisions made during the survey and to support the information depicted on the plan?

Is there a signed and dated record of search itemizing the information reviewed and providing an outline of the title chain of the lands being surveyed?

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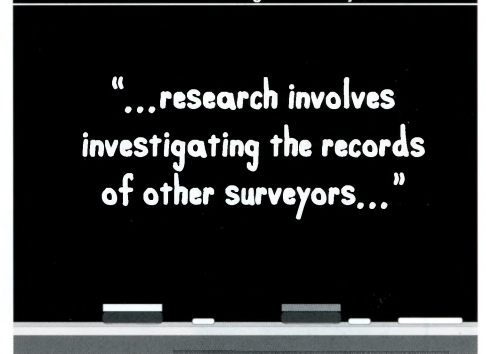


Is there a sketch of sufficient detail to identify the location of the descriptions and the relationship with abutting lands, or would a sketch provide clarity to the search record?

It is also important, when working in the POLARIS SYSTEM, to search behind the information shown on the Block Maps and the PIN printouts for both the subject and adjoining

properties. In the areas of the province covered by the PDFR (Parcel Day Forward Registry) system of registration, it is our understanding that the search only went back ten years or three transactions, whichever was the longer period. Only major easements, such as pipelines, transmission lines or trunk sewers, were brought forward and entered on the printout. Easements such as rights-of-way, mutual drives or small hydro or telephone easements were omitted from the printout. The surveyor should routinely search behind the PIN to review the abstract, to consider the

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description of the lands and the existence of any easements be they either dominant or servient interests.

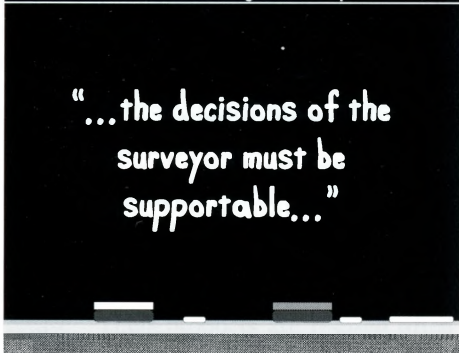
One of the most important areas of research involves investigating the records of other surveyors. One must always attempt to obtain the best available evidence to re-establish the limits being surveyed. The most common approach appears to be simply to perform a title search at the Registry Office, obtain copies of the deposited or registered plans and ignore the related field notes that could be of further assistance in the retracement. It appears that only in situations where the monumentation does not work do some surveyors contact their peers to obtain the other information available. It is important to obtain these field notes and copies of undeposited plans and the associated field notes from other surveyors. In many cases survey information that is shown in the notes does not always appear on the plans.

This survey record information should be obtained and examined before the field crew visits the survey site. It stands to reason that if

you don't know a monument exists or are aware of its location, your chances of finding it are slim to nil.

Ultimately, the decisions of the surveyor must be supportable, with sufficient information in the file to either justify why a monument has been rejected or, conversely, why a monument has been accepted, particularly when its origin remains "unknown". If the origin of the monument is known, then the survey data should pertain to its initial

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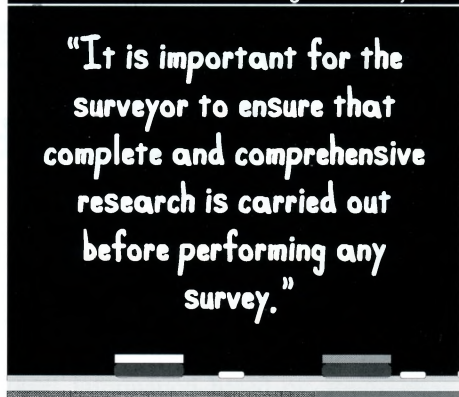
planting or provide its historical context.

When conducting survey research, the surveyor should answer the following questions:

Is the research conducted for prior surveys

limited to the data available from the Registry Office?

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Did I acquire copies of unregistered plans and the associated field notes together with the field notes for prior surveys obtained from the Registry Office?

Is there a record in the file of the surveyors contacted and the information received?

The Survey Review Department recommends that a list of the surveyors contacted for information, and a list of the information obtained, be kept for all surveys.

When water boundaries are involved, the surveyor should consider the original patent as to

its date and its impact upon the extent of the lands involved. A copy of the patent should be obtained and included in the search information.

When dealing with controlled water levels, the history and background information for the water body, such as how and when was the water level altered and any compensatory dealings with the lands relevant to the altered water level, should be obtained and analyzed.

If there is a "shore road allowance" involved, the surveyor should have a clear understanding of its title and location and whether it is a fee interest or a reservation.

It may also be necessary to consider the original Township Plan field notes and/or the instructions issued at the date of the creation of the original township to obtain all the information required to properly assess the available data.

It is important for the surveyor to ensure that complete and comprehensive research is carried out before performing any survey. Adequate records should be maintained regarding the amount of research undertaken and the results of such research to adequately answer any questions that may arise in the future.

