

Educational Corner “Stones”

TOPOGRAPHIC INFORMATION?

By John Middleton, O.L.S., Consultant, Survey Review Department

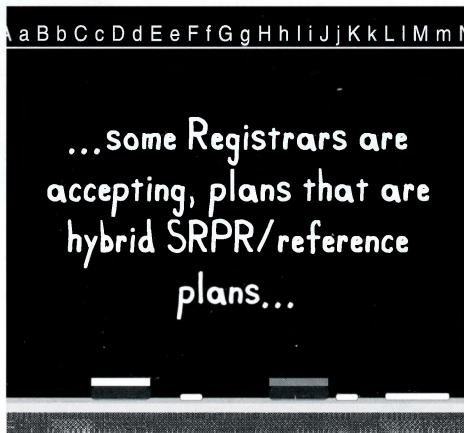
The Survey Review Department and its consultants examine about a thousand survey plans each year while doing Comprehensive Reviews and Systematic Reviews. With that many plans under review, we notice patterns indicating there are different schools of thought about the meaning and implementation of certain sections of our Regulations. In some instances, these differences relate more to style than content, but there are a few practices that are problematic.

The definition of “topographic information” and how it is illustrated on plans is one area of concern. An example of a potential problem is a reference plan prepared for severance and conveyance of portions of a parcel occupied by newly-constructed detached or semi-detached dwellings. Some surveyors are preparing, and some Registrars are accepting, plans that are hybrid SRPR/reference plans showing all the relevant information required to be shown on a reference plan, together with full information concerning the shape and location of the buildings on the lands, complete with ties from all corners of the buildings to the boundaries.

At first glance, this appears to be a sensible way of providing for the severance of the various parts of the parcel and for providing the builders with the “as-built” information they require at minimum cost. However, this practice contravenes Section 21(2) of O.Reg.42/96, which states that only topographic information that forms, controls or marks the position of a boundary, that may indicate an interest in title or that indicates an encroachment is to be shown on a plan to be deposited or registered in a Land Registry Office. There is an exception in Section 21(3) of the Regulation which permits topographic information *adjoining* a boundary to be shown on a reference plan but, in our view, this is limited to features

which are extremely close to a boundary and is for the purpose of showing whether a building, an eave, or other feature is clear of, on, or over a boundary.

Obviously, there are circumstance that require *parts* of buildings to be shown on reference plans. These would include instances where building ties from prior surveys of adjacent or near-by lands are



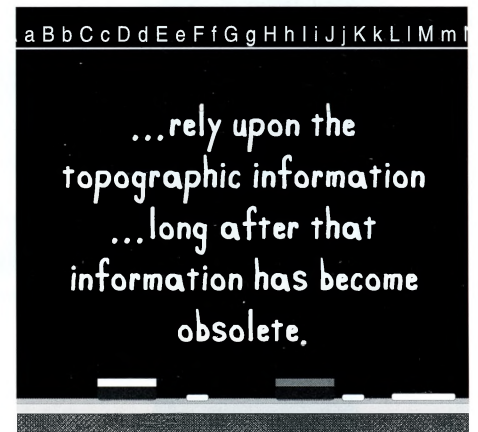
used to re-establish property boundaries or street lines, or where centre lines of walls monument the division lines between PARTs on the reference plans.

The danger of showing as-built information on a reference plan, such as building ties properly shown on an SRPR, is that the as-built information enters the public domain for use in perpetuity. Copyright cannot be stated and is not protected. There is a potential for the public and title insurers to accept and rely upon the topographic information on the plan as definitive long after that information has become obsolete.

Conversely, and still with regard to “topographic information”, some surveyors do not view fences, hedges or retaining walls that are near or on boundaries to be significant indicators of an interest in title or a potential encroachment, and simply indicate the existence of such features without specifying the relationship

between the features and the boundaries. Section 16 of the Interpretive Guide speaks to this issue, stating that a fence or hedge that is *on* a limit must be so indicated on a plan, and that a fence or hedge that is *near* a limit must also be shown. The implication, not stated, is that the feature should be labelled as “on line” or that “ties” should be shown where the feature is not contiguous with a boundary. It is not sufficient to signify the location of a fence or hedge by symbols alone.

The significance of overhead utility wires as “interests in title” is another area lacking unanimity. Service lines along or near the rear of properties, with or without easements, are usually shown on plans, but ties from the wires to the boundary are seldom shown. Service lines from the street to the buildings on the surveyed property might be shown, although it may only be appropriate to show them if they cross another property to service the subject property, or cross the subject property to service another property. Again, ties from the feature to property lines or corners are rarely shown despite Section



21(1)(b) of O.Reg.42/96 which requires that “all survey data necessary to define the position of topographic information....shall be shown”.

