

LAND REGISTRY OFFICE
TITLE SEARCHING
- FOR THE LAND SURVEYOR -



Second Edition

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Izaak de Rijcke, O.L.S.

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Acknowledgements - Second Edition

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Preface to Second Edition

The organization of this book was initially as a set of sample seminar talks on title searching for survey technicians and technologists. The writing style therefore read like a speaker talking. It was awkward to read and the flow was not always logical. It certainly could not be called a comprehensive work. This second edition is an attempt to provide background reading and an accompaniment for the participant engaged in a title searching seminar.

The emphasis in these materials is again on searching under The Registry Act. This is not to imply that searches under The Land Titles Act are less necessary or important for surveyors; it is felt this choice remains justified because the majority of land parcels in Ontario are still registered under the former statute. Users in Northern Ontario will therefore need to supplement some of the examples with their own experiences in Land Registry Offices in their area.

This second edition also incorporates statutory changes that have been brought about in Ontario, such as the Land Registration Reform Act, 1984, and the various amendments to the Registry Act and Land Titles act. Since publication of the first edition in 1980, the Association of Ontario Land Surveyors has also adopted the Standards of Surveys which include specific requirements to be satisfied by the surveyor in conducting research into documentary evidence of a parcel's boundaries. Even the instrument number of the parcel descriptions must now be shown on certain plans of survey, thereby increasing the expectations made of the land surveyor.

Transparencies suitable for an overhead projector are included as an aid to illustrate points which can be made during the seminar presentations. The Glossary should not be relied on as exhaustive, since it

would be impossible to reproduce a legal dictionary in this Manual. It is left to individual users to decide whether to purchase a legal dictionary for their own use.

A caution is again in order: this work is not an attempt at compiling a statement of the total law and practice associated with the searching of records in a Land Registry Office by a land surveyor. At best it is an overview of some of the basics and provides one approach a surveyor may find useful. Other techniques, which do exist, may be favoured by others because they are quicker or more simplified. The approach presented herein is felt to be most conducive to enabling the experienced user to understand what a search is and the principles behind it.

Regardless of the amount of instruction a person may receive in title searching, the only way one will master the technique and feel comfortable with it, is to actually conduct several searches oneself. It would therefore be ideal if an arrangement could be made with an employer or other resource whereby one could orderly conduct a number of searches on parcels where the search had been previously done, thereby having an opportunity to compare one's results with the search product of a more experienced searcher.

Reference and Background Reading

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Chapter 1

Introduction to Real Property and Land Registration Principle

Learning to search title is a building process. It will be impossible to understand what an abstract book is, unless some idea of the theory behind the land registration system is known. It will also not be possible to find and obtain individual documents unless an ability to use the abstract book is held by the user. The ability to work in the land registration system in Ontario is therefore dependent firstly on a good theoretical background in land law and the principles which underlie the purpose and characteristics of land registration systems in general. It is dependent secondly on a step-by-step, cumulative acquisition of the hands-on know-how so basic to the actual process of conducting a search.

There does not appear to be any single work which was written from a land surveyor's point of view to explain title searching procedures. However, one should obtain copies of The Registry Act, The Land Titles Act, The Boundaries Act and The Certification of Titles Act. When purchased in office consolidation form the regulations and an index are also usually included. You should also not settle for anything but the latest version. Copies can be obtained from the Ontario Government Bookstore at 880 Bay Street, Toronto, Ontario, M5S 1Z8. You can phone ahead for the price by calling (416) 465-2054.

Many manuals have been prepared in the past to assist legal title searchers in going through the records at Registry offices. Most were very good, giving details on how documents are obtained, what sorts of things to look for and precautions which should be taken. However, the majority of these manuals or guides were not prepared with the needs of

the land surveyor in mind. One significant principle should be kept in the forefront of one's mind since it is fundamental to the purpose of a book such as this.

The search conducted by a land surveyor in an office where land records are located is unique in that he is the only user concerned primarily with obtaining evidence of the position of boundaries. Although other users may be interested in this kind of information as being of secondary interest, none are concerned with it as the most important goal. For example, a title searcher working for a lawyer will want to establish a good "chain of title" because he is interested in ownership of the parcel of land. The question of boundaries then becomes merely a collateral issue to the question of the title to the parcel. While this book is certainly not meant to include in its scope a theoretical review of land registration systems it is essential that one examine some of the theory and history behind land registration. What was the original intention in keeping documents and land records? What kind of information can one expect to obtain and, more importantly, what sort of information should one not expect to find?

A term often heard is "cadastre". In fact, surveyors sometimes call themselves cadastral surveyors when generally referring to their activity as surveyors of legal boundaries. A cadastre is a word of European origin and refers to a public register of the quantity, value ownership and sometimes use of land. The land registration system in Ontario is not a cadastre in the true sense of the word. Instead, the origins of the Ontario systems lie in English history and land law.

Land is classified as real property. This is in contrast to personal property. The difference between the two categories is historical and emerged in the forms of legal action one had to follow in order to recover it when it was lost through theft or fraud. If someone had stolen one's cow or wagon in medieval England, one would have been allowed monetary compensation or damages when successful in court. These items were forms

of personal property. Therefore actions for personal property gave the successful claimant a right to some form of compensation. However, if one sued in court for possession of land (i.e. real property) which someone else occupied, the court would actually give one the right to the land, rather than just compensation for it. The difference between the two traditional forms of property is important because one will never come across information pertaining to the ownership or status of personal property in a land registration system. Some kinds of personal property and interests in it are recorded in registration systems by the government. For example, car loans are usually recorded by a registration under the Personal Property Security Act against the name of the owner of the car (or the debtor).

Perhaps a useful aid in remembering the differences between real and personal property can be found in the difference in the consequences of leaving it for some time. When one returns from vacation, one's land and, usually, one's house are still there. In spite of one's absence for a number of weeks, one continues as the owner of the real property. But if one leaves a TV and stereo on the front lawn, chances are it will be gone when one returns from vacation. One has lost ownership of this personal property by failing to "secure" it.

A land registration system must have a requirement that all dealings with land be recorded in order to be valid. In other words, if land is "sold" and a deed is prepared but not registered, it must be deemed ineffective or the system will not work, for practical reasons. This principle is one which is found to exist in the Ontario system to only a limited extent.

What types of interests and transactions involving land should be allowed to be registered? One must first consider the kinds of transactions which can occur and to do this, one needs to understand the concept of land ownership.

An analogy which may be helpful is the comparison of ownership of land to a container filled with sticks. The container filled with the sticks represents complete ownership, in as great a way as is possible, of land. This is also called "fee simple". If one sells the property, one gives the container, filled with sticks, to the purchaser. This is therefore an event which must be capable of recording in one form or another in the land registration system.

However, one can also give or sell one or two sticks to another person, and a few others to someone else. This could occur when one gives a neighbour an easement over a 5 foot strip of land so the neighbour can lay water pipes to a well located on one's land. It could also occur when one sells to another neighbour a right of way over one's land to allow him to drive a vehicle over the right of way so he can get to the garage behind his house. These types of transactions do not involve the sale of the absolute ownership (or fee simple) of the land. Hence they must be capable of being recorded in some manner in the land registration system, since, in reality, such transactions do take place from time to time.

This is in fact possible under the Ontario Systems. Not all documents which are registered represent a change in ownership. The number and kinds of interests which can be registered and are subsequently encountered in searches are as varied as one's imagination.

Although the need for compulsory registration of documents for the system to be effective is desirable, it is simply not practical to register all interests which differing persons, governments and Corporations may have in land. For example, the grants of a one-year lease to a tenant by an owner gives the tenant the right to possession for that year. But the owner still retains ownership - he has only given away a few sticks. Leases are not generally found recorded in the Ontario land registration systems, unless they are for periods longer than several years. Other kinds of inter-

ests are those which arise by statute. This means that the passage of an Act by the Legislature may affect the form or quality of ownership of every piece of land in Ontario. The Planning Act is a good example of this. A municipality may pass zoning by-laws which affect how the owner can enjoy his land. Many of these interests are very important but do not appear in the land registration system.

Until this point, only a review of how land law in Ontario may affect the manner in which we record interests has been considered. An examination of some of the theory behind the land registration systems themselves will now follow.

Land was originally transferred in England by grantors through some symbolic act, such as handing to the purchaser a clod of turf and indicating, in public, a general intention to convey title. But as societies became more complex, written documents became the accepted form of indicating ownership, and a vendor would produce the document he received from his predecessor in title. This usually satisfied the buyer, who then took a similar document from the vendor. The problems with this system are obvious. The buyer had little chance of determining whether third parties had a better right to ownership of the land than the vendor.

The buyer could go nowhere to check whether the vendor had given a mortgage on his land to someone else or if a tenant had a 99 year lease on the land. Private conveyancing therefore eroded the conclusiveness of an owner's title because one could never be sure that the owner was not withholding some of the documents affecting his land. Fortunately, Ontario never had a system of private conveyancing. This, of course, could perhaps be qualified since it is arguable that conveyances prior to the passage of the first Registry Act were forms of private conveyancing.

The need for some kind of depository for documents affecting land was apparent in England as early as 1703 and registries of deeds were set up on a local basis in a few areas. They failed to take hold and the next 200 years saw various attempts being made to institute a workable system for registration of interest in land.

There are two major "generic type" of systems recognized for recording interests in land, and both are present and functioning in Ontario.

The first is generally known as "registration of deeds" system. Many variations of the basic form exist in the world; in Ontario, The Registry Act represents the statutory authority for this form of recording. A copy of every document affecting land ownership is registered and held in the office for safe-keeping. When a document is registered, the date and time are noted and marked down in an abstract book, along with the names of the vendor and purchaser, or mortgagor and mortgagee. When a prospective purchaser, or his lawyer, then wishes to verify the quality of ownership or title held by an owner, a check can be made in the office of all documents registered against the subject parcel. Several important features characterize this system. The documents must all be checked for completeness and an opinion is then formed of the quality of the title. Registration of documents must also be effected for the document to be enforceable, or rather effective in doing what it purports to do. Therefore, the date of registration of a document becomes more important than the date of making or signing the document by parties when assessing which document takes precedence. The concept of "priority of severance" arises out of this notion and will be referred to in a later in this book. The major drawback to a registration of deeds system for a conveyancer is the fact that a deed is merely evidence that a transaction took place. It makes no comment on the capacity of the parties to validly complete the sale. The land registrar does not in any way, by accepting the document for registration

guarantee or otherwise imply, that the document actually does what it says it does. Therefore "quality of title" becomes something which can take on varying degrees of grey and it is the lawyer's role to give his client an opinion on the quality of the title being purchased by his client.

The second major system recognized for recording interests in land is known as registration of title. Other terms often used to describe this kind of system are "land titles" or "Torrens"; in Ontario, Land Titles Act implemented a registration of title system in our Province. The concept for this system was developed by Sir Robert Torrens in Australia who modelled it after the method used at the time for recording ownership of ships at sea. The essential elements of the system are a register which indicates the name of the current holder of title and a guarantee or assurance by the State that the register correctly reflects the true owner's name. In the event an error is made, the State compensates the rightful owner for its mistake in erroneously reflecting ownership in the Register. Although the Ontario land titles system is often called a Torrens system, it has some important differences from the characteristics which the system took in Australia in 1858 and later in Manitoba. The Torrens concept was received in England with mixed reaction. A number of Law Reform Commissioners studying the state of land registration at the time applied the concept to English law and in several reports, proposed a Torrens-style land registration system in England. Although never adopted in England, the reports were heavily relied on by the drafters of Ontario's first Land Titles Act, with the result that many provisions designed for the English situation were imported into Ontario law.

Both systems have continued to function concurrently in most parts of Ontario.

The increase in information technology over the past decades has also seen increasing interest in, and experimentation with computers in land registration applications. The Personal Property Security sys-

tem in Ontario has a computerized data base. The Ministry of Revenue also provide assessment data in computer usable form. The last 10 years has seen the Ministry of Consumer and Commercial Relations explore the feasibility of a computer based land registration system. The Province of Ontario Land Registration and Information System (known by the acronym POLARIS), has been implemented on a pilot project in Oxford County and, and more recently, commitments have been made to extend the system's application to other parts of Ontario.

In conducting a land registry office search in some parts of the Province, the land surveyors must have a working familiarity with POLARIS and an appreciation of the principles embodied in the system as well as a practical sense of how to get about the system in a reliable fashion.

The next chapter shall examine the dual system of land registration in Ontario and how it functions in practice.

Chapter 2

Land Registration Systems in Ontario Registry and Land Titles

Perhaps no point emerges as most important from the last chapter than that which distinguishes the surveyor as a user of the land registration systems from other users. Neither the Registry nor the Land Titles system was established for the purpose of providing the surveyor with information about boundaries. Instead, the systems were designed to record interests in land. Although extent of ownership (or location of boundaries) cannot be practically separated from the ownership of the parcel itself, the Registry and Land Titles systems are primarily concerned with ownership and the recording of interests having an impact on the quality of ownership.

But then why need a surveyor examine ownership records at all? Can one not simply go to one's own and other surveyors' notes and plans and continue on from there? This might be an ideal situation, although as we shall see, the practice is quite different. As one examines the Registry and Land Titles systems, keep in mind that their primary object is to record information relating to title. When one obtains a picture of successive ownership of a piece of land over time, one can use it as a framework on which to organize and hang survey information.

During the first session of the first Legislature of Upper Canada in 1795, the Registry Act was passed. This early action on the part of legislators is an indication of the importance attached already in that day, to land records. The Registry Act has gone through many amendments since the passage of that first Act; the year 1795 marks the beginning of a registration of deeds system in Ontario. The system is theoretically avail-

able throughout Ontario although after the passage of the Land Titles Act in 1885, newly patented land was placed in the Land Titles system from the beginning. As a consequence, most privately-held land in Northern Ontario is not within the Registry system, but rather, under the Land Titles Act.

The first Registry Act established an alphabetical indexing system. In other words, the documents registered for safekeeping were abstracted in a book divided into pages with letters of the alphabet on it. The names of the grantor and grantee were entered in the alphabetic names register, along with a shorthand notation indicating where the land was located. In this system, the key to information was a person's name. This is in fact the system which still operates in many American states and some Maritime provinces as the public register.

The original documents were not themselves registered. Instead, a "memorial" was drawn up and registered in the land registry office. A memorial was in itself a form of abstract of the important parts of a deed. It contained the names of the parties and a brief description of the land. The original copies were kept by the purchaser who produced them when it came time to re-sell the land.

A major change came in 1865 when an abstract index, organized on a geographic basis, was maintained. All instruments in the alphabetical abstract were re-indexed into the geographical abstract. Although alphabetical abstracting was continued, the geographic abstract became the most important index in the Registry office for the user. No longer was it necessary to know a person's name to begin a search. The geographic location, based on a lot and concession number in a township or a lot and registered plan number became the key to searching for information on land ownership for a specific parcel.

The abstract index also allowed all dealings with any single parcel of land to be grouped together, in a chronological sequence.

Memorials were no longer accepted for registration; the original documents had to be tendered and were recorded as such.

Each time a lot was subdivided, a new abstract book was opened with a fresh page assigned for each lot on the registered plan of subdivision. This practice still continues to the present day. New abstract pages were also opened whenever a newly constituted town, village or city was incorporated. It was separated from the township indexes and given an abstract index of its own. Therefore, when a search is now conducted and information is required earlier than the date of the plan of subdivision, the underlying lot and plan, or township lot, must be resorted to.

In 1887, with the passage of The Custody of Title Deeds Act, later called The Custody of Documents Act, almost any kind of document somehow related to title to land could be deposited. This Act, which now forms Part II of The Registry Act, allowed for the deposit of documents like wills or court decisions in the Registry office, provided the effect of the instrument was to have a bearing on the title to a parcel of land.

In 1929, The Investigation of Titles Act was passed and is now Part III of The Registry Act. Its effect was to shorten the period of time one had to go back in order to establish a "good root of title". Part III constitutes sections 110 to 114 of The Registry Act. Section 111 states that,

"A person dealing with land shall not be required to show that he is lawfully entitled to the land as owner thereof through a good and sufficient chain of title during a period greater than the forty years immediately preceding the date of such dealing..."

This section holds much significance for one if one is searching title for a lawyer or someone else interested only in the quality of title. It allows a searcher to stop at the last instrument registered before a period of time 40 years ago which can be accepted as a good root of title. If this

section were not present, the searcher would have to go back in time to the point when the first owner received the patent from the Crown. This is a very inefficient and costly demand to fulfill each time the property is conveyed.

Coupled with section 111 is its complement - section 112, which states that claims registered for more than 40 years have no present life. However, important exceptions are contained in sub-section 2, and specific reference to the subsection should be made.

What kind of instrument constitutes a good root of title? Lawyers generally refer to a deed which can "stand by itself" and which conveys to a predecessor in the chain or title a good and marketable title. Examples of a good root of title are a certificate under the Certification of Titles Act or a conveyance by the Director under the Veterans' Land Act. There is not complete unanimity on what constitutes a good root of title and further discussion is beyond the scope of this book. Suffice it to say that a root of title as the term is understood by lawyers will not necessarily satisfy the search for information pertaining to the location of the parcel's boundaries.

One major drawback of the Registry system which was alluded to in the previous chapter, is the need to examine individual instruments to satisfy oneself that the parties to the transaction had the capacity to dispose of the land. However, the 40 year search and the effect of some statutes to bar claims still outstanding have not helped in easing this inconvenience for searchers of survey evidence in the land registration system since the 40 year rule does not apply to the kind of search that the surveyor generally conducts.

The kinds of books or indexes that are available in the Registry office are summarized below.

Abstract Index: as each instrument is accepted for registration, the Registrar, or one of his clerks, enters the instrument number assigned, the dates, the names of the parties, and a short comment

referring to the description in this book on the page reserved for the geographic parcel. (See the sample included in today's handout on pages 4 and 5). The geographic parcel is Lot 21, Plan 5596 and the excerpt shows a number of entries made in the abstract index.

Alphabetical Index of Names: The alphabetical index was supplemented with the abstract index in 1865, but was still maintained after that time. In 1972, an amendment to the Registry Act repealed section 21 of the Act, allowing the Alphabetical Index of Names to be discontinued. This book might still be of use to a searcher if the owner is known to have purchased the property before 1972 and no geographic location is given as the key to obtaining information.

General Register Index: Wills, probates, Letters of Administration, Powers of Attorney, and other instruments of a miscellaneous nature are recorded in this book. If a chain of ownership is lost in the Abstract Index, it might sometimes be possible to pick up the trail in the General Registrar. For example, if John Doe at one time owned a farm and he willed it to his daughter, Mary the name "Mary Doe" will not appear as a grantee if she was married, after the will had been made, to Peter Adam. If John Doe's Will can be retrieved, Mary's first name will appear as the beneficiary and then one looks in the Abstract Index for a grantor with a first name or initial of "Mary".

The Deposit Book: All instruments which could be deposited under Part II of the Registry Act were recorded in the Deposit Book. However, an amendment to the Registry Act in 1972 resulted in the discontinuance of this kind of book; instead, deposits after 1972 are recorded in the Abstract index.

The By-Law Index: Municipal by-laws which affect land may be recorded in this book as well as in the Abstract Index. This is often

a very useful book when searching for a by-law authorizing the opening or widening of a road or its dedication as a public highway.

The Day Sheets: Although these are not strictly in book form, most Registry offices make available at the front counter a copy of the register which reflects most recent registrations. The Registry office staff always take a few days to transcribe the information from newly registered documents into the abstract index. The day sheets therefore allow one to conduct a search up to the present moment in time.

Other books and records are required to be kept by Registry office staff, but these need not concern us at this point in time.

The first Land Titles Act was passed in 1885. As discussed in the previous chapter, the system was a registration of title or Torrens type of system. The Ontario Act was available at first only in the County of York which included the City of Toronto. In 1887 its availability was extended to include the northern parts of the Province: the districts of Algoma, Thunder Bay, Muskoka, Parry Sound and Nipissing. Land patented by the Crown in Northern Ontario after 1887 was entered in the Land Titles system. In Southern Ontario, where most land had already been patented by the Crown, land was recorded in the Registry system. Although Land Titles was available in all but the more rural counties in Southern Ontario, land did not have to be registered under the system when it was already in Registry. It was a voluntary system and this aspect alone probably accounts for the fact that approximately three quarters of all land parcels in Ontario today are still registered under The Registry Act.

In 1974 a requirement was added that land in the Registry system had to be registered in Land Titles before it could be subdivided. Of course this only applied where Land Titles was in fact available and the majority of applications to bring land in Land Titles today, arise out of this requirement.

The Land Titles system records ownership, or title. Three kinds of title are recognized under the Act:

1) **Absolute:** This is equivalent to ownership in fee simple under The Registry Act.

2) **Qualified:** An owner with this kind of title has not been able to establish a satisfactory root of title beyond 40 years under The Registry Act when the land was brought into Land Titles. He can apply to upgrade the title to Absolute after a period of time.

3) **Possessory:** A landowner who derives title through possession of a parcel of land can apply to bring his land under Land Titles even when he is unable to support his ownership with documents. He may apply for Absolute title to his parcel after the lapse of ten years.

A feature of the system is the Land Titles Assurance Fund. It is designed to compensate persons who suffer loss of title to their land through the mistaken acceptance by the Registrar of a transfer and its recording in the Register. Since the Register is conclusive of land ownership compensation takes the form of monetary payment, rather than a reversal of entries in the Register. If a person therefore succeeds through fraud or other means in leading the Registrar to believe the Register should be changed, the correct owner whose name no longer appears on the Register may apply for compensation from the Land Titles Assurance Fund.

Although the Register is conclusive of ownership in theory, the Act specifies in Section 51(1) certain interests and claims against an owner's title which are not guaranteed against. Some of the more important claims include rights of way, easements, and public highways. Therefore, although the register reflects true ownership and also lists some of the claims other persons or the public may have over the land, there may also exist unregistered rights in the nature of an easement or right of way over the land. We will see later that this necessitates a search of all land adjoin-

ing the subject parcel as well as the subject parcel itself to gain a complete picture of the extent of an owner's title.

The Parcel Register is the primary book used by searchers in the Land Titles System. The Register contains the owner's name, the kind of title he enjoys and the kinds of charges or claims outstanding against the land. The Register also contains a brief description of the land. The Register differs in some important respects from the Abstract Index in the Registry system. The Abstract Index is divided into pages, with each page presenting a record of dealings with an individual Lot in a Township or Registered Plan. If an owner split his lot in two and sold half to another person, then the record of dealings with respect to both parcels would continue to appear in that single page in the Abstract Index.

However, the Registrar under the Land Titles Act sets up a new page each time a unit of ownership is created. When an owner sells half his lot to another, then two parcels are produced from the one and a new page is opened in the Register. This means that the key to information in the Land Titles system remains geographic location, but difficulties can be encountered if the parcel number or owner's name are not known. This can be accentuated by the use of Register books which are not loose leaf and prevent the insertion of new pages as new parcels are created, although these generally no longer are used.

Except for two other books, Section 75(1) of the Act states no person except the parties thereto, "shall be deemed to have any notice of the contents of any instruments, other than those mentioned in the existing register of title of the parcel of land...". The two books excepted are referred to in section 75(2) and (3) as the Highways Register and the Trans-Canada Pipe Line Register. These should be checked for the existence of any easements or pending highway developments.

Other miscellaneous books exist with which one need not concern oneself with for now.

One may have heard that there is no such thing as title by adverse possession under The Land Titles Act. Section 54 states that "...no title to and no right or interest in land registered under this Act that is adverse to ... the title of the registered owner shall be acquired hereafter ... by any length of possession...".

One may be led to ask "if the Register reflects ownership why do we need to use it to obtain instruments for inspection? Or, if the Province assures title through the Fund, and no adverse possession takes place, why can one not lay out the boundaries contained in the description and call it a boundary survey?"

The answers to such questions should include a reference to Section 141(2) of the Act which states that a description of registered land is not conclusive as to the boundaries or extent of the land. This Section also appeared in the English Act of 1875 and presupposes no problems in locating and defining the extent of ownership once it is defined by description and assigned to the subject of ownership. In view of the well-established limits between parcels of land in England, this was a reasonable supposition for early legislators to proceed on. When applied to Ontario in 1885, however, many limits between parcels were not even surveyed, let alone marked on the ground by limits of possession. The township system of dividing great tracts of land into lots and concessions was well suited to the settlement of a new wilderness frontier. Ownership of the lots could be well established and kept record of, but unless the limits of ownership were established on the ground, the owner had to live with a measure of uncertainty. It is beyond the scope of this book to review the rules of evidence applicable to surveying at this time; instead the point being made is that the Register reflects ownership or title. Although a searcher working for a lawyer

might be satisfied to look at the Register to ascertain ownership, the surveyor will need to obtain and inspect individual documents for evidence of surveys. Neither the Registry nor the Land Titles Systems were designed to record and co-ordinate large amounts of survey information. The task of the searcher working for a surveyor becomes then all the more challenging and takes on an aspect of detective work.

Although all of Ontario became subject to Part I of the Land Registration Reform Act, 1984 on April 1, 1985, only certain, limited parts of the Province have been designated under Part II of the Act and in these Registry, or Land Titles Divisions, the "POLARIS" system has application. As part of a staging, or phasing - in process, the Province is not designating all of Ontario all at once. The Land Registration Reform Act, 1984 provides for a property index map (based on the Ontario Base Map system) and illustrates the position of each parcel in relation to its abutting neighbours. Property index maps are not plans of survey and also not conclusive of the extent of a parcel, unless confirmed under the Boundaries Act.

Yet a further means of retrieving information regarding a parcel is made available through POLARIS by what is known as the property identifier. A property identification number (P.I.N.) can be used to access the data base of a parcel and is also provided as a label for each parcel shown on a property index map.

It is important to appreciate that the POLARIS system does not alter significantly land registration law as reflected in principle through the Registry Act and Land Titles Act. Instead, POLARIS brings about certain changes in procedure to streamline and accommodate land information for electronic data storage and retrieval.

Chapter 3

Types of Documents Recorded in the Systems

In the last chapter the structure of the Registry and Land Titles Systems and the kinds of Index Books kept in them to find documents was discussed. The types of documents one might examine when doing a search in the Registry or Land Titles system will now be reviewed.

The principle types of documents which one can expect to encounter in a Land Registry office search are summarized below.

Deed or Grant - This document evidences a conveyance of the ownership of a parcel. Although other documents evidence the conveyance of part of the ownership (for example, only several "sticks" left in the container), the deed or grant is the most important document to look for in following a chain of title. It is usually abbreviated in the Abstract Index as "Deed", "Grant" or "B & S" which stands for a Bargain and Sale. Bargain and Sales were much more common in the past, they are no longer in use today; they had the same effect as the modern day deed. More recently, the Land Registration Reform Act, 1984, unified into one form the appearance of a deed and it is now called a Transfer.

Transfers need not involve a transfer of the whole title, as mentioned before. There could be merely a transfer in the nature of an easement or right of way. This kind of document was previously still called a grant, but often appeared abbreviated as "grant of ease" or, "grant of R.O.W."

A Transfer may also apply to more than one lot on a registered plan. If, for example, a developer sells 5 lots, all side by side, to a builder only one document is required; the instrument refers to all 5 lots in its description and is entered in the Register or Abstract Index under each lot number referred to in the Transfer.

Mortgage - This document represents a sale by the owner (called the mortgagor) to the mortgage company, or lender (known as the mortgagee) in return for financing money. The document looked very much like a deed because it had in theory much the same effect. However, when the term of the mortgage expired and all loaned money has been repaid, the original mortgagor had the right to demand that the mortgagee relinquish his claim on the land. The mortgage company usually did this by registering a Discharge of Mortgage (abbreviated Dis.Mtg.). What then developed in the abstract register is a kind of "pairing" of mortgage documents. For each mortgage no longer outstanding, there should also be registered a Discharge of Mortgage. When sufficient time passes, the Registrar ruled out with red ink both the original mortgage and its discharge notice as they appear in the Abstract Index or Register. The Land Registration Reform Act also consolidated the form of a mortgage under both Acts and are now known as charges. Likewise, a Discharge of Mortgage is now termed a Cessation of Charge.

if an owner is unable to make the mortgage payments to the mortgagee, the mortgagee can foreclose on the owner and gain ownership himself of the land in satisfaction of the debt still owed to him. When this occurs, there is registered a document known as an Order of Foreclosure in the Registry Office and this appears in the Abstract index. An order of foreclosure, in combination with a mortgage, has the effect of transferring title to the mortgagee much the same as a deed would do.

Agreements made between an owner and a municipality for such things as undertakings in the form of sewers and gutters to be installed by the owner are also usually entered in the Abstract Index. Agreements do not usually affect ownership, but are important to a searcher concerned with the quality of title held by the owner. From time to time, agreements for purchase and sale are also recorded in the Abstract Index.

However, unless actually followed up by a grant, no change in title has occurred.

Many kinds of documents affecting land may be acceptable for deposit under Part II of The Registry Act; their appearance in the Abstract Index is usually expressed as a Deposit. A deposit has no exact equivalent under the Land Titles Act and usually takes the form of one or another Application. Typical documents deposited include Court orders directing the division or transfer of ownership upon divorce or dissolution of a company, declarations made by persons under oath attesting to the kind of possession enjoyed by them, etc. Deposits should always be examined since their nature or contents are seldom indicated in the Abstract Index.

Construction Liens (formerly Mechanics Liens) are common occurrences where much building and construction activity takes place on a parcel of land. A lien is a claim or charge against the proceeds an owner can expect to receive when he sells his land. Therefore, in most cases, a purchaser will demand that a lien be satisfied before he takes title. The lien or charge is a claim against the land itself and not the owner. It does not however represent a change in title, but only a claim against the title.

Liens can also be placed by Federal, Provincial and Municipal governments for unpaid taxes. A Municipality can actually obtain the title to land if property taxes are left unpaid for a sufficiently long period of time. When title is then resold to a purchaser, a tax sale deed is registered and recorded in the abstract index.

These are the most important and common documents which one can expect to encounter when performing title searches. Other documents which may appear will be discussed later when specific Acts and their effect on land ownership transfer are considered.

A closer examination of the contents of a deed as they appeared prior to 1984 will now be made. Most lay persons have a strong aversion to legal language; it seems to make little sense and is often suspected of being made intentionally complicated so as to keep the meaning of legal writing secret. It is in land law and conveyancing documents that most of the confusing language can be found.

Consider the sample deed as deeds appeared prior to 1984, and appearing from pages 6 to 11, for a conveyance from Steven Price to Kathy Curtis:

The first obvious feature which should strike one is that the deed is in writing, on paper. For any document to be effective in transferring or dealing with any interest in the title to land, it must be in writing. The Statute of Frauds makes any conveyance not in writing, void.

The very fine writing in the top left and right corners is really quite insignificant. It usually indicates the name of the legal stationer who printed the document and the kind of document it represents to be.

This is followed by the big words, "This Indenture", in fancy lettering. What is an indenture? In days when photocopy machines, typewriters and even carbon paper were non-existent, a deed was written out twice on the same piece of paper. The two "copies" were cut in two by a wavy line and, in order to verify their genuineness at a later time, could be matched up again along the cut line. Of course this is no longer done today, but the expression "The Indenture" still appears as a form of tradition. There is nothing magic about the kind of lettering used here; many older deeds which are typed out in full have "This Indenture" typed in capital letters.

Next follows the date when the document was prepared and this often coincides with the date on which it was signed by the parties. The date appearing here was usually recorded in the Abstract Index as the "date of instrument". It was normally not the same as the date on which the

instrument was registered. For this reason, there appeared two dates in the Abstract Index for each instrument registered.

The date is usually followed by a line. "In pursuance of the short Forms of Conveyances Act:". What this refers to is an Act which gives a deed the full meaning it would ordinarily have, but can be omitted if this Act is referred to. It allows the document to be cut down in size and also eliminates a lot of the legal jargon. The Short Forms of Conveyances Act spells out in full what the deed really says if the Act is referred to. There is also a Short Forms of Mortgages Act and a Short Forms of Leases Act which perform the same condensing function for instruments which are mortgages or leases.

The names of the parties usually came next. The owner who sold was called the grantor; the purchaser who bought was called the grantee. Although not shown in the example, if more than one person owned the land, the expression "tenants in common" or "joint tenants" was included. This merely referred to the relationship between the two owners themselves and is different from the use of tenant when used in the context of "landlord and tenant". Briefly, if a husband and wife own land as tenants in common, each can sell off their undivided half interest separately. This was not possible with joint tenants. In that event, both spouses must join in selling to another party. The full names of the parties are given, although this was not always the case in the past. The name "J. Smith" would have given rise to all kinds of ambiguities. The occupation and general locale of residence of the parties was also included in an attempt to remove the possibility of doubt as to identity.

Names of corporations or associations could also be expected to appear here. On occasion one may encounter a deed where as many as 30 or 40 persons' names are included. This is necessary if an unincorporated club or association receives land. If not incorporated, a club is not capable of holding land and each of the members must then take title

in their personal capacities. If the land is used for church or cemetery purposes, it is usually owned by the trustees for the church or cemetery.

When the Crown owns land which has been patented and owned by the public before, there is usually an indication of the nature of Crown intended. One may find, for example, where a highway widening has resulted in a transfer of land to the Crown, a deed setting out: "Her Majesty the Queen in right of the Province of Ontario as represented by the Minister of Transportation and Communications" as the grantee of land intended for road purposes. This suggests that the provincial Crown owns the land and the Ministry administering it is Transportation and Communications. If land changes from one Ministry to another, a deed is seldom registered. Instead, what is called an Order-in-Council is passed, directing that the new Ministry now be the owner. An Order-in-Council is an administrative directive and, if it affects land, may be recorded in the General Register Index only. Practice varies from one office to another and some offices recorded orders-in-council in the Abstract Index as well.

The names of parties was usually followed by something called the recitals. The sample deed in the example does not contain any recitals because it is a very straightforward one. Almost always, the recitals began with the word "Whereas". Recitals are statements of fact and tell a story which allows one to link up the deed under consideration with a previous one. If, for example, John Smith died a widower and left a will, then typical recitals would have read something like,

"Whereas John Smith was the owner of Lot A, Plan B and,
Whereas John Smith died a widower on July 1, 1947 and,
Whereas probate of his will was granted on August 7, 1947
and his will appointed so and so as administrator of his estate, therefore,...
witnesseth that in consideration" and so on.

Often additional documents were deposited around the time of a person's death and include things like liens and estate tax clearances.

The consideration or money paid follows next. Very seldom is the actual amount of money transferred shown here. There merely has to be an indication that some money has changed hands, so one dollar or ten is inserted. This practice grew out of the feeling that people had certain privacy rights, the value of their house being one of them. However, as we shall see later, this is not possible any more.

Next comes the granting clause which begins "the said grantor doth grant..." in our example. This is the operative and, from a title point of view, perhaps the most important part of a deed. Note that it specifies what kind of ownership is being conveyed. In our example, the words "in fee simple" appear.

The granting clause is followed by the description of the parcel which is the subject of the deed. Descriptions will be dealt with in a later chapter.

At the top of the second page is the habendum clause beginning with "To have and to hold...". The habendum never contradicts the granting clause; its purpose was merely to elaborate on the granting clause.

The next clause reads "Subject nevertheless to the reservations, limitations, provisoes and conditions expressed in the original grant thereof from the Crown." The majority of patented land in Ontario was issued by the provincial Crown. The most common reservations were minerals, pine trees and a 66 foot road allowance if the land bordered a lake. The actual reservations applicable to a parcel will depend on its location and the date the patent was issued from the Crown. The reservations are not listed in each subsequent deed after issue of the patent, so reference will

need to be made to the wording of the original patent, if the surveyor, in searching a title wishes to know the existence of such matters as shoreline reservations.

Four covenants usually follow; most modern deeds include all of them. A covenant is a promise which makes the person making the promise legally liable if he does not fulfill the promise. A covenant remains enforceable by legal action for up to 20 years.

The last clause, the release, serves a sort of catch-all function. The grantor surrendered any and all claims he may had against the land, however small, so the new owner took everything by way of title that the grantor owned.

After this clause, it was not uncommon to see additional phrases typed in such as the barring of dower by a wife if the grantor was a married man.

The grantor signed the deed and it was witnessed by his lawyer or a commissioner for taking affidavits.

The rest of the deed document was made up of affidavits. An affidavit is a written statement, made by a person of facts or information which he can easily prove he has knowledge of when making. It is sworn before a commissioner for taking affidavits and is attached to a deed or other document to be registered to support its validity. For example, the age of majority in Ontario is now 18 years. An affidavit by the grantor was formerly attached to the deed indicating that he was at least 18 years old when he signed the document. The affidavit removes any doubt about the grantor's ability to sell the land which might arise out of a question about his age. Many more affidavits were required for registration under Land Titles than under Registry. The Registrar relied on the affidavits when accepting a transfer to satisfy himself that all necessary facts about the transfer were met and complied with.

Not all affidavits have been around equally long. A summary of some of the most common affidavits and their dates of application follows.

Affidavit of Celibacy	June 1, 1929 and thereafter
Federal estate tax consent certificate	January 1, 1959 to January 1, 1972
Planning Board consent	March 29, 1961
Affidavit of Age for discharge of Mortgages	January 1, 1967 and thereafter
Subdivision and Part Lot Control established through-out Ontario	June 27, 1970
Age of majority changed from 21 to 18 years in Ontario	September 1, 1971
Affidavit of Residence as required by the Income Tax Act (Section 116)	January 1, 1972 and thereafter
Affidavit of Residency by a grantee must be inserted into a deed	April 10, 1974 and thereafter
Affidavit under the Land Speculation Tax Act required	April 10, 1974 until October 24, 1987
Family Law Reform Act abolished dower	March 31, 1978
Part I of the Land Registration Reform Act, 1984 in force throughout Ontario	April 1, 1985

The Land Registration Reform Act, 1984, having united the form of land registration documents in use in Ontario, into one format, there is not much point in reviewing documents in the two systems.

One should however remember that registration of an instrument in Land Titles is more difficult than Registry because of the Registrar's need to feel satisfied that the document is valid, that the person who purports to transfer the land is one actually competent to do so. Consider also the Land Titles Assurance Fund - the burden is on the System to make sure no one gets deprived of their ownership in land. What is the meaning of this in terms of document types which one might encounter? Theoretically at least, one need only look at the Register to see who currently has title. This will not, however, give one information on the boundaries, presence of easements or rights of way, etc. One will still need to examine the Register to ascertain the kinds of transactions which have taken place.

As in Registry, Land Titles deeds are known as "transfers" and mortgage are known as "charges". When a lawyer presents the Register with a transfer and all its supporting documents, this is deemed to be an application to amend the Register. Since the Register is what indicates true ownership, the land will not change title until the Register has been changed. At page 12 of the materials at the end of this book, appears a sample form or Transfer under the Land Registration reform Act, 1984 in Form 1.

The transfer is the instrument which operates to change title, much as a deed does used to in the Registry System. A charge has taken the place of a mortgage and, like a mortgage, does not operate so as to completely transfer title, unless certain additional events occur.

When one has a claim against the land, but is not presently noted as having same on the Register, one can apply to have a Caution registered on title. A Caution could arise in the situation where a person's Will was submitted to a court for interpretation as to its meaning. One of the

parties to the application could register a Caution to notify the Registrar that, pending the outcome of the court application, he has a claim to the ownership of the land. A Caution prevents the Registrar from changing the Register until the cautioner has his claim satisfied or his permission is obtained.

The next chapter will begin with the very practical activity of conducting a search.

Chapter 4

Conducting the Search

Finally one arrives at the point of beginning a search. Say, for example, one is asked by an employer to make a search of title of the Registry office records for his client. What compels the surveyor to actually conduct a search? Regulation 898, R.R.O. 1980, under the Registry Act states in section 3(5)(c) that when a surveyor prepares a plan of survey for deposit under The Registry Act and, where the examiner of surveys so requests, the person submitting the plan for examination shall include in his submission,

"notes of a search of the title of the lands included in the plan showing all the boundary related information respecting the land, and certified by the surveyor as being current to the date of the plan".

This requirement means that more than just document copies be provided; one will have to make notes of what one finds in the Abstract Index or Register. Of course, even when not required to conduct a search by the Regulations, a surveyor is wise to do one anyway. Certainly the A.O.L.S. standards of Survey require a title search to be conducted. In retracing the boundaries of a lot or parcel, one is really engaged in assessing evidence of its location. The Registry or Land Titles office is not the only place from which information can be obtained, but it is an important and indispensable one. The least it can provide is a description of the land to which the title attaches.

Other sources of evidence of the position of a boundary available to the surveyor for researching, before a field crew is sent to the job site to conduct the survey include the following:

- Local Assessment Office
- Aerial photographs
- A surveyor's own collection of field notes
- Another surveyor's field notes
- Documents which the client may bring in with the order for the work to be done
- Crown Patent Office at the Ministry of Natural Resources in Toronto
- Historical atlases
- Index maps prepared by the municipality
- Books and articles written about local history
- Topographic maps
- Ontario Base Maps
- Property Index Maps
- OLS manual

All these sources can be consulted before sending a crew into the field, although in practice this is seldom done - those which in fact are actually consulted usually depends on the surveyors' professional judgement, so as to minimize the time spent in running around for information which is of questionable value.

Therefore the Registry Office, being one of many sources of information, cannot provide all information, but in many instances, will have stored away information which cannot be obtained from any other source.

As discussed in an earlier chapter, the key to accessing the information is the geographic location of the parcel, and, for areas in which POLARIS applies the Property Identifier. This normally means the Lot and Plan number or Lot and Concession if in a rural area of the Province. Once in a while a client may ask you to conduct a boundary survey and the only information he provides is a street and house number. A municipal address

is not suitable for doing a search of title. If the client does not know the lot and plan number of his land, then one will have to find it for him. This can sometimes be done by a quick phone call to the local assessment office where the property tax records are kept. By giving the assessment office the client's name and municipal address, the geographic location can usually be obtained. However, in some municipalities the Local Assessment Office does not provide this service because of the large number of inquiries they would have to handle if they did. One can then consult a City Directory, if one is available, or phone the client's lawyer if this information was provided. If really unable to get this information, one should ask simply the client to bring in his deed or tax notice which has a description that should tell where the parcel is located.

One has the geographic location of the parcel. What other information should you have before the Land Registry Office search? Starting information of a basic nature would necessarily include the following:

- owner's name
- neighbours' name
- approximate size of parcel
- type of survey requested
- the location of the appropriate Registry Office

Some of the information may seem trivial, but unless all this information is in hand, one runs the risk of embarrassment in walking into a Registry Office, to be told to go to another office 50 miles away. So save time and make sure all this information is available and correct. The reasons why one should have the neighbours' names, etc. available will become apparent soon.

The jurisdiction of the local Registry office usually extends as far as the limits of the County, Regional Municipality or District in which it is located. A list of Registry Offices with the names of each Division is in-

cluded as an Appendix to the Regulations in the back of the Office Consolidation of the Registry Act. An inspection of this list will quickly reveal that, although most Counties or Districts have their own Registry Office, there are many exceptions, frequently occurring along the boundaries of electoral ridings.

Before actually leaving for the Land Registry Office, what else should one take along in the way of accessories, stationery, etc.? Some items will prove indispensable to and it's a good idea to run through a mental checklist before getting under way. Here follow a list of some of the more useful items to take along:

1. Records from one's office on surveys of one's firm or others that surveyors may have performed in the vicinity of one's search.
2. Pens, pencils and erasers.
3. A scale and protractor.
4. Blank paper pad for sketches.
5. Abstract paper pad for recording instruments.
6. A rubber stamp with one's firm name on it and an ink pad.
7. If in a township, the original township plan or if in a registered plan of subdivision, the original plan.
8. Cash or a blank cheque from one's firm.

Bear in mind also the kinds of people one will encounter at a Registry Office:

Recognize that users include:

- real estate agents
- tax assessors
- other law clerks and title searchers

If there is no urgency to the performance of one's search, one may wish to leave it until a time which is noted for being less busy in the Registry Office than others. Since many agreements for purchase and sale dictate a time for closing the real estate transaction around the end or first of the month, one can generally expect to find things more busy at these times. This can be particularly annoying if one is busy with other field work or office work and does not wish to spend time standing in line at the Registry office.

Assuming one has everything one needs and decided to proceed with the search, what can one expect to encounter? Consider the schematic layout of a typical Registry Office included in the materials on page 12. The only area one is permitted access to is that area open to the public. The area behind the counter is available only to office personnel who will search out and bring books and documents which need to be inspected. Desks are usually available for members of the public to sit at and work on and should be used for this purpose. The Land Registrar's office is usually accessible directly from the public area and this is be convenient if the need arises to discuss matters with him. This schematic diagram is only for use as an example; in fact, it is unlikely that any Registry office is set up exactly as is shown on page 14. Some offices will be housed in a renovated house whereas others will be located in a modern and large multi-storied building. The physical site and organizational layout of a Registry Office is dictated more than anything else by the volume of transactions taking place within

the Division. The more active real estate sales are, the more demand is made of services and this is usually reflected in the Office's organization.

There is also an historical aspect to this: At one time the books, cabinets and building were provided by the municipality in which the Office was located. Depending on the prosperity of the region, much variation grew between Registry Offices. Some were even unable to obtain the necessary books in which to abstract instruments as they were registered, with the result that one will now sometimes find that more than one lot is abstracted on a single page in the Abstract Index. This is no longer the case today because all Registry Offices are administered by the Property Rights Division of the Ministry of Consumer and Commercial Relations.

One should be sensitive to the difference between one's role as a searcher and the role of the Registry Office staff. As a user, one must decide which books and documents are important and request them on this basis. The office staff will not do the search for you. Of course there may be circumstances where it is very difficult to locate a parcel in the Abstract Index or Register and they will usually give some assistance because they are very knowledgeable in this sort of thing. But the general rule is that the user does the search and decides which documents are important and should be looked at.

In order to obtain an Abstract Index or Register (hereinafter called "books"), one will need to fill in a slip which is reproduced on page 15 in the materials at the end of this Book. Depending on the Office one is searching in, some will require one to fill in the slip before providing a book whereas others require one to purchase a "token" which can be redeemed for a book. Obtain the slip which is usually available at the counter and, if one has a rubber stamp with the firm name and address, etc., use it to fill in the information on top of the slip. Then complete the rest of it, indicating the geographic location of the parcel one intends to search. When the slip is tendered at the counter, an Abstract Index or Register is provided,

depending on whether the parcel is located in Registry or Land Titles. If the staff is particularly helpful, they will even present the book opened to the correct page at which to begin the search.

Now, depending on the size and nature of the parcel, one can be faced with three different situations when beginning the search:

1. The parcel is wholly within the limits of a lot and is completely composed of that lot.
2. The parcel is wholly within the limits of a lot but is smaller than the lot itself or
3. The parcel is larger than a single lot and consists of more than one part of a whole lot.

Refer to page 16 where these 3 situations are illustrated by diagrams. Each of the 3 diagrams represents a block of lots on a plan of subdivision or in a township.

The first situation is the easiest and will be used to begin a general introduction to searching for information on the assumption that the parcel is of this type.

One will remember pages 4 and 5 of the materials when in an earlier chapter, a sample page from an Abstract Index was considered. Beginning with the most recent entry for that lot, work oneself backwards through time, tracing the ownership changes which are marked by "deed", "grant" or "Bargain and Sale" or "Quit Claim" to the beginning of the registered plan or township's existence. This may be much easier to say at this time than for the user to do in practice, since it is very likely that some awkward transactions took place when persons died, or married or set up trusts, etc. By concentrating on the chain of ownership which is done by searching for the name of the last grantor in the grantee column prior in time to its last occurrence, and using deductive reasoning where necessary, one should be able to come up with a chain of ownership. There are many other

kinds of instruments which will likely appear, not all of which have any relevance to the extent of title.

Once the owner of the land is identified at the time the land was first subdivided, or the time the Crown issued the patent, one can check for survey information. If an owner had to provide a survey showing the location of the house in relation to the limits of the lot, a copy of the plan may have been attached to the deed or grant. In that case, it is not unusual for a comment to appear in the remarks column like "plan attached" or "sketch attached". The instrument numbers of the documents, which appear in the far left column should be noted down on the search slip in numerical order so as to obtain the document later for inspection. The final conveyance document which is registered should also be noted down for one to inspect. An examination of the description may disclose part of the lot subject to an easement or a right of way even though this might not appear in the remarks column. Make a record on the abstract paper of the chain of ownership. It is not necessary to write down every single instrument number on the search slip for investigation at a later time. Just note down the ones which seem to indicate that a document or sketch is attached, the first conveyance after the plan was registered and the most recent one.

If one does not have a copy of the Registered Plan, requisition a white print of the Plan on a separate search slip.

Now, before one submits the search slip at the counter for documents, what else should be done? Remember one is looking for survey evidence and if the client has asked for the preparation of opinion on the position of the boundaries of a lot, he is also going to expect an opinion on the limits of the lots which the parcel has with others. By looking at the registered plan and finding the subject lot, one will see which lots adjoin the one being searching. Flip through the pages of the abstract book being examined to find the leaf, or folio of the lot adjoining the subject parcel one will need to go through the same scanning process of the adjoining lots as one

did for the subject parcel to ascertain whether any record of surveys appears in the book.

Depending on the organization of the Abstract Book or Register being used, it may be very simple to do this, or next to impossible without obtaining additional books from the counter. It is at this point that the Registry Office may suspect that another search is being started, since lawyers' title searchers, who are the most common users of the Registry Office, do not jump around from one lot to the next in conducting their search. A polite explanation of what is being done will usually be met with plenty of co-operation.

If evidence of survey activity on a parcel adjacent to the one being searched appears in the Register or Abstract Index, its instrument number should also be noted on the search slip. While at it, an inspection of every lot in the block on the same side of the street as the subject lot should be made in this fashion. If a survey is attached to an instrument, it may be useful in indicating whether a surveyor has been active in the area and has gone to the trouble of determining the limit of the street or road on which the parcel fronts. If a copy of the survey with the surveyor's name can be obtained, the other firm may be contacted to obtain additional information in the form of field notes.

When satisfied that one has jotted down all instrument numbers on the search slip which may lead you to documents containing useful information, present the slip at the counter to an employee in the Registry Office who will soon provide the documents. Again, this varies from one office to the next. In some offices, the slip is left in a receptacle on the counter, or one takes a number for service much like one would when waiting at the deli counter in a supermarket.

Bring the documents received back to the work table and inspect each one, noting whether a sketch or plan is attached. Read through

the descriptions in the documents and check whether they are consistent throughout the chain of transactions for the parcel. If anomalies are found, make note of them and set the documents aside. If one finds plans or sketches attached to some instruments or descriptions which you think may offer a clue as to the location of a parcel's boundaries, bring the documents to the counter and ask for photocopies to be made, specifying the pages to be copied. Most Land Registry offices now have photocopiers for the use of the public on a coin-operated basis. It will not usually be necessary to get a copy of the complete document with affidavits and declarations, etc. which are attached; one needs to use best judgment of what is relevant.

On the search slip reproduced at page 15 of the materials is a small box with the warning message indicating the fine of \$1,000.00 for alteration or removal of books and documents received for inspection. Registry Office staff are very particular about not making any marks or writings on a document being inspected. Even when one comes across a spelling mistake or typographical error in a book or document, it should be left alone. One may think of doing the typist who typed out the instrument a favour by correcting, but you will not be met with approval from the office staff if caught.

When photocopies are completed, and one is satisfied that all the available information has been obtained, return all the instruments to the counter, with the Books received for doing the search. If this is the only search being done, the charges are added up and payment is made. Be sure to obtain the receipt for money paid to the Registry Office. The search just explained was a very simple one. In another chapter or two, an actual sample search will be reviewed and one will see how the points made in this chapter actually work out in practice.

Chapter 5

Finding Clues of Survey Activity in the Documents

Now that the basic principles of title searching have been reviewed, what should one be looking for and making note of when inspecting instruments? It is obvious that the main purpose is to find clues of previous survey activity in the vicinity of the client's property. Finding a reference to a sketch or plan is likely the most direct kind of evidence one will be making note of, but not all (in fact most) clues about survey activity are confined to plans and sketches. Metes and bounds descriptions found in instruments are an attempt at defining the parcel of land to which the instrument applies. Since the extent of a parcel is defined theoretically by its description in an instrument, it is not uncommon for conveyancers and lawyers to request a land surveyor to prepare a description, based on survey, for their use in defining the parcel. When this occurs, the surveyor's work becomes embodied in the description and the description must be scrutinized for clues of the former survey activity.

Many instruments contain metes and bounds descriptions which are not based on actual survey and were prepared by lawyers or conveyancers to describe a parcel which is communicated to them by their client. How can one tell the difference? The first example, on page 17 in the materials, is a description prepared by a conveyancer. There is little ambiguity in the intended limits of the parcel which is to be conveyed. However, note that there is no mention made in this example of any Bearings. Also, there could exist some doubt about the Southwest angle of the Lot if the whole Township is oriented at a 45 degree angle to astronomic North. If this were the case, one would need to check what the local custom is in holding one or other direction of the Township lines as north, for description purposes.

The example which follows on page 18 in the materials illustrates what can happen when a description is prepared without benefit of survey. In this instance, the surveyor was able to identify the parcel which was the intended object of Registered Instrument M-7415. The description was likely very similar to the one just looked at, except that its dimensions were 198 feet by 610.50 feet. It appears as if the road was widened by 17 feet on each side after the parcel was severed from the township lot. The metes and bounds description was then reproduced in each subsequent conveyance until the discrepancy between the intention of the first two parties to the original sale of the severance and the drafter of the description was uncovered by field survey. The limits of occupation might be construed as evidence of what the parties actually intended, that is, a parcel having a frontage of 610.50 feet and not 198 feet. In this case, the surveyor and client's lawyer chose to solve the difference by having the owner of the parcel and the surrounding farm sell Parts 2 and 4 to each other.

The above example again illustrates the point that information which can be gleaned from a Land Registry Office search is one only source of a whole array of evidence which the professional surveyor must assess in forming an opinion as to the location of a parcel's boundaries. Title searchers who worked for lawyers or conveyancers were never upset by this discrepancy in the past because they could never be aware of it. It is only when the description is compared with other evidence of a parcel's boundaries, that these interesting "problems" are encountered.

On page 19 in the materials there appears a sample description prepared by an Ontario Land Surveyor. This description was attached to a deed as a "Schedule". The deed merely referred to the Schedule as being a description of the lands intended to be affected by the conveyance. There are certain features about this description which distinguish it from the one considered earlier:

1. The preamble of the description refers to the area of land contained in the parcel of land intended to be conveyed. It is not unusual to come across references to areas, even when the description is the aliquot part of a lot. For example, "The Northeast Half of the Southeast Half of Lot 5, Concession 4, containing 50 acres". One would note however that the reference to acreage in this description is expressed to three decimal points. This is almost always a sure giveaway that the description is based on survey.
2. The description contains a premising clause. This clause sets out what the drafter of the description is basing the bearing references on. Some descriptions not based on survey contain premising clauses, but most do not.
3. References to physical features are found in the description. Each course description makes mention of a fence and even describes the kind of fence which is intended to govern the location of the limit on the ground.
4. The courses are all expressed to an accuracy of one hundredth of a foot in distance and five seconds in bearing. This would be unusual for a description not based on survey.

This particular example had the name of the Ontario Land Surveyor who prepared it attached to the Schedule. It is more common for conveyancers, when they receive a description prepared by a surveyor to re-type the description within the body of the instrument. In that event, how does one obtain the identity of the surveyor who was active in the area so

he may be approached at a later time to obtain more specific information in the form of field notes? This would involve some of detective work and should begin by a search for the instrument where the description makes its first appearance. One will remember when examining a sample deed, which appears in the materials at page 6, that the last page of the instrument also served as a cover for the document when it was folded up for storage. At the bottom of the front face of the folded document there usually appeared the name of the law firm or conveyancer who acted on behalf of the vendor in the transaction. It may be possible to contact that individual at a later time to see whether the surveyor's identify is recorded in his file which may still be in storage. For this reason, the name of the solicitor should be noted when an instrument's description leads you to believe that it is based on actual survey.

The description just considered does not tell one the kind of monumentation, if any, which the surveyor placed at the corners of the parcel. It only refers to "points" at the end of each course. One is therefore forced to contact the surveyor who prepared the description to obtain this information. Some descriptions do however mention the specific type of monumentation which was placed at the corners of the property. In the example at page 20, one can see references in the description to stakes which the surveyor had set when he surveyed the property for its first severance. This description first appeared in the 1930's and was the only documentary evidence of some survey activity in the past. When the field crew was sent to perform the survey on the ground, they were alerted to the description's reference to wooden stakes. This was important since magnetic locators which are in common use today would not give any indication of the presence of non-ferrous boundary marks.

When the distances and bearings were laid out, the field crew made a careful search for wooden stakes and replaced those found with iron bars. This is reflected on the Plan of Survey prepared for the client

which appears lower on the same page. To the list of features which should raise questions in one's mind of survey activity one can therefore add a fifth item: reference to boundary markers used or set at the corners of the parcel.

The next example at page 21 in the materials is just such a description. This description was prepared by an Ontario Land Surveyor and was contained in a deed of conveyance. Note how some of the courses end at points where "an iron bar is planted". Another feature in this description is the reference to lands described in registered instrument M-73393. Whenever one encounters this kind of reference, that instrument should be inspected and the description contained in it noted. Descriptions of land reference to another parcel is no longer acceptable under the Regulations or standards in Ontario today and the next time the particular parcel is conveyed, a new description may be called for by the Land Registrar.

This description also illustrates a different manner of arriving at the point of commencement for a parcel's description. Until now, the point of commencement was always an easily ascertainable point, such as the east angle of Lot 5, Concession 4. If one of the parcel's corners is not so readily definable, then the approach taken in this description is often resorted to. One should also check the descriptions for land abutting the parcel for the manner in which the point of commencement is arrived at. If one description begins with the southwest corner of the Lot and the adjoining parcel's description begins with the southeast corner one has more potential for ambiguity in the intended location of the common boundary.

If this is encountered, note should be made in the search notes of the dates of the creation of the parcels. The principle of "priority of severance" might be relied on in giving more credence to the description of the parcel which was severed from the larger lot first.

If the parcel which is being searched is subject to an easement or right of way which has been granted in the past to a person or entity enjoying the easement, it may or may not be recorded in the Land Registry Office. When such a document is encountered, it will be of use in explaining the nature of the right enjoyed by the person owning the easement and may also be of assistance in determining its location on the ground. The next example in the materials is a grant of easement to the Hydro Electric Power Commission of Ontario, which is the predecessor of Ontario Hydro. The document is evidence of a grant by the owner of the fee in the land, to Ontario Hydro, of the right to erect and maintain a power transmission line. The instrument sets out the width of the easement (10 feet on each side of the pole line) and even specifies the number of poles and anchors or braces which Hydro may construct. These kinds of grants often have a sketch attached to them which shows the location of the transmission line after it was built. When a surveyor performs a survey of land subject to this kind of an easement, its existence must be shown on the plan. The sketch and description should therefore be copied for insertion in the search notes to allow for further detailed review and reference at a later time.

Of course not all easements and rights of way which exist are actually registered on title and may become apparent only upon field survey of the parcel. Ontario Hydro, for example, maintains a detailed record at its head office in Toronto of all easements and rights of way acquired by Ontario Hydro or its predecessor, H.E.P.C.O. Many of these interests are not recorded in land registry offices.

From time to time one will also encounter descriptions which are really an assembly of several parcels of land which have existed as separate parcels in the past. This may occur when a son buys land next to the father's farm. Later, when he inherits his father's land, he may end up owning two abutting parcels. When sold at a later time, the deed description will often be worded so as to retain the descriptions of the composite

parcels separately, rather than trying to formulate one description to encompass the whole of his land holdings. This form of description is often characterized by the separation of metes and bounds descriptions by the words, "firstly", "secondly" and so on. This should not be cause for concern when encountered.

Perhaps no better technique exists for coping with a large number of parcels which all exist within a single township or city lot than to draw a sketch. Only by doing this can one be sure that all the abutting lands have been searched and checked for evidence of survey activity. A sketch is also essential to obtaining an overall picture of what has occurred and minimizing the potential for confusion.

You will also note that most instruments have varying numbers of affidavits attached to them. Ordinarily, affidavits do not apply to matters with which the surveyor is concerned. However, surveyors are often approached by members of the public for advice on the ease with which a severance or land division can be obtained. Unless the consent or approval of the local Committee of Adjustment or Land Division Committee is obtained, or was previously obtained and endorsed in the deed, an instrument which purports to divide ownership into new parcels, may not be effective. These forms of consent are also frequently encountered.

The Planning Act, 1983, which establishes the structure and policy for land use control in the Province has only an indirect effect on land registration in Ontario by imposing restrictions on the validity of certain conveyances. Therefore, Planning Act documents which are encountered will more often than not reflect a consent obtained in the past, rather than a restriction which will be imposed in the future.

A fairly common kind of affidavit which may be may encounter, depending on the area of the Province being searched, is the Declaration of Possession. The copy which appears in the materials at page

24, is a standard form, prepared by legal stationers for use by lawyers. The inapplicable clauses are X'ed out and others inserted. These are interesting forms because they are an attempt to make a statement of facts intended to assist or enhance the title of a subsequent owner. One of the principles of property law alluded to in an earlier chapter is that a vendor can never give better title to a purchaser than what he himself held. Given that fact, it is debatable whether a Declaration of Possession can in fact achieve the object it was intended for. However, it can, over passage of time, create a good root of title based on possession rather than paper title alone.

This kind of record does provide the searcher with a statement of facts made under oath by an owner of the property. In the example which appears on page 24, the deponent was an owner of Lot 1, Plan 333 from March 15, 1932 until at least November 23, 1976.

Clause 6 reads,

"That to the best of my knowledge and belief the buildings used in connection with the premises are situate wholly within the limits of the said lands, and there is no dispute as to the boundaries of the said lands, and that during the time I have been the owner thereof they have been completely fenced. I have never heard of any claim or encroachment or of easement affecting the said lands, either for light, drainage, or right of way, or otherwise."

This kind of wording should be of interest to the surveyor in giving an indication of the age of fencing around the lot and the possibility of existence of easements or rights of way.

The example on page 24 is a standard form Declaration. Sometimes one will encounter Declarations which are drafted so as to give a detailed explanation of circumstances surrounding the position and origin of a fence or row of trees or bushes. These are important documents and

a photocopy should always be obtained of them. Declarations are also deposited in the Land Registry Office by themselves and then appear as a "Deposit" on the Abstract Index. Deposits should always be obtained for inspection because it is seldom possible to determine the nature of the document which is deposited, without actually retrieving it.

Chapter 6

A Sample Search for Survey Information

In this chapter, an actual search will be reviewed, which has been performed and see one should be able to see how the searcher has organized his material.

Suppose one works for a survey firm in the City of Guelph and a phone call is received from a client asking one to perform a boundary survey of the parcel of land owned by the client who wants to erect a fence and would like some indication of the location of the limits of the parcel. For this reason, iron bars or other markers will need to be placed at the parcel corners.

The file which one expects to be given is predictably blank, since one has been unable to find any evidence of survey activity in one's own collection of field notes. One attends at the Land Registry Office with only the client's name, Mr. Parker, and location: the southerly corner of the intersection of Suffolk and Norfolk Streets. One has no idea of how large the parcel is, only the client's name and the location of his land. However, to begin a Registry Office search, one will need to know the lot and plan number of the client's parcel. Remember, the geographic location is the key to accessing information in the Land Registry Office. Some offices have composite maps available which show the interrelation between all the registered plans in a municipality. This is often a good aid to finding a parcel's geographic location. In this particular example, the Regional Assessment office was telephoned and Lot 744, Plan 8 was given as the location of Mr. Parker's parcel.

Upon arrival at the Registry Office, a white print of Registered Plan 8 was purchased. A portion of this plan, showing Lot 744

circled, which is at the southerly corner of the street intersection mentioned is shown at page 25 of the materials. At this point, one still does not know whether Mr. Parker's parcel is composed of a part of Lot 744, the whole of the Lot, or whether it extends into Lots 743, 745 or 742.

A search is begun on Lot 744 by requesting the Abstract Index book for Registered Plan 8. After finding the page for Lot 744, it becomes apparent that several persons are registered as owners of Lot 744. A quick check on Lots 743 and 745 also reveals that Mr. Parker's name does not appear on those pages of the Abstract Index Book.

The next step is to analyze all current ownership of Lot 744 and to trace this backwards in time. The next page in the materials at page 26 is the diagram made by the title searcher in this process. It reveals that there are at least 4 separate parcels which are now contained in or form part of Lot 744. This is a fairly simple task in this example because only 4 parcels are abstracted under Lot 744. It can become very difficult if as many as 50 or 100 parcels are all contained within a Township lot. In that case, it is best to tackle each one individually, methodically going through the Abstract Register and forming a chain of ownership for each parcel. In this example, one will notice that the parcels owned by Parker and Manolis merge into one owner, Edith M. Woswick. The searcher did not go back far enough to show that all parcels in the lot merged into a single owner, for that is in effect what happens if the title for all parcels is searched backwards to the time Plan 8 was registered.

It would also have been helpful if the searcher had indicated either the date or instrument numbers for each of the conveyances which took place. If searching a Township lot with many tens of parcels, this will be a necessity because, in its absence, one will not be able to keep track of all the parcels and ownership mergers.

The next step taken by the title searcher was to copy out the entries in the Abstract Index Book applicable to Mr. Parker's parcel. The next 3 pages in the handouts is a reduced copy of the abstract notes made by the searcher. The entries made in these notes are now examined:

The first instrument was a deed from Mrs. Woswick to John Hobson, made in 1897. Presumably, the searcher began with this instrument because a reference to a sketch on the original appears in the Remarks column. We are unable to tell whether a search was made before the appearance of this instrument in the Index. One must assume that this was done, although to avoid guesswork, it would be much better to make a notation of this in the search notes.

The next instrument is a conveyance from Agnes Hobson and Margaret Jones to John McLean. One must ask, how did Agnes and Margaret get title from John I. Hobson?. It is not noted in the search notes, and it does not appear in the Abstract Index either. Not all wills are recorded in the Abstract Index Book and many can be found only in the General Wills and Probate Book which is maintained by most Land Registry offices. In this instance John I. Hobson likely died, leaving Agnes Hobson and Margaret Jones the beneficiaries of his estate. The fact that Agnes Hobson is designated "widow" lends support to this.

This is followed by Bargains and Sales from John McLean to Hugh McLean and then to George Chapman. It is not necessary to make note of the value of the transaction, although it can at times be interesting to see the consideration involved in some of the transactions. It would appear from the remarks that John McLean lost \$1,000.00 in the sale to Hugh McLean. In the remarks column for the McLean sale to Chapman, there is noted, "as in 6751 colored red on sketch therein". This is a reference to instrument 14W-6751 and the sketch which appears within it.

In later transactions, George Chapman sold to George Urie who then sold to Caroline Kramer. The next instrument which is noted is marked off in brackets to indicate it is not a part of the chain of title. It is however, an instrument which may be of value in this search for survey information because of the notation, "sketch attached" in the Remarks column. It was therefore abstracted by the searcher in his notes to indicate where it appears in the overall chronological order. If one refers back to the first diagram made, on page 26 of the materials, showing the chain of title for this search, you will see that the sale from Evans to La Fontaine applied to a parcel of which W. Allen is the current owner.

Continuing on with the second page of the title searcher's abstract on page 28, there appears a probate of will for Caroline Kramer, now deceased. The letters "G.W." probably mean that her will was first abstracted in the General Wills Book, assigned an instrument number, and then also recorded in the Abstract Index. This is a change from the practice at the turn of the Century as shown in the case of John Hobson, where no Will appeared to have been recorded in the Abstract Index.

The next transaction is a Grant from the Canada Trust Company to Helen Kelly. To facilitate a trace of the chain of title, the Canada Trust Company was designated right in the Abstract Index as the executor of Caroline Kramer's estate. Within a couple of months' time Helen Kelly sold to Charles and Virginia Parker, who are your clients. As a matter of fact it would appear that Mr. Parker is himself without any interest in the land since he sold all his interest to Virginia Parker. How could he have been authorized to order a survey and to retain one's firm to survey the property if he had no interest in it? This may be an interesting question which arises out of the title searcher's notes but one is not relevant to the purpose of this Book. How does this "search" differ from a search made by a conveyancer or lawyer? A lawyer's title searcher would leave considerably more room on each page between instruments abstracted. This would then allow for

additional notes and remarks which could be made underneath the entry to record whether certain certificates were attached, who signed the document, whether a corporate seal was attached, etc. This information is different from what the surveyor is concerned with and the search notes should leave room after instruments only where it appears a sketch is attached, or a description of interest is included with the instrument.

Before obtaining the instruments for inspection, a note should also be made of the last entries in the Abstract Index for adjoining parcels of land. This information appears on the third page of the searcher's notes. (or at page 29 of the materials) It would appear from this that the Parkers' neighbours are named "Manolis" and "Tossell".

Now that the relevant information which can be gleaned from the Abstract Index is available, a search slip like the one appearing at page 15 in the materials is completed and all instrument numbers of documents needed for inspection are entered on the slip. After presentation to a clerk at the counter, the documents are soon available for one's perusal and inspection.

The first instrument examined was 14W-6751 and at page 30 of the materials, one will see the sketch contained within that deed. Now from this sketch, one cannot be sure that a surveyor actually drew it onto the document. No North arrow, scale, date or name of drafter appears with it and one can only be suspicious that it is based on survey. Ties to buildings are shown and this is a strong clue that a survey plan may have been the basis of this sketch. The metes and bounds description is not reproduced here, in the materials, but it follows the limits in the sketch exactly. This description is intended to define the limits of the land when it was first sold as a separate parcel. It is also relied on in subsequent descriptions by reference to Registered Instrument 14W-6751. The most recent conveyance of an interest in the parcel is that of G. Parker to V. Parker. It

is not reproduced here because its description is identical to that contained in Instrument 14W-6751.

Consider the description of the neighbouring parcel to the southwest owned by Tossell. A copy of the description is reproduced on the page 31 in the materials. Its point of commencement is 75.9 feet southwest from the intersection of the two streets, which is also the most northerly corner of Lot 744. The 75.9 feet does not compare very well with the 76 feet, 4 inches given as frontage by instrument 14W-6751. In order to keep track of the different bearings and distances which appear in the descriptions it is usually helpful to draw a sketch. The title searcher in this example has done just that and the next diagram on page 32 in the materials is a reproduction of the searcher's sketch. Although it is drawn to scale, this need not be rigidly adhered to and one can see how he has exaggerated some differences to make it easier to see the discrepancies between descriptions.

In instrument number 201204, the second last course calls for a distance of 46.5 feet. Only by plotting the description's courses to scale, is it possible to catch this kind of error when searching. The difference is noted on the sketch along the southwest limit of Registered Instrument 201204. This is really not of concern because it does not affect the location of the limit between Tossell and Parker. The courses in the description for the Tossell and Parker properties are plotted on the sketch to illustrate the differences between the two in the area of their mutual boundary.

The next description on page 33 in the materials is for the parcel owned by one "Manolis" and is contained in Registered Instrument C64-55387. This description also disagrees with instrument 14W-6751's allotment of frontage to Parker's parcel. The discrepancy is more than a foot and is illustrated by exaggeration on the searcher's sketch. It also specifies a different course and direction of the parcel's limit in the vicinity of the jog along the northwest limit of the Manolis property. The location of a right of

way should always be ascertained to make sure the client's property being searched is not subject to it. In this example, the right of way is located on the other side of the Manolis property and does not concern this search.

Is it possible that either the Tossell or Manolis description is based on survey? It would at first glance seem to not be the case. However, if one takes a look at the survey plan attached to instrument C51-42963, one might decide differently. This survey appears at page 34 of the materials, and shows the location of a house and garage in relation to the limits of the parcel and the fences. The survey was signed by an Ontario Land Surveyor and dated May, 1944. It shows an overall distance from the street corner to the northwest corner of the Tossell property of 102.5 feet. If the distances called for in Tossell's deed along Suffolk Street are therefore added up, (75.9 feet and 26.6 feet), the result is 102.5 feet again. This leads one to suspect that the description for the Tossell property was based on some of the measurements depicted on the plan of survey of what is now Allen's parcel (shown on the sketch). The surveyor who signed the plan of the Allen property should be contacted to see what records may be available of a retracement of the limit between Parker and Tossell's properties. In a town where there are few survey firms this may not be a difficult task to do beforehand. However, if this information can be obtained in a large city before other surveyors are contacted for previous work, it certainly narrows the number of firms to contact where results can be expected. From the information shown on the plan of survey made in 1944, it would appear that the surveyor has gone to considerable lengths to try and retrace the limit of Suffolk Street, although the actual evidence used and relied on is not shown on the plan.

If the descriptions of the parcel and adjoining lands were all that is available, what is one, as an Ontario Land Surveyor faced with? Will the problems in description be labelled as a title problem which requires the attention of a lawyer? Is adverse possession likely involved here? It

might be helpful if one notes a paragraph which appears in a Procedural Guide prepared by the Land Boundaries Program. Under the heading "Problem Solving", one reads,

"In the plotting of the descriptions of the different parcels of land ... it is not unusual to encounter conflicts in description, which denote apparent (and sometimes, though much less often, real) conflicts in title.

Firstly, it should be noted that "gaps in title" or "overlaps in title" do not exist on the ground and that more apt expressions would be "gaps in description" or "overlaps in description" which exist only on paper.

Secondly, it cannot be overstressed that in the vast majority of cases there exists not a title problem, as might be supposed at first glance, but errors in description. This being the case, then it follows that what is needed are not documents to correct or resolve title problems, but amending descriptions or re-descriptions..."

(Registrar's Compiled Plans Procedural Guide, 1976)

What bearing does this statement have on one's approach to surveying the limits of Mr. Parker's parcel? It suggests that the descriptions that one finds in instruments registered in Land Registry Offices are never conclusive of the extent of a parcel owner's title. Is this not the same point made in an earlier chapter and does not even the Land Titles Act contain a section to this effect? The implications of this are that a written description will have to take its place along with all kinds of other evidence in an array of information from which one draws conclusions. When arriving at the client's property to stake his property corners, the description may be in the file. However, one will need to also talk with the client and adjoining owners about their concepts of the limit's location. One must make a record

in the field notes of what one finds based on the data collected and a subsequent review of the work will either confirm one's correct positioning of the corners or lead to a decision to shift them where they agree most with the total picture presented by the evidence.

Chapter 7

Searching for Documentary Evidence of Highway and Railroad Limits

In this chapter the searching of information relating to Roads, Streets, Highways and Railroads will be reviewed. Since almost every parcel of land fronts on, or has access to, a public road, street or highway, one can expect to encounter a considerable amount of information in Land Registry Offices dealing with roads and highways. The limits of public roads and highways are frontages of privately owned parcels of land.

With some exceptions, roads were necessary for the settlement of land and were included in the same township fabric which divided the land into lots. Some townships have no allowances for roads and public thoroughfares were established at a later time by by-law. An example of this can be found in the Kitchener-Waterloo area. In other cases, highways, known as colonization roads, were laid out before the surrounding land was surveyed into townships. The survey of a parcel of land therefore almost always involves the retracement of a limit of a public road and, if a plan is required, other information is usually shown relating to the road's origin and status.

Some basic concepts relating to status of public roads are discussed first.

The road or highway's ownership must rest, or reside in the Municipality, County, Region or Province. The original road allowances shown on township maps are owned by the township, except of course, in unorganized territory within the Province. Ownership of roads and streets shown on registered plans is in the local municipality, provided some technical requirements, which will not be delved into here have been satisfied.

Of course ownership can also rest in a municipality or other government by the registration of an Expropriation Plan.

Ownership itself is not, however, sufficient to make a road a public thoroughfare. For example, land on which City Hall is located is owned by the municipality. It may not be used as a public road. The missing element is known as "dedication". The owner of the land, if it is to be subdivided, must signify his intention to dedicate the roads shown on the Plan for public use. If this is absent, the municipality may dedicate it for this purpose at a later time by the passage of a by-law. Coupled with the concept of dedication by the owner is acceptance by the municipality or Province. Acceptance may be achieved by way of by-law or order-in-council or may be evidenced by money spent and improvements made on the road by the municipality.

You may have heard or come across one-foot Reserves on registered plans of subdivision. A Reserve is a narrow strip of land between private property and the public road. Although the road may be dedicated for public use, Reserves are often not; ownership of the Reserve may still be in the Municipality. The purpose of a Reserve is to provide a legal basis for preventing persons from gaining access to the public road from private land. An inspection of certain plans of subdivision should disclose the presence of any Reserves. If there is a Reserve between one's client's property and the road abutting his land, one should check in the Abstract Index for its status. "Who owns it?" and "Has it been dedicated?" are questions which can usually be answered by referring to the last pages in the Abstract Index for the Registered Plan being worked in.

Another question is whether the road allowance, or street is closed or unopened. Closed and unopened sound like synonyms but actually differ in fundamental meaning a considerable amount. A closed road was at one time a public road allowance, but the public is now without any rights to use it. It may now be in the process of being sold to adjoining

owners, or simply no longer travelled. An unopened road allowance is still a public road. Even though it may be fenced or built on, an allowance for road cannot lose its status as a public road, except in special circumstances. An unopened road is therefore an allowance for road which has never been improved or upgraded to permit travel on it by the public. If one's client owns land on an unopened road allowance, it may legally not be land locked but for all intents and purposes it may as well be. One may wish to suggest to one's client that he petition or request the township council to open the road for public travel.

In parts of Ontario, particularly around Muskoka and Haliburton, township lots were patented by the Crown with a one chain road allowance reserved along lakes. In order to check whether the parcel being searched is subject to this kind of road allowance, one may have to check all the way back to the original patent from the Crown. These road allowances are legally public roads although in almost all cases they have never been opened. One must be able to determine if shore road allowances were reserved when in surveying a parcel having frontage on a body of water.

If a survey is required for a client, along with a plan illustrating the results of one's work, there should also be displayed information on the status of the road, street, or highway abutting the client's parcel. Much of this information can be obtained from the Land Registry Office and this is the subject of this Book.

Unless a road has been widened, or passes through land within a township lot or across a lot on a registered plan, one will not find information on a road's status in the Abstract Index or Register. Many Land Registry Offices have what is known as a "Roads and Streets Index" and one may meet with success by searching this book if ones knows a road has been closed and need the instrument number for the by-law authorizing it. If this kind of index is available, one will find that the entries are not organized on a geographic basis; instead the order of entries is chronological and ap-

plies to roads and streets throughout the geographic jurisdiction of the Land Registry Office.

If, on the other hand, the road has been widened, then information pertaining to the widened part of the road only will be abstracted under the geographic division being searched.

Page 35 of the materials is a portion of a Plan of Survey attached to a deed which sold the 17 foot strip of land to the city of Guelph for road widening purposes. The 17 foot strip lies completely within the limits of Lot 1, Plan 403 and is therefore recorded in the Abstract Index for Plan 403 on the page designated for Lot 1. The By-law which dedicated the strip of land for public use was also recorded in the Abstract Index for Lot 1 and one will note that the Instrument Numbers are consecutive. The deed was registered first in 1965 and immediately followed with a certified copy of the by-law. In 1977, when a surveyor was asked to prepare a plan of survey on Lot 1, his search of the Abstract Index disclosed the presence of the road widening. One can see from the portion of his plan of survey which is copied on page 37 of the materials that the Instrument numbers assigned to the Deed and the By-law as well as the By-law number itself are all displayed. At a future time, another surveyor or title searcher can glance at this plan and ascertain with ease the instrument numbers to the documents which establish this portion of Lot 1 as a public road.

With respect to searching parcels having frontage on Provincial Highways, the number of plans and related documents which one will find recorded on title can become quite confusing. The Ministry of Transportation and Communications (M.T.C.) which was formerly called the Department of Highways for Ontario (D.H.O.) has a number of different plan types which they use for varying purposes. Although the plan types are probably most familiar to employees for M.T.C., it is usually quite easy to determine the purpose and effect of the Plan by examining the wording in the title block.

Let's turn to an example of a sequence of Highway Plans found on title by a surveyor asked to prepare a Plan of Survey to illustrate the lands owned by the Trustees of a School District: The first plan, on page 38 of the materials, indicates the Department of Highways' intention to acquire land and illustrates the parcel of land to be obtained for highway purposes. Further on in the Abstract Index, there appears Plan 166 at page 39 of the materials, which is the operative instrument in conveying title to the Crown. This kind of Plan should always be photocopied and searched since it illustrates the monumentation used by M.T.C. in defining the limits of the highway.

The next plan which appears on title and at page 40 of the materials, is for purposes of deeding back to the former owner a portion of highway. Apparently it was only used by the Department on a temporary basis, or was no longer considered necessary. This Plan was attached to a deed, registered as Instrument Number M-17316 which conveyed a portion of the land back to its former owner.

The final plan of survey prepared by the surveyor appears next on page 41 of the materials. Note on the plan how he has included references to both instrument and D.H.O. Plan numbers, as well as the File numbers appearing on the plans. M.T.C. File numbers usually appear somewhere in the title block of the plan and, although designated, "FOR D.H.O. OFFICE USE ONLY", it is a good idea to record this information in your search notes for future display on a plan of survey.

Occasionally one will also come across circumstances where a highway was not always designated as a King's Highway. Sometimes M.T.C. enters into agreements with Regional Municipalities or Counties whereby jurisdiction over a road is transferred to M.T.C. and then back to the Region or County. During the period of time when jurisdiction is transferred, M.T.C. upgrades the quality of the road and maintains it. If one is

surveying a parcel which abuts a County Road which was recently designated a Highway, chances are one will find a Highway Designation Plan on title. A portion of such a plan appears next in the materials at page 42 and gives the order-in-council number for the document designating the road as a King's Highway. Include any references to orders-in-council in one's search notes because they are instruments affecting the status of the road or highway.

There is much that has not been dealt with, pertaining to roads and their status in Ontario. One may be guilty of having been too general and over-simplified in these materials, but, suffice it to say, there is much statute law on this topic and the case law is voluminous and complex. Searching in the Land Registry office for information relating to roads is something one will probably learn most about by doing.

Searching title when a Railroad passes through one's client's property also poses a challenge. Most readers will have been involved in the survey of property abutting land owned by a railroad and know that the railroad can be located on the ground. There is much evidence usually available in the form of centerline of tracks and fencing.

There are several major railroad companies in Ontario - CNR, CPR, Ontario Northland and Algoma Central to name the most prominent. This is in marked contrast to the railroad at the turn of the century when enterprises sprung up. Many of them today are amalgamated with, or bought up by, the companies mentioned earlier, although some still survive. In searching for records or railroad deeds, one will often come across these now, non-existent firms and more often than not, a record will not be found in the Land Registry office of their disposition. If sold to one of the companies still operating today, one has an instrument number which reflects current ownership. If the shares of the company were bought by another and then dissolved, one may not necessarily find an instrument which correctly portrays current ownership. At this point, some knowledge

of local affairs and history becomes very useful because one should be able to ascertain who in fact owns the railroad, even though it may not be recorded in the Land Registry office.

In referring to pages 43 and 44 of the materials, one will note a sample deed, with sketch attached, from a private land-owner to the Wellington, Grey and Bruce Railway Company. The sketch offers very little information about the curves or the positions of the Points of Curvature. Only plus chainages, where the centerline crosses the lot lines, and overall width, 66 feet, are offered. A field crew may have to rely more on evidence found on the ground than what is contained in this document when retracing the railroad's limits.

The next sketch contains more information, although it has some problems with legibility. No surrounding lot designations, north arrow or township are designated; it appears to have been prepared in a hurry. The Instrument to which this sketch was attached conveyed title to the "Guelph Junction Railroad", it is much more specific in giving measurements along the tangents and even states the degree of curvature in the top right hand corner (0 45').

Page 46 in the materials is a portion of a Plan of Survey prepared by an Ontario Land Surveyor, showing the retraced limits of the land surrounding the railroad. Its orientation is upside down from that of the sketch because of the differing direction on the plans. One should note how the surveyor used the distances along the tangents from the point where the railroad intersects the lot line to re-establish the B.C. (191.50 feet) and the point where the right of way widens to 80 feet (626 feet). This kind of evidence, when found in a Land Registry office document can be invaluable as an aid in re-establishing the Railroad's limits when very little evidence of its position can be found on the ground. The owner of the railroad land is shown on this Plan as the Canadian Pacific Railway. In this case, Registered Instrument I-3804 conveyed title to the Guelph Junction Railway, and it still

remains with that Company. However, an unregistered lease which one would be aware of if regularly practicing in the Guelph area, rented the land and tracks to the Canadian Pacific Railroad for a term of 99 years.

The retracement of railroad land limits can almost become a specialty of its own within the surveying profession. Knowledge of local history and an awareness of the circumstances surrounding the origin of the railroad one is concerned with, are indispensable when searching for documentary evidence of the railroad land's limits.

Chapter 8

Types of Survey Plans and their Effect

Throughout this Book, references have been made to plans and sketches which one should be on the look out for. Some Plans will be more useful than others in one's work; however, all plans of survey served some purpose or were prepared in satisfaction of some statutory or regulatory requirement.

There are two points of reference which one should keep in mind when conducting a search. The first is that of the surveyor who prepared a particular plan. In the back of one's mind should linger the question, "What statutory requirements were placed on him and, as a result, what is the theoretic, legal weight to be attached to information shown on that Plan?" The second point of reference is one's own. "What does the client require and, in satisfaction of that need, what information should one make note of in the title search?"

Because of the various statues applying to land registration and the types of plans prepared under them, not all plans will display the same information or carry the same weight. The Regulations under the Acts and the Standards of Surveys can and should be referred to independently. There is no purpose in reproducing them in full in this Book. Instead, an overall picture of the legal object behind various plan types which one may encounter will be presented below.

Beginning with the basic plan of survey, if a copy of a plan is attached to an instrument, its purpose is often to illustrate in graphic form the same parcel defined in the metes and bounds description. Some are prepared by surveyors, others are not. A plan is often prepared when a new boundary is created, which occurs when a parcel is split in two or more sub-

units. If prepared by a surveyor, it will at least indicate where to go for field notes or, if the information is sufficient to enable one to retrace his work, to attempt the field survey. This kind of plan is in effect a graphic record of work a previous surveyor has done. Plans of survey can be found in both the Registry and Land Titles systems and only recently, in the past 20 years have Regulations been in force prescribing the form this kind of plan should take and information it should show. As searcher of the title information, one should get copies of the descriptions of adjoining lands and be prepared to give the instrument numbers of the documents conveying title to the current owners.

Reference Plans, or as some surveyors prefer to call them, Description Reference Plans, are Plans prepared for deposit under either Part II of the Registry Act or the Land Titles Act. These plans shows "Parts" with numbers assigned to them. Reference Plans are essentially plans of survey which have been recorded in the Abstract Index or Parcel Register by assigning a number to them so that reference can be made to the Part numbers of the parcels shown on the plan in future documents. A deed could, for example, contain a description which read,

"All and Singular, that certain parcel or tract of land and premises situate, lying and being in the Township of Bush, County of Forest, Province of Ontario, being composed of Part of the West Half of Lot 10 in Concession 5 in the said Township of Bush, containing by admeasurement 1.500 Acres and which said parcel of land is more particularly described as Part 1 on a Plan of survey deposited as Number 95R-1234 in the Registry Division of Forest."

The presence of the Reference Plan, deposited in the land registration system, allows a lawyer or conveyancer to refer to the Plan in defining the parcel they intend to convey. In essence, the whole metes and bounds portion of the description is replaced with a Part and Plan number.

When encountered in an Abstract Index or Parcel Register, a Reference Plan should always be examined and, if relevant to one's work, a copy purchased. Page 47 in the materials is a copy of a page from an Abstract Index showing how a Reference Plan is recorded when it is deposited.

If the Reference Plan applies to one's parcel being searched, or land adjoining it, one might obtain some beginning points for instrument number searches; often the task is simply a matter of updating the numbers.

There are very important differences between Reference Plans and Plans of Subdivision. Reference Plans are deposited, whereas Plans of Subdivision are registered. One should also notice a caution note which appears on every Reference Plan. Its purpose is to alert a searcher to the fact that the deposit of a Reference Plan with Part numbers will not permit the division of ownership of a parcel of land without satisfying the land division controls imposed by the Planning Act, 1983. A registered Plan of Subdivision is, by the mere fact that it has been registered, evidence that the lots shown on the plan may be sold or otherwise disposed of. Although this is the general rule, in some special cases lots cannot be sold off, even when shown on a Registered Plan.

No new pages are set up in the Abstract Index for the parts on a Reference Plan as there is for Lots on a Plan of Subdivision. This of course is not the case with the Parcel Register under the Land Titles Act, where the Register is indexed on the basis of individual parcels of ownership.

As evidence of the limits of the parcel one is seeking to retrace, a Reference Plan enjoys the same status as a Plan of Survey. It is a professional opinion given by a land surveyor on the extent of title. It is not binding on one in the sense that one must agree with the positioning of the limits by the other surveyor. (This of course only applies in the instance

of the surveyor defining the limits of a previously described parcel by a Part on a Reference Plan, but not to the first establishment of the parcel's limits) If you can produce sufficient evidence to lead one's opinion to conclude otherwise, one may not agree with the parcel limits shown on the Reference Plan by the other surveyor.

Reference Plans are prepared whenever a new boundary is created or when an existing description is no longer acceptable to the Land Registrar for registration of a document. Reference Plans are also prepared when application is made to transfer a parcel of land from the Registry system to Land Titles. Plans prepared for this purpose are sent with the lawyer's application to Toronto for examination and form the basis of defining the extent of land to be transferred into the newer system. Although the Register is conclusive as to title once the land is in Land Titles, this is not the case with extent of title. There is no additional authority or weight to be given to Reference Plans in Land Titles than Registry when they are assessed as evidence of the extent of an owner's title.

This also holds true for plans prepared under the Certification of Titles Act. In areas where Land Titles is not available, the C.T.A. plans and first application Reference Plans require thorough and documented title searches in support of the application by the surveyor, but neither surveys in themselves are conclusive as to the parcel boundaries' location. They only offer very good evidence of where it may be.

Section 16 of the Certification of Titles Act gives the effect of registration of a certificate of title:

"... the title of the owner of the land described therein is absolute and indefeasible as regards the Crown and all persons whomsoever, subject only to ..."

In contrast, plans prepared under the Boundaries Act show the limits of a parcel of land which is conclusive. The Director of Titles, upon

application by a surveyor, confirms the position of the boundaries as shown on the Plan and these limits must be observed in any future retracement of the boundary. Section 14(1) of the Boundaries Act states the effect of registration of a certificate of confirmation:

"The boundaries fixed by the survey and plan that have been certified by the director and defined by the monuments shown on the plan under this Act shall, notwithstanding any other Act, be deemed to be the true boundaries of the parcel."

Page 47 in the materials also shows an entry in the Abstract Index of a Plan made under the Boundaries Act. Whenever one encounters this kind of entry, one should be sure to obtain a copy of the plan. This also holds true for all Reference Plans and C.T.A. Plans.

On rare occasions, one may also encounter a deposit or registration which is a copy of a judge's order stipulating the position of a boundary. Deposits seldom specify their contents when they appear in the Indexes so one should always request them for inspection when encountered. Only Boundaries Act plans and court orders serve the same function as a good root of title for title searchers. One need not search prior to the Plan or Order's registration for evidence of a boundary's location, unless evidence is required of the underlying lot fabric.

Expropriation Plans are registered in the Registry office under both systems by authority of the Expropriations Act. They are used by government and other authorities to transfer title in land when an owner is unwilling to sell title, or negotiations over price have bogged down. The registration number of the plan, the dates of preparation and registration, the expropriating authority's full name and copies of relevant portions of the plan should be obtained when this kind of plan is found.

Section 77 of The Registry Act authorizes the Examiner of Surveys to direct the land registrar to prepare what is known as a Land Registrar's compiled plan. Adjacent to fast growing urban centres, many severances and divisions of land often take place. Since the Abstract Index is organized on a township lot and concession or subdivision lot and plan basis, there usually appear numerous entries for the geographic parcel if the urban centre is surrounded by townships. When a township lot becomes so extensively divided into parcels, the Abstract Index is often loaded with entries all under the same lot. To help alleviate the confusion and inefficiency in searching for a parcel, a Compiled Plan may be prepared by the Registrar. When this is done, a new Abstract Index is set up, with a separate page for each numbered parcel on the plan. This kind of plan does not usually show any survey information; its purpose is primarily to organize in an orderly fashion the entry of instruments affecting land parcels located on the plan. Lawyers and conveyancers are the real beneficiaries of this kind of scheme since they no longer need to refer to the old Abstract Index for the lot if the compiled plan has been around for more than forty years. This is not however true for searches for survey information. Many plans, descriptions and useful information will be found recorded in the older Abstract Index for the whole lot, so one will still need to search it when surveying a parcel shown on a Compiled Plan. A Compiled Plan is therefore only a technique designed to improve the organization of entries into the Abstract Index after a set moment in time.

The effect of a Compiled Plan is similar to a plan of subdivision only insofar as the organization of the Index or Register is concerned. In all other respects, a compiled Plan has no further bearing on the title or its extent. If one considers page 48 in the materials, there is reproduced a portion of a Compiled Plan.

In the last chapter there was reference to the different kinds of plans used by M.T.C. for various purposes. Most of their plans are

prepared under the authority of the Public Transportation and Highway Improvement Act; I will leave the reader to peruse this statute on one's own time. This Act empowers the Minister of Transportation and Communications to designate roads as King's Highways and to register expropriation plans and assumption plans. Both of these kinds of plans have the effect of vesting title in the Crown at the moment the plan is registered.

Section 10 of the Act, in referring to the effect of registration of a plan, concludes with the phrase, "the plan and description shall not be called in question except by the Minister or by a person authorized by the Minister." This section may have been relied on by surveyors of the past in regarding highway plans as extremely authoritative in depiction of boundary information. However, although very helpful and informative in their provision of survey information, it is questionable whether highway plans in and of themselves enjoy any higher status as evidence in the retracement of their boundaries than other plans of survey.

Instead, one should refer to section 58 of the Surveys Act which deems the monuments and posts set under authority of the Public Transportation and Highway Improvement Act to be true and alterable and fix the boundaries of the parcel, whether the measurements between them agree with those shown on the Plan or not. Therefore, monuments shown to have been set on Highway plans are certainly worth looking for in the field, as representative of the limits of a highway.

Plans of subdivision are not new to you. Most readers have worked in subdivisions and seen plans of subdivision. With regard to the status to be attributed to them in retracing the limits of a street or lot, I'd like to refer to Section 54 of The Surveys Act:

"54. Every line, boundary and corner established by survey and shown on a plan of subdivision is a true and unalterable line, boundary or corner, as the case may be, with

respect to such plan and shall be deemed to be defined by the original posts or blazed trees in the first survey thereof, whether or not the actual measurements between the original posts are the same as shown on the plan of subdivision or expressed in any grant or other instrument."

It goes without saying that if one does not have a copy of a registered plan of subdivision, one should obtain one from the Land Registry Office. On older plans it is not uncommon to find notes indicating the type of monumentation set at lot and street corners during the original survey of the subdivision. This may be of some aid when one encounters wooden stakes at lot corner and do not know whether wooden stakes, stone monuments or iron bars were set at each lot corner in the original survey.

In conclusion, this book only serves to introduce one to searching in Land Registry Offices. As one conducts more searches and improves in experience and efficiency, one will undoubtedly find the enterprise less mysterious. One will also come to find that no two searches which one conducts will be identical. There is always something to be learned from each search one does.

Chapter 9

Review Question

1. Name some interests in land which are not recorded in the Registry or Land Titles systems.
2. What is the main purpose of the land registration system in Ontario today?
3. What major difficulties of principle exist between Registry and Land Titles as systems of recording title to land?
4. How does your function as a searcher differ from the function of say, a title searcher working for a lawyer?
5. Identify some of the types of clues which can be found in a metes and bounds description of previous survey activity.
6. What is a root of title? What serves the same purpose as this concept for a surveyor conducting a search?

TITLE SEARCHING FOR THE LAND SURVEYOR

APPENDIX

Materials for Distribution

to Group Receiving Instruction

Searching Land Registry Office Records for Survey Information

Outline of Material to be Covered:

I Introduction

- 1. organization of seminar series**
- 2. materials to be purchased**
- 3. real property**
- 4. conveyancing principles**
- 5. introduction to land registration concepts**

II Land Registration in Ontario

- 1. The Registry Act**
 - a) historical origins**
 - b) theory of the system**
 - c) books used for recording and indexing**
- 2. The Land Titles Act**
 - a) historical origins**
 - b) theory of the system**
 - c) books used for recording and indexing**

III Types of Documents recorded in the Systems

- 1. Deed, Mortgage, Orders of Foreclosure, Agreements, Deposits, Liens**
- 2. Detailed breakdown of contents of a Deed**
- 3. Affidavits**
- 4. Transfer, Charge, Caution**

IV Conducting the Search

- 1. geographic identifiers**
- 2. other sources of survey information**
- 3. practical considerations**
- 4. Land Registry Office layout**
- 5. types of searches encountered**
- 6. accessing information**
 - a) search slips**
 - b) photocopies and payments**

V Finding clues of survey activity in the documents

- 1. Descriptions**
 - a) metes and bounds**
 - b) discrepancies**
 - c) elements of a description**
 - d) specific calls in the course**
- 2. Easement and Rights of Way**
- 3. The Planning Act**
- 4. Affidavits and Statutory Declarations**

VI A Sample Search for Survey information

- 1. The Registered Plan**
- 2. Abstract index search**
- 3. sketching the chain of title**
- 4. noting relevant entries in the Abstract Index**
- 5. adjoining lands search**
- 6. obtaining Instruments**
- 7. plotting descriptions**

VII Searching for Documentary Evidence of Highway and Railroad Limits

1. Roads and Highways

- a) ownership, dedication and acceptance
- b) one foot reserves
- c) shore line road allowances
- d) road widenings
- e) highway plans

2. Railroads

- a) historical background
- b) status of railroad companies
- c) specific kinds of documents to be looked for

VIII Types of Survey Plans and their Effect

1. Plans of Survey

2. Reference plans

- a) purpose
- b) compared with plans of subdivision

3. C.T.A. plans

4. Boundaries Act plans

5. Expropriations Act plans

6. Registrar's Compiled plans

7. Highway plans

8. The Surveys Act

Sample from Abstract Index (first half)

LOT 21

REGISTRATION NUMBER	INSTRUMENT	DATE OF INSTRUMENT	REGISTRATION DATE	GRANTOR
Plan.	5596	6 Oct 1958	3 Mar 1959	Fred W. Bauckham Ltd. Alice Green (Mtg.)
303795	Agmt	15 Jan. 1959	5 Mar. 1959	Fred W. Bauckham Ltd.
310422	Agmt	9 Jun. 1959	11 Jun. 1959	Fred W. Bauckham Ltd.
47896 (Ch. Reg.)	CERT. of	19 Jun 1959	27 Jun. 1959	TREASURER OF ONTARIO RE
316165	GRANT OF EASE	- — 1959	14 Aug. 1959	FRED W. BAUCKHAM LTD.
516175	D. R. F.	- Aug. 1959	11 Aug. 1959	JAMES H. GREEN & Lloyd A. GREEN EXORS. OF ALICE GREEN
538409	Grant.	7 June 1960	21 June 1960	FRED W. BAUCKHAM LTD
338410	Mtg.	8 June 1960	21 June 1960	JOHN BERNARDI & JOHN A. GODDARD viz: BERNARDI-GODDARD BUILDERS
361448	Grant	30 May 1961	19 June 1961	JOHN BERNARDI & JOHN A. GODDARD viz: BERNARDI-GODDARD BUILDERS
385364	Mtg.	14 June 1962	19 June 1962	WILMIAN DRAPER & EILEEN DRAPER

Sample from Abstract Index (second half)

PLAN 5596

PAGE NO

GRANTEE	CONSIDERATION ETC	LAND AND REMARKS
(Cowan) (1849) Township of North York	\$1-	J. W. L. Monaghan OLS Allinal re sewers etc.
Township of North York	\$ PRST.	Allinal To ATTEND 303795
ALICE GREEN	\$	ALLINAL MAY 9, 72 95.
BELL TELEPHONE CO of CANADA	\$1	EASE re pole lines etc over 2007 4' 1000
FRED W. JACULUM L.	\$31,000	MAY 1918 99 MAY 9 72 95
JOHN BERNARDI & JOHN A. GOSDARD	\$24,750	Allinal Sth EASE AS IN 31615 & Sth RESERVE.
PARTNERSHIP viz: BERNARDI - GOSDARD BUILDERS CHARTERED TRUST Co.	\$19,500	All See D.M. No. 601000
SADIE BOYD	\$2. etc.	All. S. to ease as in 31615
SADIE HILL	\$9180	All stb. case over 2007 4' See D.M. No 599883

Sample Deed (Registry Act)

Revised and Edited, Landed
Form 129

Ont. Motor Vehicle Council Clause

This Indenture

made in duplicate the twenty-eighth day of September
one thousand nine hundred and seventy-eight

In Pursuance of the Statute in Force at Commencement Act
Between

STEVEN PRICE, of the Borough of Scarborough in the Municipality
of Metropolitan Toronto, sanitary engineer, the "grantor"

hereinafter called the Grantor of the FIRST PART
- and -

KATHY CURTIS, of the City of Toronto in the Municipality of
Metropolitan Toronto, Married Woman, the "grantee";

hereinafter called the Grantee of the SECOND PART

Witnesseth that in consideration of other good and valuable consideration
and the sum of ten

dollars of
lawful money of Canada now paid by the said grantee to the said grantor (the receipt
whereof is hereby by him acknowledged) he the said grantor DOTH
GRANT unto the said grantee in fee simple

ALL and Singular that certain parcel or tract of land and premises, situate, lying and
being
in the Borough of Scarborough, in the Municipality of Metropolitan Toronto
and being the West half from front to rear, of lot 18, Plan 3308 for the
Borough of Scarborough and more particularly described as follows:
Premising that the centre line of Oak Ridge Drive has a bearing of N 74° E
Commencing at the south west angle of said lot 15, at an even bar slanted;
Thence North 74° East a distance of 45' to an iron bar;
Thence North 74° West a distance of 115' to an iron bar planted in the
rear limit of lot 18;
Thence South 16° West distance of 45' to the north west limit of lot 18;
Thence South 16° East 115' more or less to the point of commencement

Sample Deed (Registry Act)

Registry and Conveyancing Act
Part 118

Deed, written instrument, Conveyance, Class
Page 2
Revised February 1999

TO HAVE AND TO HOLD unto the said grantee, her heirs and assigns to and for their sole and only use forever.

SUBJECT NEVERTHELESS to the reservations, limitations, provisions and conditions expressed in the original grant thereof from the Crown.

The said grantor COVENANTS with the said grantee THAT he has the right to convey the said lands to the said grantee notwithstanding any act of the said grantor

AND that the said grantee shall have quiet possession of the said lands free from all encumbrances.

AND the said grantor COVENANTS with the said grantee that he will execute such further assurances of the said lands as may be requisite.

AND the said grantor COVENANTS with the said grantee that he has done no act to encumber the said lands.

AND the said grantor RELEASES to the said grantee ALL his claims upon the said lands.

IN WITNESS WHEREOF the said parties hereto have hereunto set their hands and seals.

Signed, Sealed and Delivered
IN THE PRESENCE OF


J.A. Gibson Stanley


Steven Price

Sample Deed (Registry Act)

AFFIDAVIT AS TO AGE AND SPOUSAL STATUS

MR. Steven Price

of the Borough of Scarborough

in the Municipality of Metropolitan Toronto

I (personally) made oath and say that I **MR.** executed the attached instrument,

I WAS **THE SPOUSAL PARTNER** at least eighteen years old;

and within the meaning of section 1(1) of The Family Law Reform Act, 1978.

(a) **MR.** / I WAS NOT a spouse.

MR. **MR.**

(b) **MR.** / I WAS NOT a spouse.

(SEVERALLY) SWORN before me at the City of Toronto

Steven Price
Steven Price

the 23rd day of September 1978

[Signature]
R. Gibson Secretary

Dated July 28 1977
421759 Scarborough

STEVEN PRICE

—TO—

ANTHONY CURTIS

4 Oak Ridge Drive

REGISTRY ACT

Deed of Land

SITUATE

Pt. Lot 16
Plan 3308
Scarborough

Provincial and Colonial Land Act - Form 100 or 011

address or proximity 47 Oak Ridge Drive

Scarborough

~~FRANCIS ASHMAN
Suite 101
45 Warden Street
Toronto~~

D'Roche & Percival
Suite 856
321 Pomeroy St.
Toronto

Note: Registry Office
stamps would
ordinarily be
affixed here.

REGISTRATION FEE	
LAND TRANSFER TAX	
RETAIL SALES TAX	

THIS PRICE IS TO BE DEPOSITED FOR ESTIMATE OF REGISTRATION

Sample Deed (Registry Act)

THE LAND TRANSFER TAX ACT, 1974

Form 16 as per Act and of Ontario Reg.

THE LAND TRANSFER TAX ACT, 1974 AFFIDAVIT OF RESIDENCE AND OF VALUE OF THE CONSIDERATION

IN THE MATTER OF THE CONVEYANCE OF Part of Lot 14, Plan 3303 Scarborough

BY Grantor named in or transferee in Part STEVEN PRICE

TO 100 Instruction 1 and Grant named in or transferee in Part KATHY CURTIS

100 Instruction 2 and Grant named in Part KATHY CURTIS

MAKE OATH AND SAY THAT

I am a free man within the square classes and one of the following categories and declare that the category of the applicant is 100

Instruction 1:

(1) A person in trust for whom the land conveyed in the above-mentioned conveyance is being conveyed

(2) A transferee named in the above-mentioned conveyance to whom the land is being conveyed

(3) A transferee named in the above-mentioned conveyance

(4) The authorized agent or solicitor acting in the transaction for

declared in paragraph 1 (1) or (2) above, I give my references to independent categories

(1) The President, Vice-President, Manager, Secretary, Director or Treasurer authorized to do so for

declared in paragraph 1 (1) or (2) above, I do not reference to independent categories

(1) A transferee named in paragraph 1 (1) or (2) above, as declarant and on showing the

affidavit on the own behalf and on behalf of

who is the transferee declared in paragraph 1 (1) or (2) above, as declarant

and do not have declared knowledge of the facts herein referred to

2. "New Home and Completed the development of "New-Home Development" and "New-Home Development" but not otherwise in relation to and of subsection 1 of section 1 of the Act, 1974 Instruction 1)

3. The remaining portions of which or in trust for which the land conveyed in the above-mentioned conveyance is being conveyed are non-resident parcels within the meaning of the Act, 1974 Instruction 1) N/A

4. THE TOTAL CONSIDERATION FOR THIS TRANSACTION IS ALLOCATED AS FOLLOWS:

a) Net cash paid or to be paid in cash	\$ 59,350.	
b) Mortgages: (1) Assured (cash advance and interest to be prepaid)		
- Capital purchase price	\$	
- Cash loan to vendor	\$	
(2) Priority mortgages or charges (cash advance)	\$	
(3) Security mortgages in the name of vendor/transferor	\$	
c) Land, legal fees, disbursements and miscellaneous charges in which transferor is declarant	\$	
(1) Other valuable consideration subject to land transfer tax (cash advance)	\$	
d) VALUE OF LAND, BUILDING, FIXTURES AND GOODWILL		
SUBJECT TO LAND TRANSFER TAX (rate of 1% 1/2)	\$ 69,500	\$ 69,500.
e) VALUE OF ALL CHATTELS - rate of 1% 1/2 (rate of 1% 1/2)	\$	
f) Other consideration for independent use included in 100 of 100 above	\$	
TOTAL CONSIDERATION		\$ 69,500.

ALL VALUES MUST BE FILED IN "GRANTOR'S" STATE AFFIDAVIT

5. If consideration is cash, assign mortgages between transferor and transferee and state purpose of conveyance (see instruction 2) N/A

6. Other matters and explanations, if necessary

N/A.

Sworn before me at the City of Toronto
in the Judicial District of York
this 1st day of _____ 2009

A Commissioner for taking Affidavits and
Clerk (Liberal Stanley)

Kathy Curtis

Sample Deed (Registry Act)

PROPERTY INFORMATION RECORD

- A. Describe nature of instrument: **Deed.**
- B. (i) Address of property being conveyed (if available): **47 Oak Ridge Drive.**
- (ii) Assessor's Reg # (if available)
- C. Mailing addresses for future Notices of Assessment under The Assessment Act for property being conveyed (see instruction 6):
47 Oak Ridge Drive
- D. (i) Registration number for last conveyance of property being conveyed (if available): **378216 Scarborough.**
- (ii) Legal description of property conveyed. Same as in D (i) above: **Yes** **No** **Not Known**
- E. Name(s) and addresses of each transferee(s):

Vendor: Peter Ashtor,
Suite 123,
456 Bay Street, Toronto,
(for the Vendor)

O'Rourke & Percival
Suite 654,
321 Richmond St., Toronto
(for the Purchaser)

For Land Registry Office use only
REGISTRATION NO.
LAND REGISTRY OFFICE NO.
REGISTRATION DATE

[Back of Affidavit of Residence Form]

INSTRUCTIONS

1. Where any transferee (other than a joint tenant) is taking less than the whole interest in the property being acquired than the percentage ownership of each such transferee must be clearly indicated beside his/her respective name.
2. (i) It should be noted that if all documents are not entitled to mark the same square in paragraph 1, then more than one Affidavit will be required. Only those persons who are entitled to mark the same square in paragraph 1 may swear the same Affidavit.
 - (ii) This Affidavit is required to be made by each transferee named in the conveyance, by each person in trust for whom the land is conveyed, in the conveyance described in the conveyance and by each trustee named in the conveyance to whom the land is conveyed.
 - (iii) However, any of the transferees may have the Affidavit made on his behalf by an agent authorized in writing to make the Affidavit, or by his solicitor (see clause (d) of paragraph 1 of Affidavit).
 - (iv) The Affidavit for a transferee that is a corporation may be made by its President, Vice-President, Manager, Secretary, Director or Treasurer (see clause (e) of paragraph 1 of Affidavit).
 - (v) Where transferees are married to each other, either spouse may make the Affidavit on behalf of himself and the other (see clause (f) of paragraph 1 of Affidavit).
3. Extract of clauses 1 and 6 of subsection 1 of section 1 of the Act:
 - (i) "non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,
 - (iii) that has allotted and issued shares to which are attached: (a) 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by one or more non-resident persons, but this subclause does not apply where it is established to the satisfaction of the Minister that such one or more non-resident persons do not in fact directly or indirectly exercise control over the corporation and that subclause v does not apply to the corporation;
 - (iii) that has allotted and issued shares to which are attached: (a) 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by any one non-resident person, but this subclause does not apply where it is established to the satisfaction of the Minister that such non-resident person does not in fact directly or indirectly exercise control over the corporation and that subclause v does not apply to the corporation;
 - (iii) one-half or more of the directors of which, or of the persons occupying the position of director by whatever name called, are individuals who are non-resident persons;
 - (iv) without share capital and one-half or more of the members of which are non-resident persons; or
 - (iv) that is controlled directly or indirectly by one or more non-resident persons, including a non-resident corporation within the definition contained in the provisions of this clause other than this subclause;
 - (ii) "non-resident person" means:
 - (i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor an individual who has been lawfully admitted to Canada for permanent residence in Canada;
 - (ii) a partnership, syndicate, association or other organization of whatsoever kind of which one-half or more of the members are non-resident persons within the meaning of subclause (i) or (ii) or in which interests representing in value 50 per cent or more of the total value of the property of such partnership, syndicate, association or other organization are beneficially owned by non-resident persons within the meaning of subclause (i) or (ii).
4. Insert the name and place of residence — or in the case of a corporation the place of incorporation — of any transferee who is a non-resident person. If space is insufficient, attach a list of those transferees who are non-resident persons. If none of the transferees is non-resident, insert none.
5. Explain purpose of transfer: **natural love and affection, pursuant to court order, separation agreement, etc.** Note: Where there is a gift of real and/or personal property, it may be necessary under the Ontario Gift Tax Act that a Gift Tax Return be completed and forwarded to the Ministry of Revenue, together with any Gift Tax that may be payable.
6. Insert mailing addresses where municipal assessment notices for property being conveyed are to be forwarded after closing of this transaction.

NOTE: IN ADDITION TO ATTACHING THIS AFFIDAVIT TO THE CONVEYANCE TENDERED FOR REGISTRATION, ONE UNATTACHED, COMPLETED COPY MUST BE TENDERED TO THE LAND REGISTRAR AT THE TIME OF REGISTRATION.

Sample Deed (Registry Act)

Form 188
Affidavit - The Planning Act
Revised 1st March 1977
Toronto and Other Local Governments

IN THE MATTER OF THE PLANNING ACT (as amended)

AND IN THE MATTER OF THE TITLE TO Part of lot 15 (1/2) Plan 2308
Scarborough

Book
Number
Page
Number of
this Instrument

AND IN THE MATTER OF A Conveyance
THEREOF, FROM Steven Price

TO Kathy Curtis

DATED July 18th 1977.

I, Steven Price

of the Borough of Scarborough in the Municipality of Metropolitan Toronto

MAKE OATH AND SAY AS FOLLOWS:

1. I am the grantor named in the above mentioned instrument, and have knowledge of the matters hereinafter stated.

2. The said instrument, and the conveyance or other dealing with land affected thereby, do not contravene the provisions of The Planning Act, as amended, because

Book
Number
Page
Number of
this Instrument

(a) The present registered owner does not possess the fee or the equity of redemption on, or a power or right to grant, assign or exercise a power of appointment with respect to any land abutting the land affected by the transfer

Book
Number
Page
Number of
this Instrument

(b)

SWORN before me


at the City of Toronto

in the Municipality of Metropolitan Toronto
this 25th

day of September 1977.

(J.L. Gibson-Jamley)

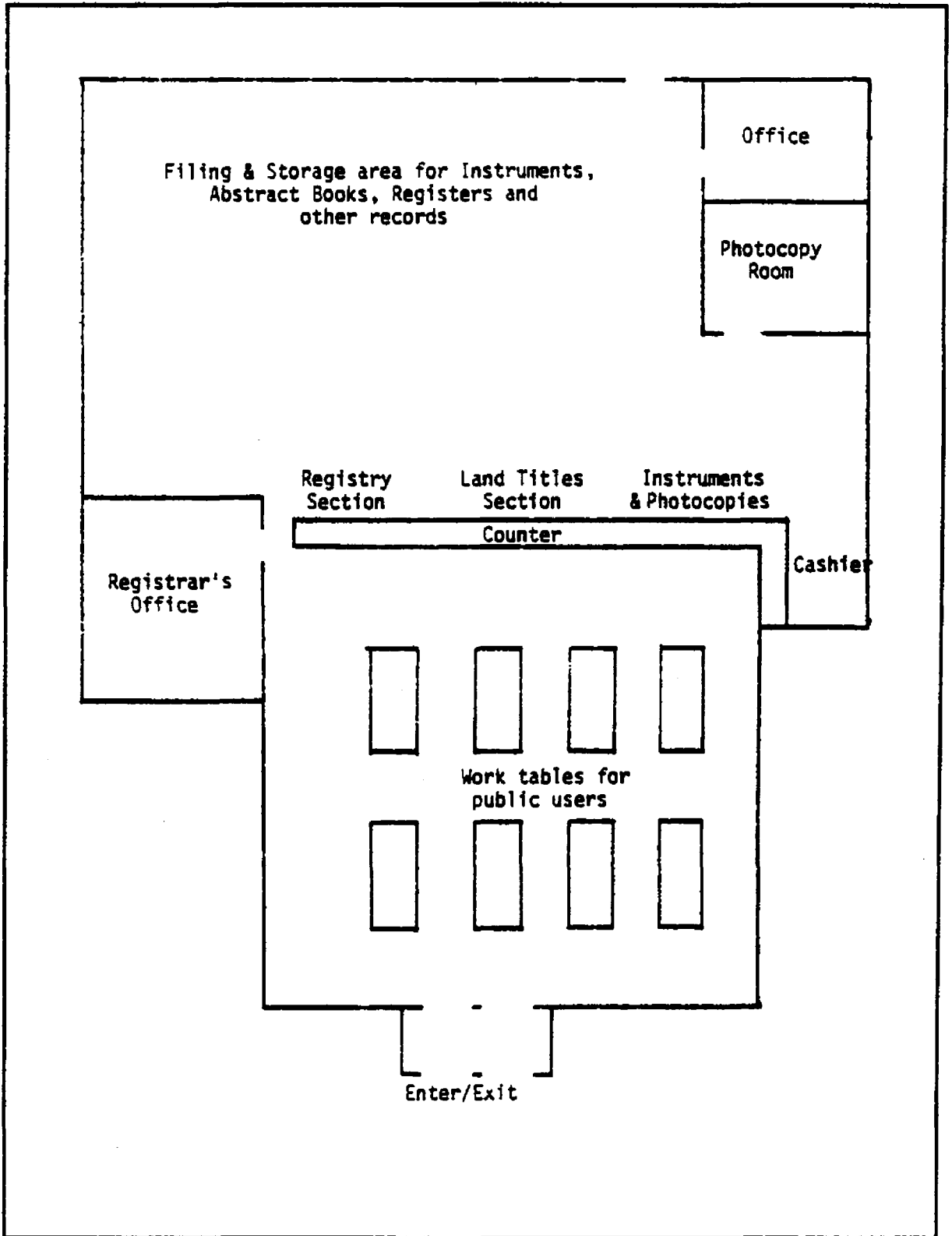
Sample Transfer

 Transfer/Deed of Land Form 1 - Land Registration Reform Act, 1985		A
<div style="writing-mode: vertical-rl; transform: rotate(180deg); font-weight: bold;">FOR OFFICE USE ONLY</div> (1) Registry <input type="checkbox"/> Land Titles <input checked="" type="checkbox"/> (2) Page 1 of 2 pages (3) Property Identification: _____ Block: _____ Property: _____ (4) Consideration: Twenty Thousand----- Dollars \$ 20,000.00 (5) Description: This is a Property <input type="checkbox"/> Description <input type="checkbox"/> Property <input type="checkbox"/> Consideration <input type="checkbox"/> Parcel 6-1 Section 41M-789 being Lot 6 Plan 41M-789 City of Woodstock, County of Oxford. (6) This Document is a: (a) <input type="checkbox"/> Reservation (b) <input type="checkbox"/> New Easement (c) <input type="checkbox"/> Plan/Schedule (d) <input type="checkbox"/> Description (e) <input type="checkbox"/> Additional Parties (f) <input type="checkbox"/> Other <input checked="" type="checkbox"/> (7) Interest/Estate Transferred: <input checked="" type="checkbox"/> Life Interest and Remainder In Fee (8) The transferor hereby transfers the land to the transferee and certifies that the transferor is at least eighteen years old and that: Name: SMITH, William - Estate Signature: "J. Jones" Date of Signature: 1985 07 27 Name: JONES, John Paul Name: Executor/Administrator (as the case may be)		
(9) Signature of Transferor: _____ Date of Signature: _____ (10) Transferee(s) Address for Service: C/O James Mann, Solicitor, 98 Pine Street, Woodstock, Ontario L2L 1S2 (11) Transferee(s) Name and Date of Birth: JONES, Harry Joseph as to a Life Estate Date of Birth: 1926 11 12 JAMES, Jane Mary and Date of Birth: 1939 12 13 JAMES, Michael as to the remainder in fee Date of Birth: 1938 09 02 (12) Transferee(s) Address for Service: 22 Male Street, Woodstock, Ontario N2R 1L5 (13) Transferor certifies that to the best of his knowledge and belief the transfer does not contravene section 42 of the Planning Act, 1985. Signature: "J. P. Jones" Date of Signature: 1985 07 27 Solicitor for Transferor: I have explained the effect of section 42 of the Planning Act, 1985 to the transferor and I have made inquiries of the transferor to determine that this transfer does not contravene that section and based on the information supplied by the transferor, to the best of my knowledge and belief, the transfer does not contravene that section. I am an Ontario solicitor in good standing. Name and Address of Solicitor: James Mann, 98 Pine St., Woodstock, Ontario L2L 1S2 Signature: "J. Mann" Date of Signature: 1985 07 28 (14) Solicitor for Transferor: I have investigated the title to the land and to existing land where relevant and I am satisfied that the title records reveal no contravention of section 42 of the Planning Act, 1985 and that to the best of my knowledge and belief the transfer does not contravene section 42 of the Planning Act, 1985. I act independently of the solicitor for the transferor(s) and I am an Ontario solicitor in good standing. Name and Address of Solicitor: _____ Signature: _____ Date of Signature: _____		
(15) Addressed Roll Number of Property: City: 06, Town: 10, Map: 103, Sub: 212, Pt: D1420 (16) Mailed Address of Property: 22 Male Street, Woodstock, Ontario N2R 1L5 (17) Document Prepared by: James Mann, 98 Pine Street, Woodstock, Ontario L2L 1S2		<div style="writing-mode: vertical-rl; transform: rotate(180deg); font-weight: bold;">FOR OFFICE USE ONLY</div> Fee and Tax: Registration Fee: _____ Land Transfer Tax: _____ Total: _____

Some types of Affidavits and Forms with dates of applicability

Affidavit of Celibacy	June 1, 1929 and thereafter
Affidavit of Age and Marital Status of men when wife joins to bar her dower	June 25, 1939 and thereafter, with women added in April, 1957 and for women where dower is barred on July 1, 1964
Federal Estate Tax consent certificate	January 1, 1959 to January 1, 1972
Planning Board Consent	March 29, 1961
Affidavit of Age for discharge of mortgages	January 1, 1967 and thereafter
Subdivision and part lot control established throughout Ontario	June 27, 1970
Age of majority changed from 21 to 18 years in Ontario	September 1, 1971
Affidavit of Residence as required by the <u>Income Tax Act</u> (section 116)	January 1, 1972 and thereafter
Affidavit under the Land Speculation Tax Act required	April 10, 1974 to October 24, 1978
<u>Family Law Reform Act, 1978</u> Abolishes dower	March 31, 1978

Schematic Layout of a Typical Land Registry Office



SEARCH SLIP

1944



Ontario

**LAND
REGISTRY
OFFICE**

No H 055526

FIRM NAME (Please Print) _____

ADDRESS _____

SIGNATURE _____

REFERENCE _____

DATE _____

MUNICIPALITY _____

WARNING
\$1.000
Fine for
alteration
or removal
of
documents
or records

LOT(S) _____ PLAN
PARCELS(S) _____ CON
RANGE

INSTRUMENTS REQUIRED FOR INSPECTION

1	14
2	15
3	16
4	17
5	18
6	19
7	20
8	21
9	22
10	
11	
12	
13	

SEARCH FEES _____

INSTRUMENT FEES _____

COPIES _____

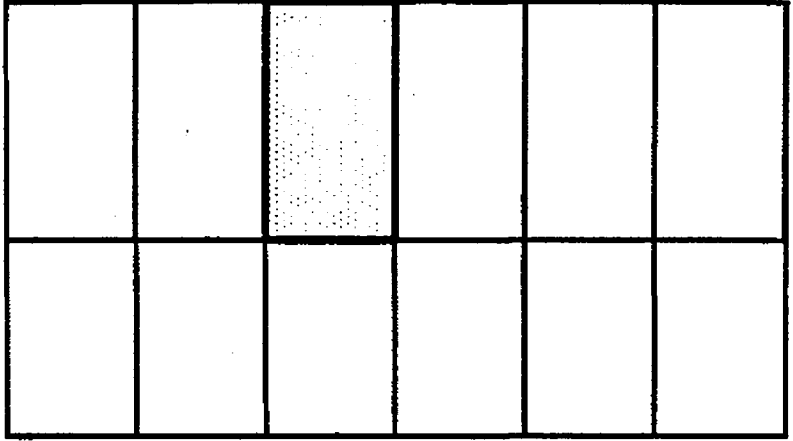
OR
OTHER SERVICES _____

R _____ LT _____ TOTAL _____

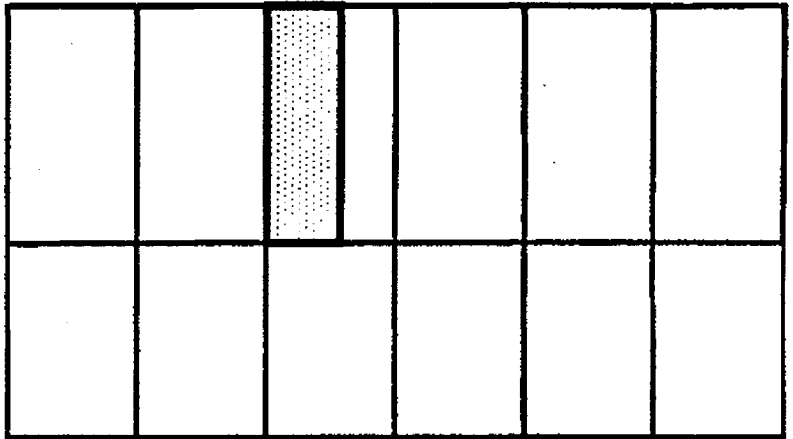
**NOTE: INSTRUMENTS MUST BE RETURNED IMMEDIATELY
AFTER INSPECTION IN ORDER RECEIVED.**

Types of searches you will encounter

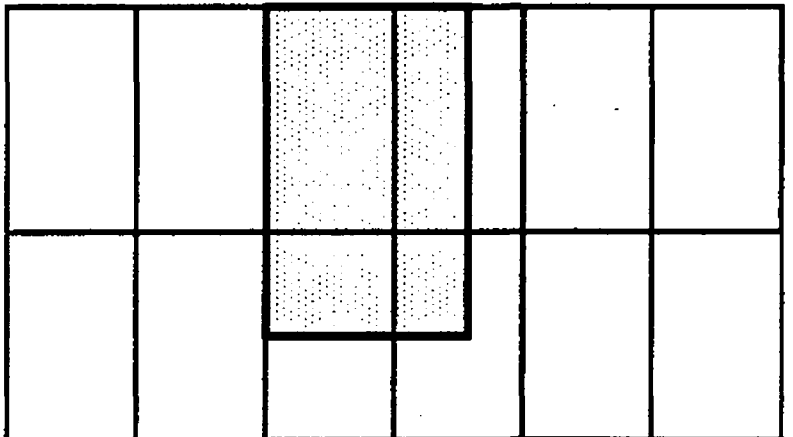
1. parcel is the same as a sub-division or township lot



2. parcel is smaller than a lot



3. parcel extends beyond the limits of a single lot



Sample Description prepared by a Conveyancer:

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Township of Whiteacre, in the County of Blank and being composed of part of Lot 9 in Concession 5 of said Township, more particularly described as follows:

COMMENCING at the Southwest angle of said Lot 9;

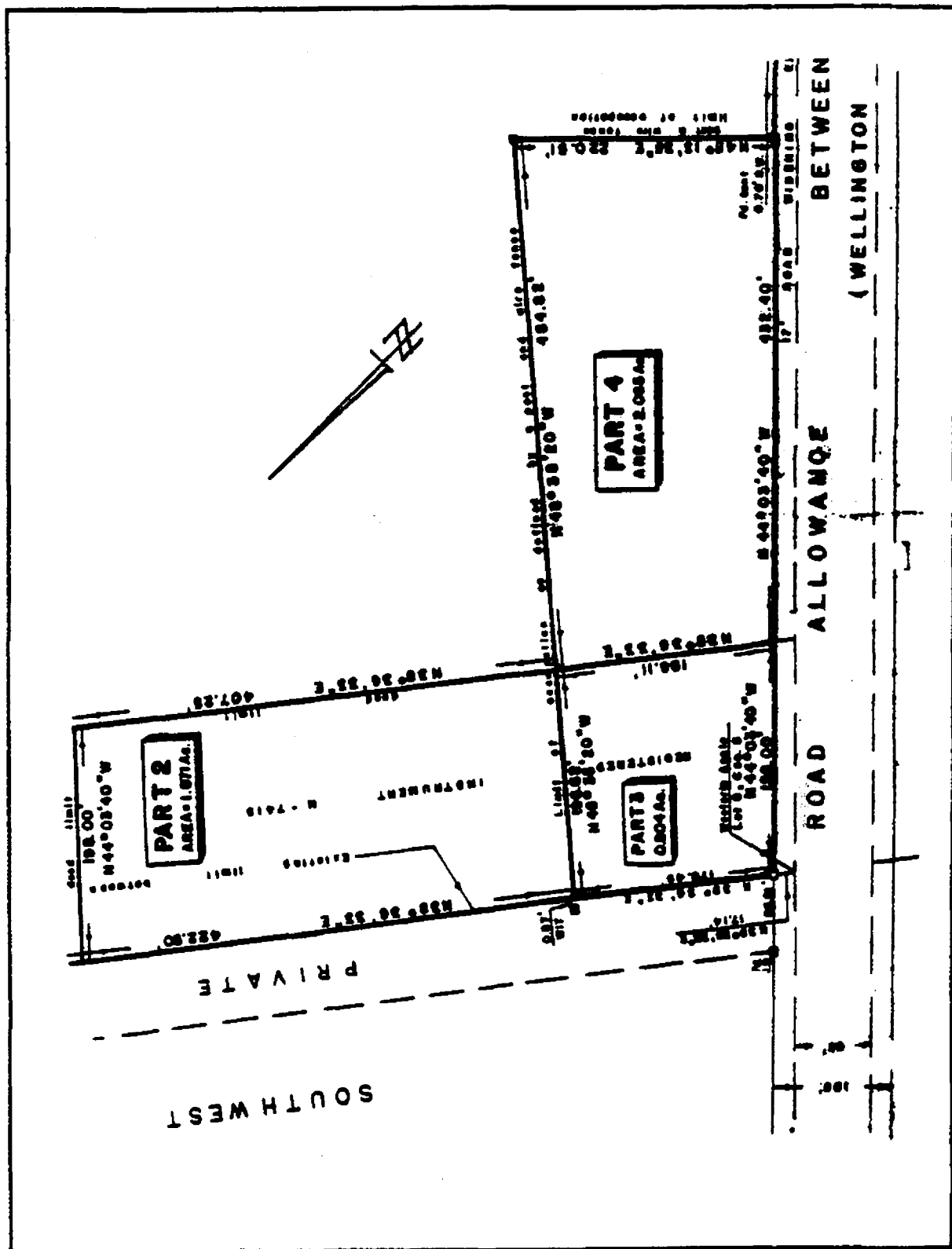
THENCE Northerly along the Westerly limit of said Lot 9 a distance of 200 feet to a point;

THENCE Easterly parallel to the Southerly limit of said Lot 9 a distance of 100 feet to a point;

THENCE Southerly parallel to the Westerly limit of said Lot 9 a distance of 200 feet, more or less, to a point in the Southerly limit of said Lot which point is distant 100 feet measured Easterly along said Southerly limit from the place of commencement;

THENCE Westerly along said Southerly limit a distance of 50 feet, more or less, to the place of commencement,

Portion of Plan of Survey illustrating the result of a misunderstanding between the owner and the drafter of the metes and bounds description.



Sample description prepared by an Ontario Land Surveyor

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Township of Erin, County of Wellington and Province of Ontario, being composed of part of the West Half of Lot 16, in Concession 8 in the said Township of Erin, containing by admeasurement 14.835 Acres be the same more or less and which said parcel of land is more particularly described as follows:-

PREMISING that the line of a fence marking the existing Northeast Limit of the West Half of said Lot 16 has a bearing of North 44°-15'-00" West, and relating all bearings herein thereto;

COMMENCING at the East Angle of the West Half of said Lot 16;

THENCE North 44°-15'-00" West, along the line of a fence marking the existing Northeast limit of the West Half of said Lot 16, 981.28 feet more or less to a point therein in the line of a rail and stone fence running Southwesterly;

THENCE South 39°-16'-10" West, along the line of the said rail and stone fence, 669.59 feet more or less to a point;

THENCE South 44°-45'-55" East, 973.25 feet more or less to a point in the line of a rail fence marking the existing Southeast limit of the West Half of said Lot 16;

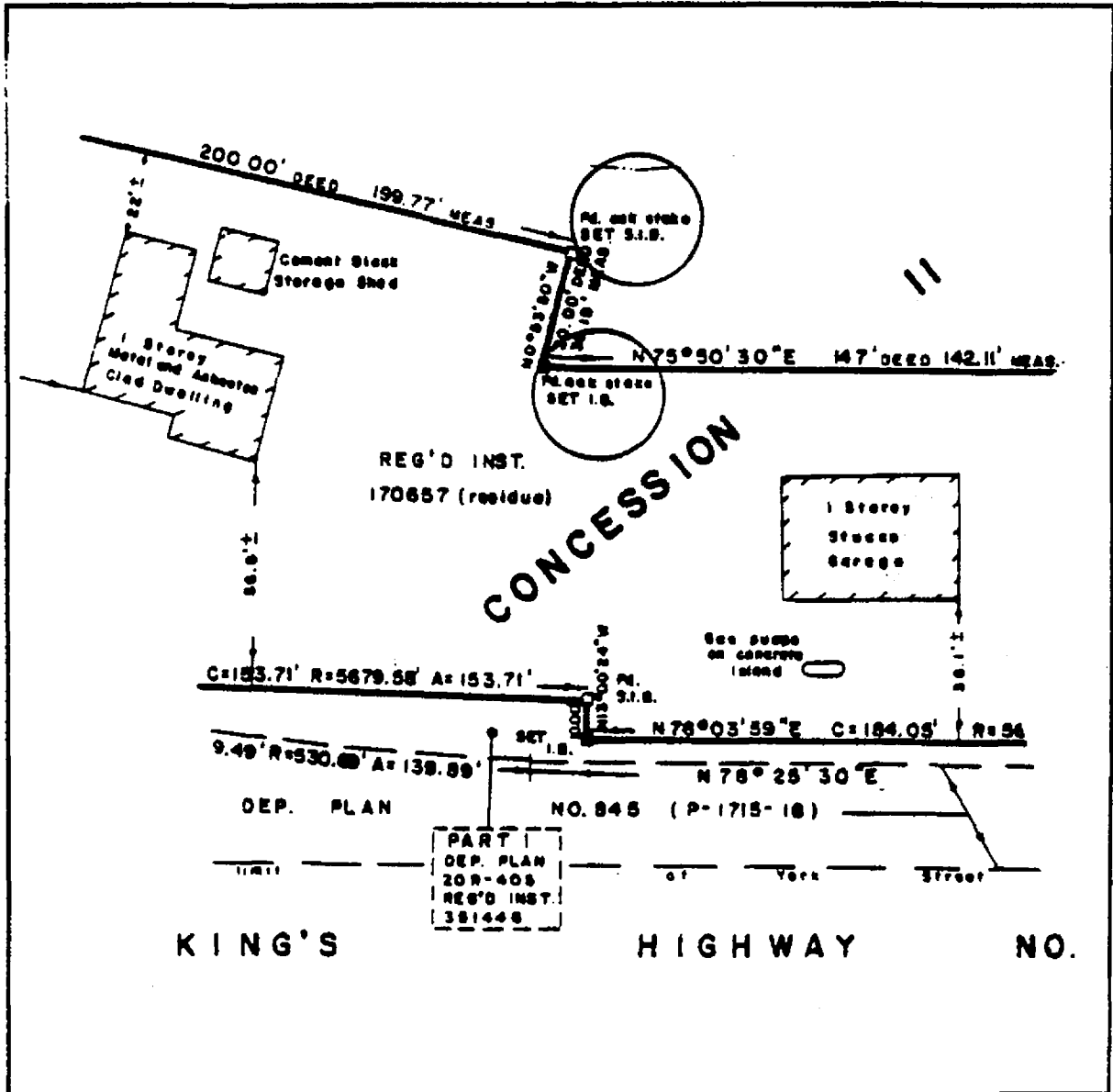
THENCE North 39°-52'-50" East, along the line of the said fence 660.02 feet more or less to the point of commencement.

A portion of a description which read as follows, referred to stakes which are shown as found on a plan of survey below:

"THENCE: South 81 degrees 17 minutes East, Two Hundred (200') feet to a stake planted;

THENCE: South 0 degrees 43 minutes East, Thirty (30') feet to a stake planted;

THENCE: Easterly, parallel with the northerly limit of York Street, a distance of One Hundred Forty-seven (147') feet more or less to a point ..."



Sample description containing references to monuments set and descriptions in other instruments.

All and Singular that certain parcel or tract of land and premises situate lying and being in the Township of Erin, County of Wellington and Province of Ontario, being composed of part of the East Half of Lot 11 in the Fifth Concession of the said Township and containing by admeasurement 0.518 of an acre, being the same more or less, the boundaries of the said parcel being more particularly described as follows:

PREMISING that the south-easterly limit of the East Half of said Lot has a bearing of North 34 46' East and that all bearings used herein are related thereto.

BEGINNING at an iron bar planted in the intersection of the fence line marking the existing north-easterly limit of the parcel of land as described in registered instrument number M-73393 and the south-easterly limit of the East Half of said Lot, distant 1037.39 feet measured South 37 46' West along the said south-easterly limit, from the easterly angle of said Lot 11;

THENCE South 37 46' West, along the south-easterly limit of the East Half of said Lot, 198.00 feet to the southerly angle of the lands according to said registered instrument number M-73393, the said point being the point of commencement of the lands intended to be conveyed hereby;

THENCE North 49 57' 40" West, parallel with the said fence line marking the existing north-easterly limit of the parcel of land as described in said registered instrument number M-73393 being along the south-westerly limit of said registered instrument, 108.27 feet more or less to a point in a fence line marking the existing north-westerly limit of the herein described parcel;

THENCE on a general bearing of South 38 03' 50" West, along the last mentioned fence line, 207.90 feet more or less to an iron bar planted in its intersection with the fence line marking the existing south-westerly limit of the said herein described parcel;

THENCE South 50 20' 50" East, along the last mentioned fence line, 109.33 feet more or less to an iron bar planted in the said south-easterly limit of the East Half of said Lot;

THENCE North 37 46' East, along the last mentioned limit, 207.25 feet more or less, to the point of commencement.

Sample Grant of Easement to the Hydro-Electric Power Commission of Ontario

This Indenture made in duplicate the 22

day of

June

A.D. 1948.

Between

*Douglas & Richardson Ltd. by
Ella W Richardson*

hereinafter called the GRANTOR

—end—

THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO,

hereinafter called the GRANTEE.

1. WHEREAS the Grantor is the owner in fee simple and in possession free from encumbrances and easements of the land described herein in Schedule "A";

2. AND WHEREAS the Grantee is about to erect a transmission line to conduct electricity across the said land;

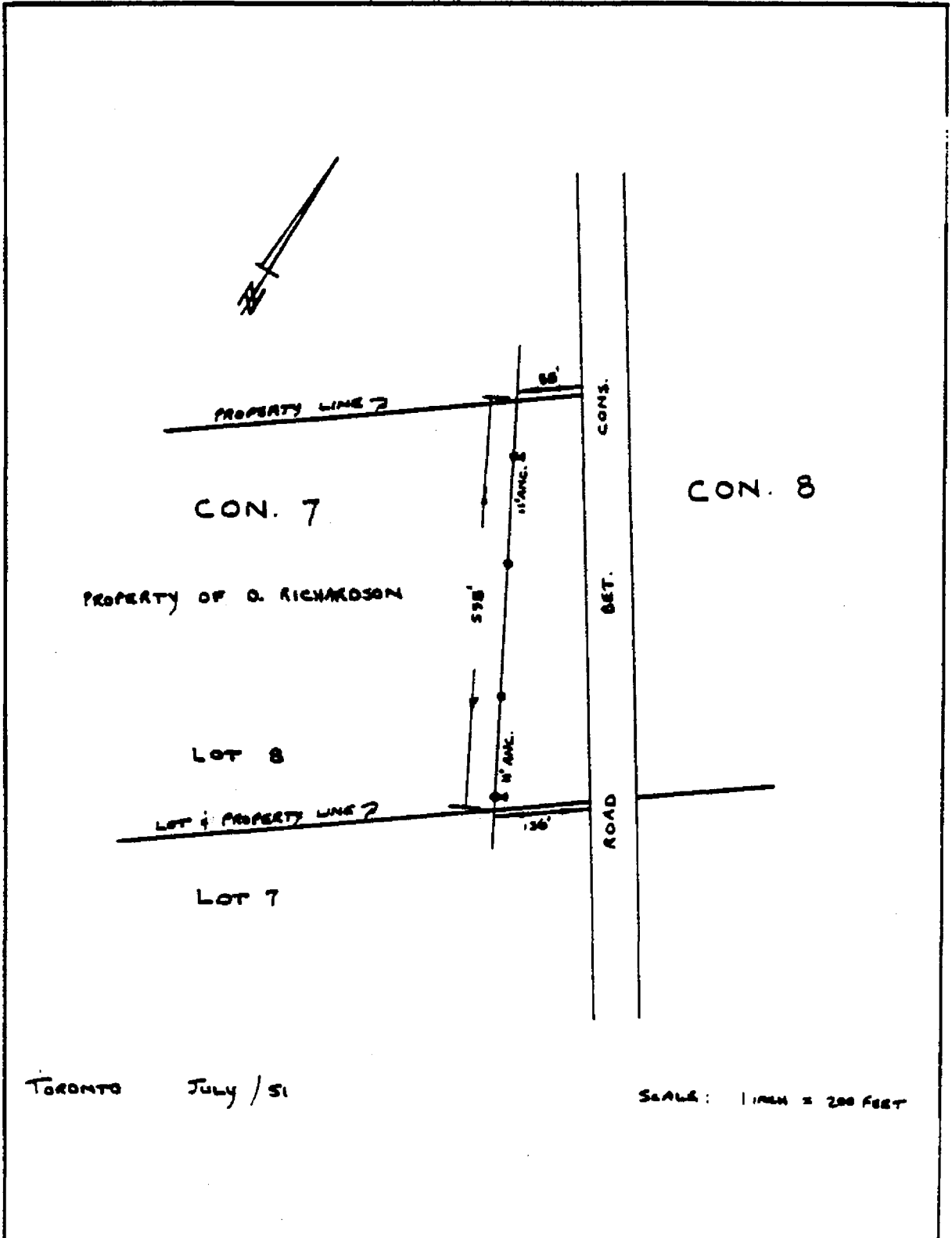
3. NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the premises and of the sum of *Eighteen* Dollars of lawful money of Canada now paid by the said Grantee to the said Grantor (the receipt whereof is hereby by *them* acknowledged) the said Grantor doth grant and convey unto the said Grantee, its successors and assigns, the right and easement

(a) To erect and maintain upon the land described in Schedule "A" herein and as shown on the plan hereto annexed, *four* poles, with *two* anchors, guys and braces, and to string thereon wires from the date hereof.

(b) To keep the land for a distance of *ten* feet on each side of the centre line of the said transmission line clear of all buildings, trees and brush, and to trim all trees where necessary, with the right to fell all leaning or decayed trees whose condition renders them liable to fall on the line.

4. AND the Grantor hereby covenants, promises and agrees to permit the servants, agents and workmen of the Grantee to enter on the said land at all times for the purpose of inspecting, erecting, maintaining, repairing and renewing its works and equipment.

Portion of Plan Showing H.E.P.C. Pole Line on Property of D. Richardson, Erin Twp.



Sample Declaration of Possession

DOMINION OF CANADA
 PROVINCE OF ONTARIO
 COUNTY OF WELLINGTON

IN THE MATTER OF THE TITLE TO
 LOT 1 IN SUBDIVISION OF LOTS NUMBERS 53 & 54
 OF ROMAN CATHOLIC GLEBE SURVEY ACCORDING TO
 REGISTERED PLAN 333, CITY OF GUELPH
 AND THE ~~REVENUE~~ **TERRACE**
 (SALE)

From
 To

I, _____
 of the City of Guelph
 in the County of Wellington

Do Solemnly Declare:

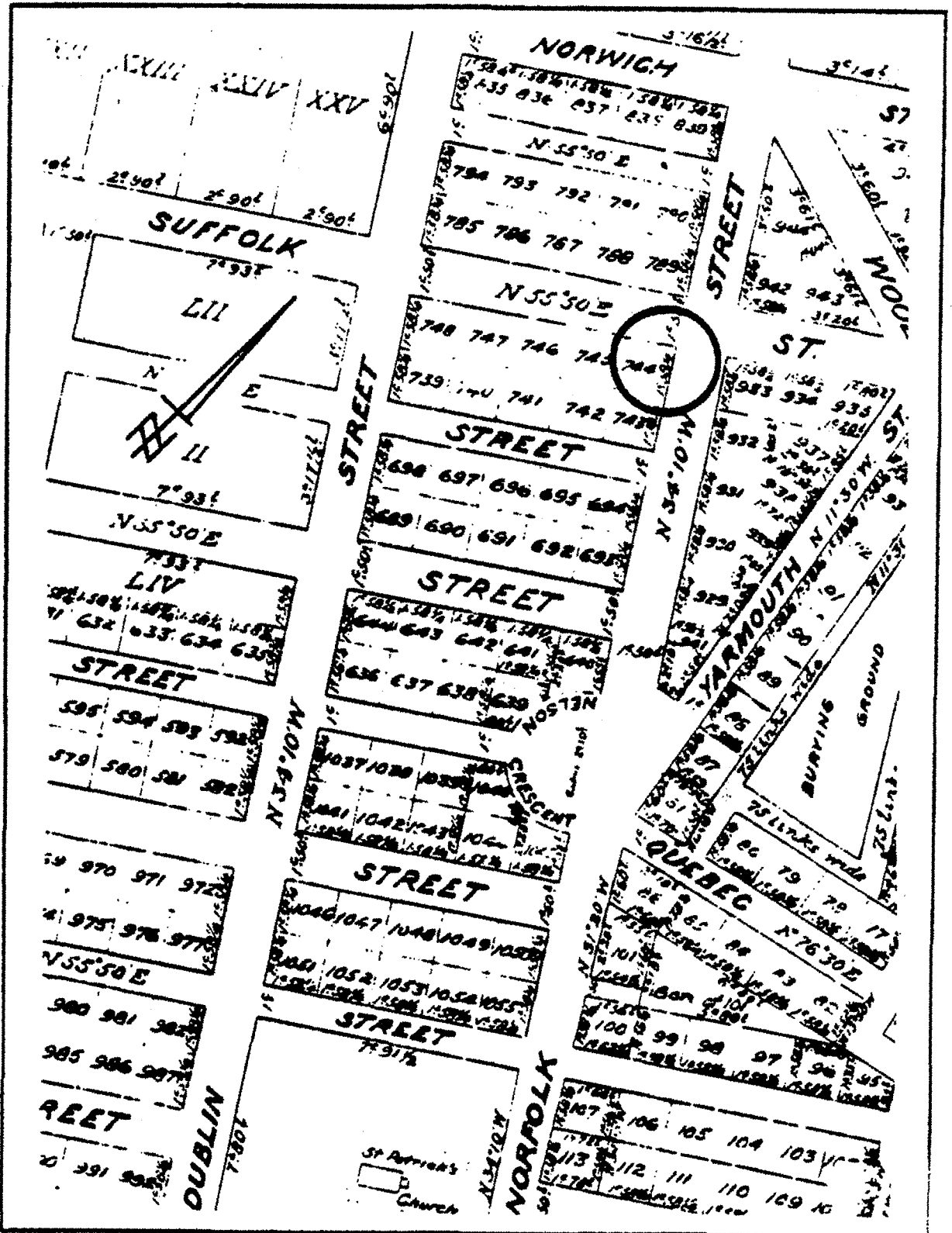
1. That ~~the above mentioned land is my own property and I am the absolute owner in fee simple in possession of the above mentioned lands, and either personally or by my tenants have been in the actual, peaceful, continuous, exclusive, open, undisturbed and undisputed possession and occupation thereof, and of the houses and other buildings thereon, or used in connection therewith, since on or about the 15th day of March 19 72, when I obtained a conveyance thereof.~~
2. That, save and except ~~the usual municipal taxes and local improvement rates charged against the said lands, there is no encumbrance or easement whatsoever affecting the said lands.~~
3. That I am not aware of any person or persons or corporations having any claim to or interest in the said lands or any part thereof adverse to or inconsistent with my title.
4. That during my possession and occupation of the said lands no action, suit or other proceedings have been brought, and no persons has been made or acknowledgment of title given by me, or, so far as I know, by anyone else, in any manner in respect of any right, title, interest or claim upon the said lands.
5. That the deeds, evidences of title and other papers which have been produced by me are all the title deeds, evidences of title and other papers relating to the title to the said lands that are in my possession or power, and that to the best of my knowledge and belief the said title deeds and other papers, and this declaration and the registered title, fully and fairly disclose all facts material to the title claimed by me.
6. That to the best of my knowledge and belief the buildings used in connection with the premises are situate wholly within the limits of the said lands, and there is no dispute as to the boundaries of the said lands, and that during the time I have been the owner thereof they have been completely fenced, I have never heard of any claim or encroachment or of easement affecting the said lands, either for light, drainage, or right of way, or otherwise.
7. That there are no ~~unsubstantiated~~ **unsubstantiated** ~~claims or Conditional Sales Agreements as to furniture, fixtures or other-
 wise, outstanding or registered against the said lands, nor are there any claims for which such liens could be registered, as all such have been paid in full.~~
8. That to my knowledge there are no encumbrances in the Sheriff's hands affecting any part of the said lands, and I have not made any assignment for the benefit of my creditors nor has any receiving order been made against me under the Bankruptcy Act.
9. That all taxes on the said lands have been paid up to the 31st day of December, 1975.
10. That I am over eighteen years of age.

AND I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of The Canada Evidence Act.

DECLARED before me at the Town of ~~Wellington~~ **Windsor**,
 in the Regional Municipality of ~~Wellington~~ **Windsor**,
 this 22nd day of November, 1975.

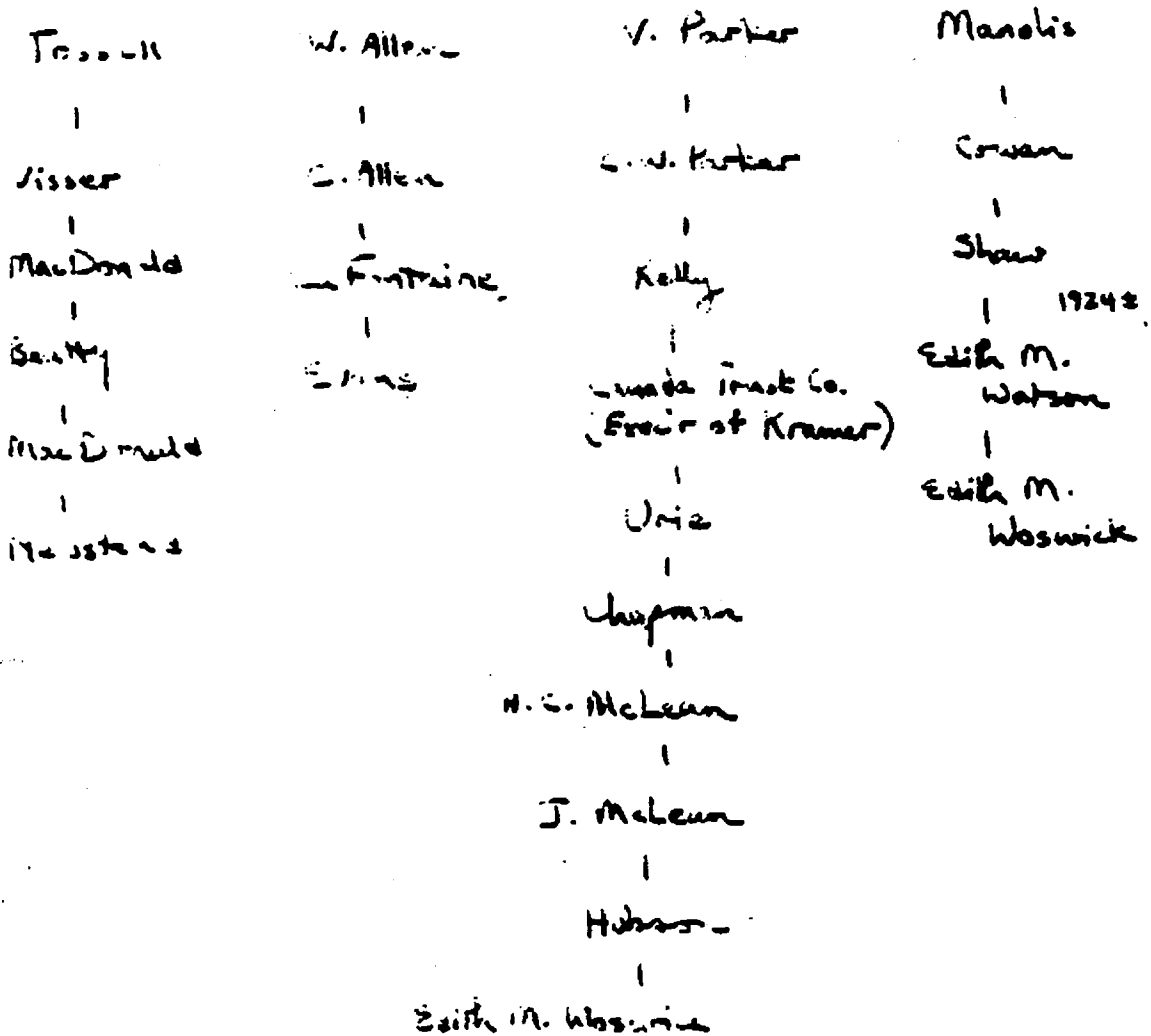
[Signature]
 A Commissioner, etc.

Portion of Registered Plan 8, Showing Lot 744 Circled



Title Searchers' Sketch

Preliminary Search Backwards of Current Registered
Owners of Lot 1+1,



Surveyor's Search

page 1 of 3

Survey Search on Lot 144 (part), Canada Company Survey (Plan B), City of Guelph Date: _____
 For: client

Instrument #	Type	Date of Search	Date of Reg. P.	Grantor	Grantee	Area	Consideration ; Remarks
142-6751	Deed	Mar. 18, 1912	Mar. 17, 1912	Edith M. Weisick	George John I. Hobson	N. Part	Sketch on Original
C7-4072	Conveyance	Apr. 25, 1912	Apr. 25, 1912	Agnes Hobson, Widow Margaret Jones	John McLean	part	\$6,000 --
CB-5002	B i S	Aug. 27, 1910	June 12, 1910	John McLean, widower	High C. McLean	n part	\$ 5,000 --
C15-10654	B i S	Jan. 7, 1913	Feb. 5, 1913	High C. McLean, a widower	George Chapman	N part	\$5,600 -- as in 6751 added red on sketch therein
C16-11571	B i S	Oct. 1, 1913	Oct. 2, 1913	George Chapman ; wife	George Norman Urie	N part	\$6,000 -- subject to mfg as in 6751
C22-17479	Grant	Oct. 1, 1913	Nov. 1, 1913	George N. Urie ; wife	Caroline E. Kramer	part	\$7500 -- as in 6751
[C51-42963]	Grant	July 10, 1914	July 19, 1914	William Evans ; wife	Louis LaFontaine	part	\$1 -- etc. sketch attached and others

Surveyor's Search continued

page 2 of 3

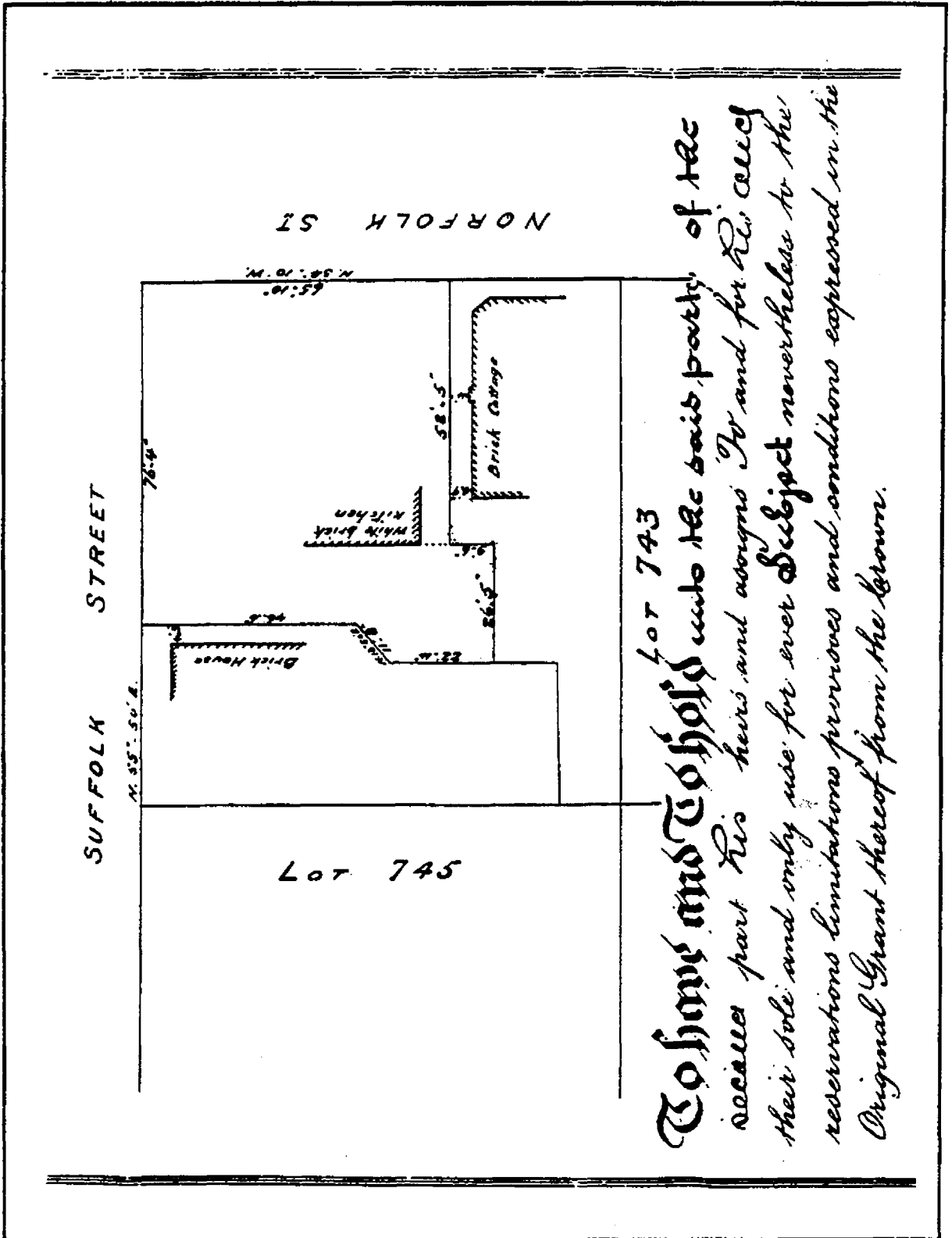
G.W. 19 - 9684	Pro. bill	June 2, 1932	May 9, 1932	Caroline E. Kramer dec'd	Helen Kelly	of and concerning part	penalties and \$5.00 Treasurer credits re Caroline E. Kramer dec'd and Raymond W. Kramer (Kramer) (dec'd)
C.65- 56457	Grant	Apr. 29, 1932	May 23, 1932	The Canada Trust Company, Executor of Caroline E. Kramer, dec'd	Charles W. Parker and Virginia M. Parker	Part	\$. as joint tenants
C.65- 56648	Grant	June 15, 1932	June 26, 1932	Helen Kelly	Virginia M. Parker	Part	All his interest in
M-57927	Grant	Aug. 9, 1936	Aug. 16, 1936	Charles W. Parker	Virginia M. Parker	Part	Allison and \$100

Surveyor's Search continued

Page 2 of 3

	<u>Descriptions</u>	<u>From</u>	<u>adjoining lands</u>		
201204	Deed	Mar 10/1912	William Visser and Myrtle Visser	David W. Torsell and Barbara J. Torsell as joint tenants	Part 0.041 Ac
					Same P.O.C. as 142007
C-64-56887	Grant	Sept 16/61	Sept 20/61 Virginia W. Cowan	George Manolis	Part
					\$10,500.00 offers

Sketch contained within Registered Instrument 14W-6751



*To have and to hold unto the said party of the
 second part his heirs and assigns for and for the use
 their sole and only use for ever Subject nevertheless to the
 reservations limitations provisions and conditions expressed in the
 Original Grant thereof from the Crown.*

Description contained within Registered Instrument 201204 (Tossell)

SCHEDULE "A"

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying and being in the City of Guelph, in the County of Wellington, and Province of Ontario, being composed of Part of Lot Number 744 on Suffolk Street, in the Canada Company's Survey of the Town, now City of Guelph, containing an area of Forty-one One-thousandths (.041) of an acre more or less, and which said parcel or tract of land and premises may be more particularly described as follows:

COMMENCING at a point in the Southerly limit of Suffolk Street, distant South 55 degrees and 50 minutes West Seventy-five and Nine Tenths (75.9) feet from the point where the said Southerly limit of Suffolk Street is intersected by the Westerly limit of Norfolk Street

THENCE South 34 degrees and 47 minutes East, Forty-Five and Eight Tenths (45.8) feet;

THENCE South 12 degrees and 33 minutes West, Eleven and Seven Tenths (11.7) feet;

THENCE South 34 degrees and 10 minutes East Twenty-two and Three Tenths (22.3) feet;

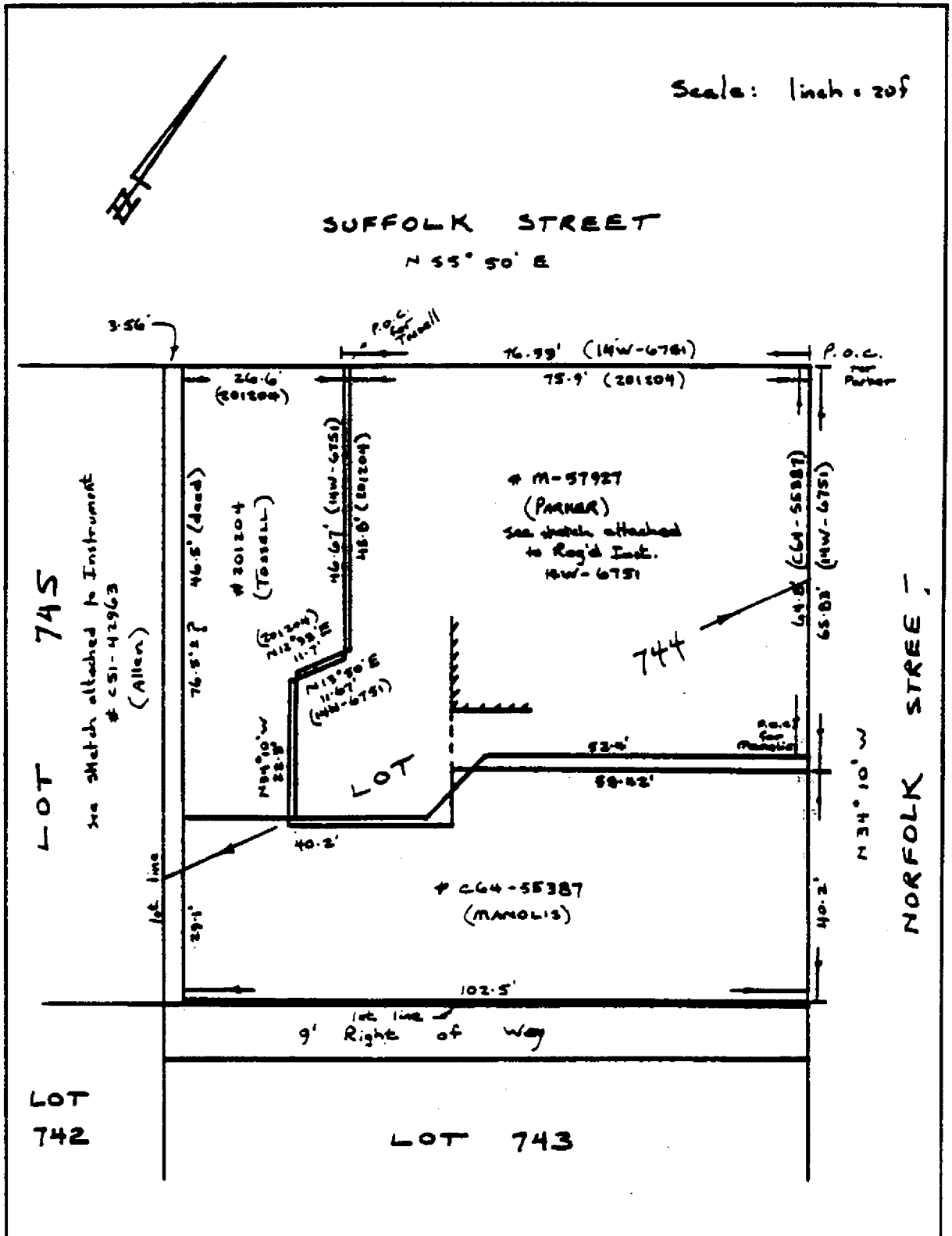
THENCE South 56 degrees and 27 minutes West Eighteen and Four Tenths (18.4) feet;

THENCE North 33 degrees and 49 minutes West Twenty-nine and Four Tenths (29.4) feet;

THENCE North 34 degrees and 43 minutes West parallel to Norfolk Street, Forty-six and Five Tenths (46.5) feet to the Southerly limit of Suffolk Street;

THENCE North 55 degrees and 50 minutes East along the said Southerly limit of Suffolk Street Twenty-six and Six Tenths (26.6) feet to the place of beginning.

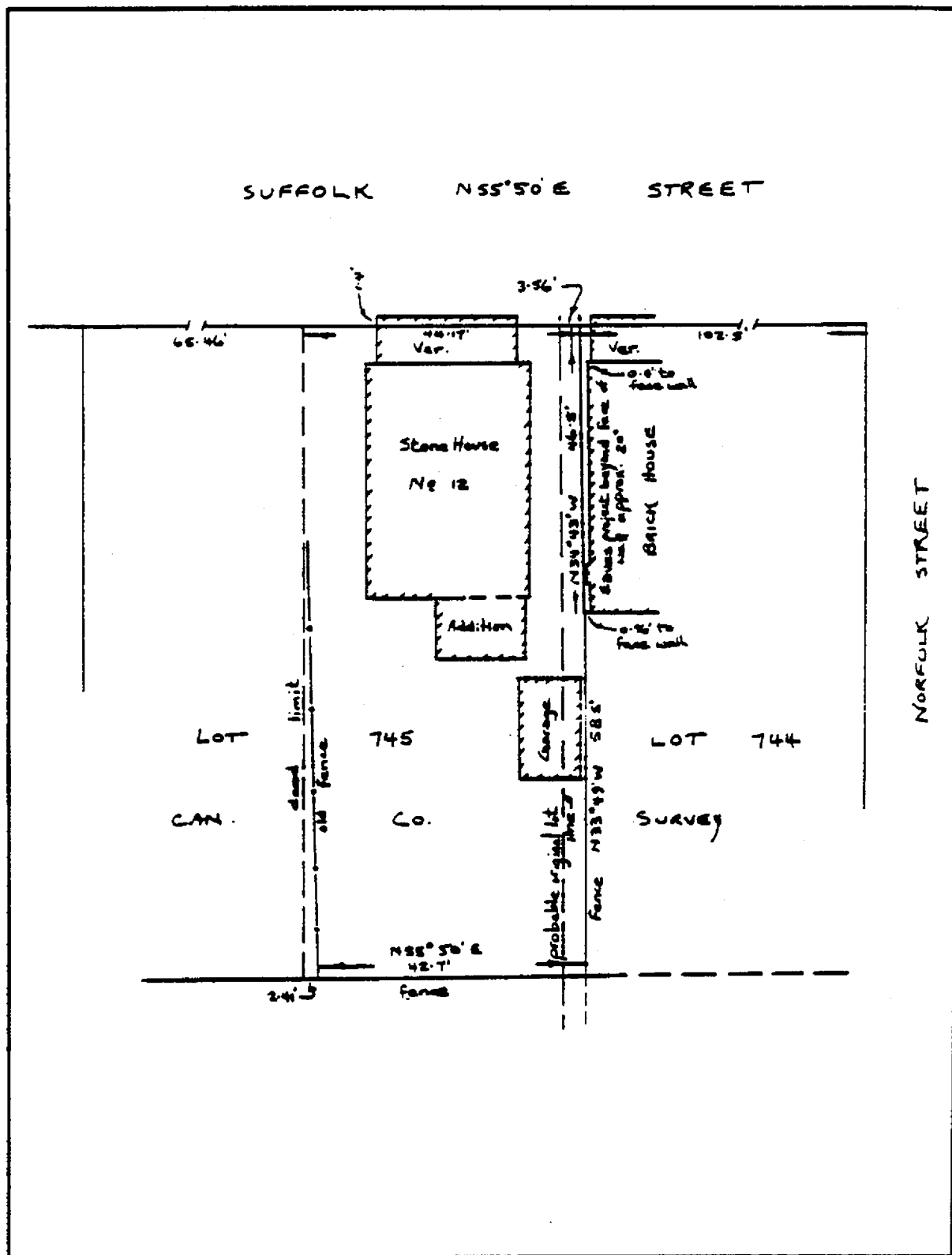
Sketch prepared by title searcher



Description contained in Registered Instrument C64-55387 (Manolis)

All and singular that certain parcel or tract of land and premises situate, lying and being in the City of Guelph in the County of Wellington and being part of Lot 744 on the corner of Suffolk and Norfolk Streets in the Canada Company's Survey of the Town (now the City of Guelph) more particularly described as follows:— COMMENCING at a point in the Southwest limit of Norfolk Street Sixty-Four and eight tenths (64.8) feet measured southeasterly from the northwest angle of said lot; THENCE Southeasterly along the said limit of Norfolk Street Forty and two-tenths (40.2) feet to a point; THENCE southwesterly parallel to the Southeasterly limit of said lot One hundred and two and five tenths (102.5) feet; THENCE northwesterly at right angles to last mentioned line twenty nine and one-tenth (29.1) feet; THENCE Northeasterly parallel with the south boundary of said lot forty and two-tenths (40.2) feet; THENCE North 14 degrees and 33 minutes East fourteen and three tenths (14.3) feet; THENCE Northeasterly parallel to the said south boundary of said lot fifty-two and four tenths (52.4) feet to the place of beginning; TOGETHER with a right of way over and along the northwesterly 9 feet from front to rear of lot 743 in the Canada Company's Survey in the City of Guelph, in the County of Wellington as the same is described and set out in the conveyance to Mary Worswick registered in the Registry Office for the Registry Division of the South and Centre Ridings of the County of Wellington in Book C 18 for the City of Guelph as number 13906

Portion of plan of survey attached to Registered Instrument C51-42963

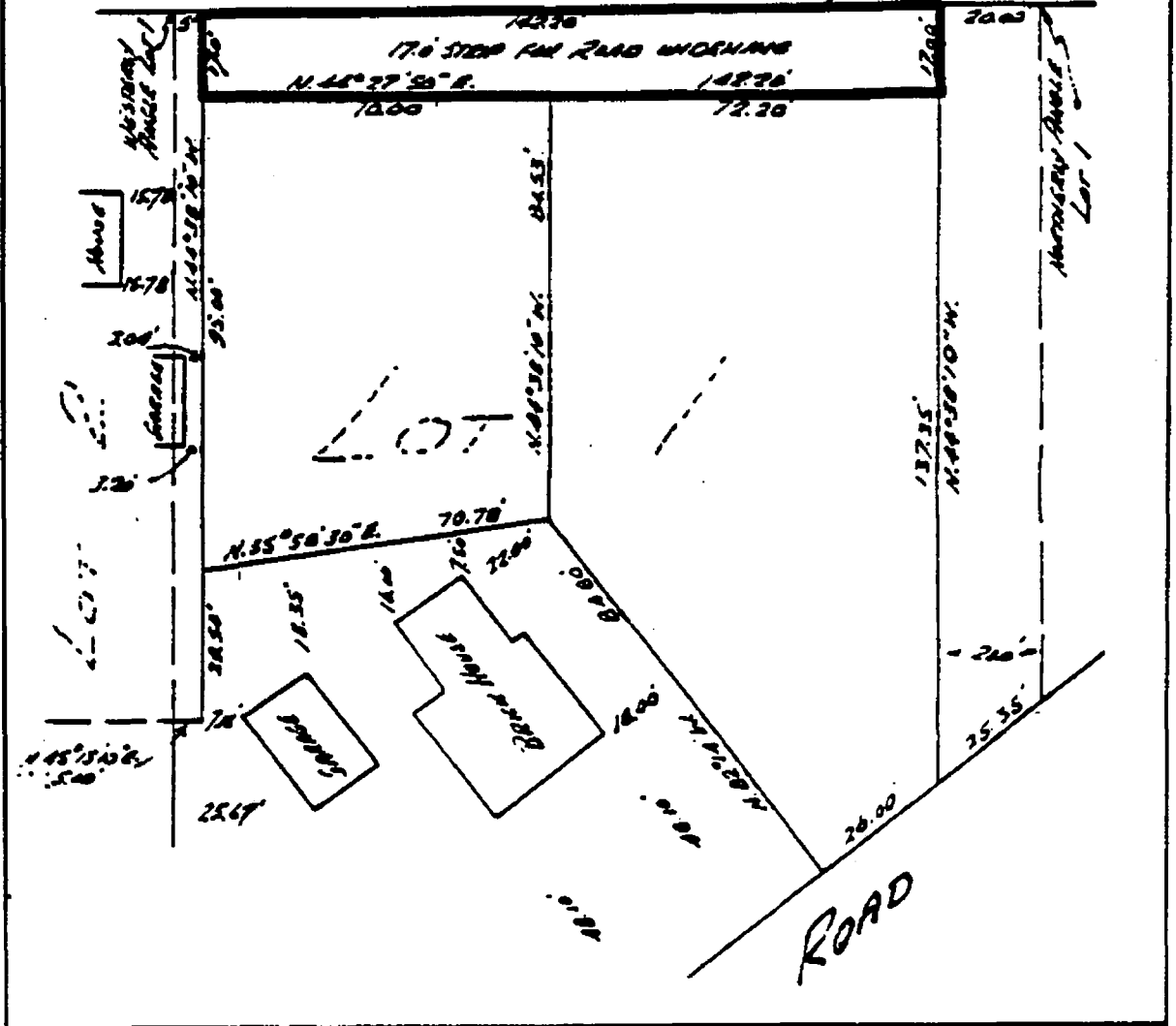


Plan of survey attached to deed registered as instrument Number M-50764, conveying 17' strip to the City for a road widening

PLAN OF SURVEY
OF PART OF LOT 1 - RECD PLAN 403
CITY OF GUELPH

SCALE: 1 INCH = 30 FEET

SPEEDWILE N. 44° 37' 50" E. AVENUE
- REFERENCE LINE



Portion of by-law number (1965)-6020 dedicating the 17 foot strip for public use. It was registered as Instrument Number M-50765.

THE CORPORATION OF THE CITY OF GUELPH

By-Law Number (1965)-6020

A by-law to establish and lay out a public street to be known as part of Speedvale Avenue.

WHEREAS it is expedient to establish and to dedicate to the public use certain lands within the City of Guelph as a public street.

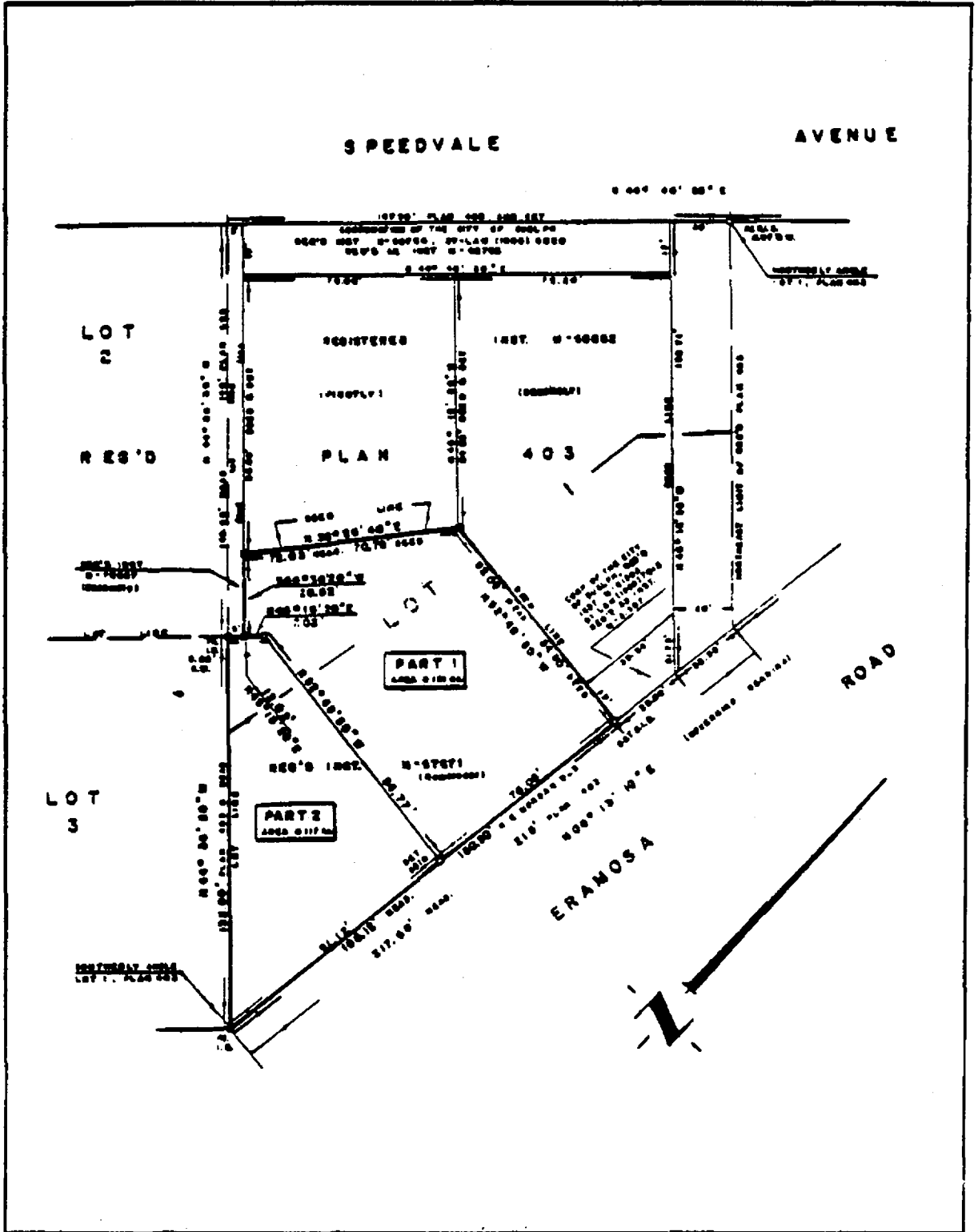
AND WHEREAS the lands to be established, laid out and dedicated hereby are owned, clear of encumbrance, by the Corporation of the City of Guelph.

NOW THEREFORE by virtue of Section 459 and 463 of The Municipal Act, Revised Statutes of Ontario, 1960, Chapter 249, The Council of the Corporation of the City of Guelph enacts as follows:-

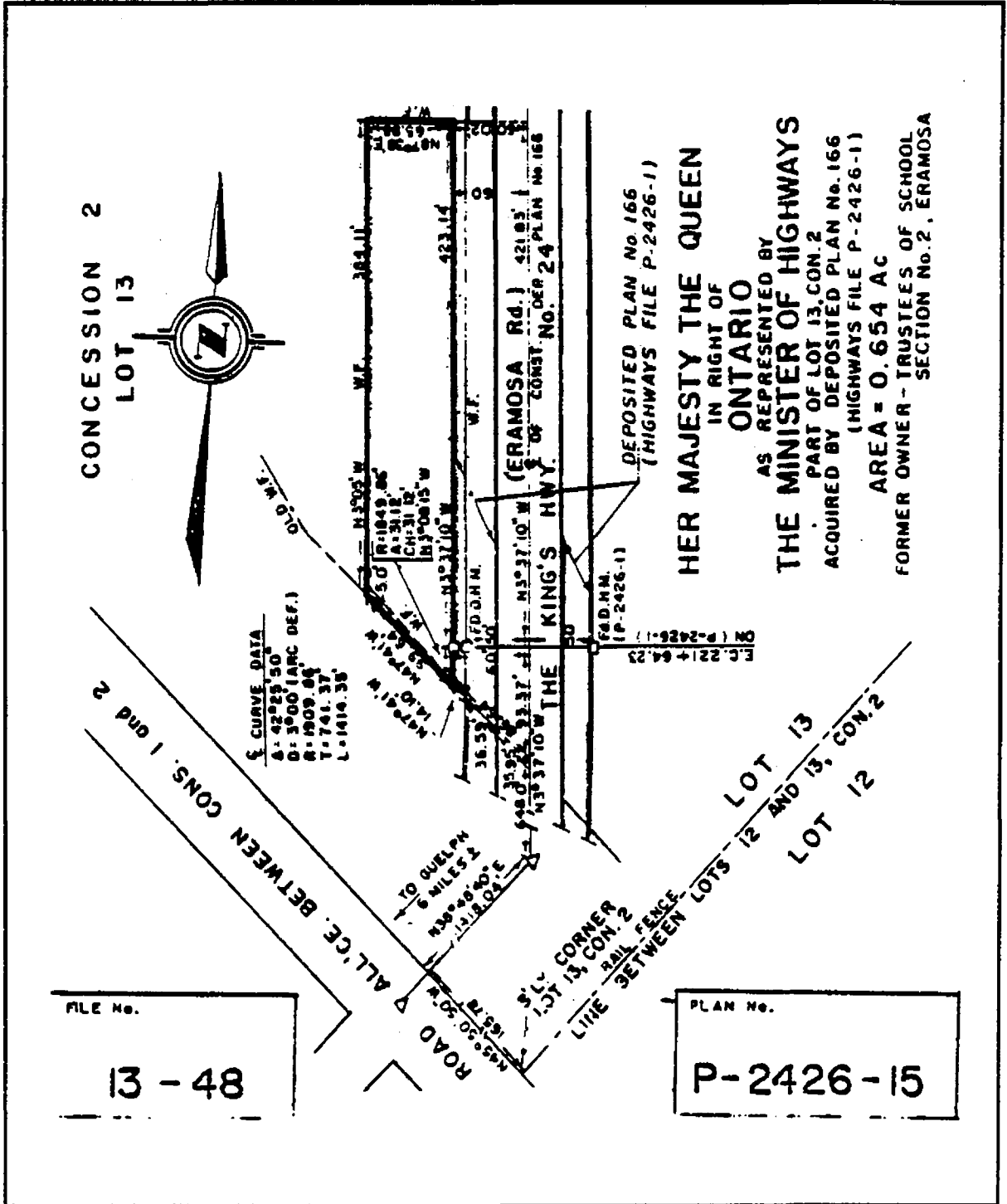
1. The following lands, All and Singular that certain parcel or tract of land and premises, situate, lying and being in the City of Guelph, in the County of Wellington, and being composed of Part of Lot No. 1, according to Registered Plan 403, for the said City of Guelph, which may be more particularly described as follows:

PREMISING THAT

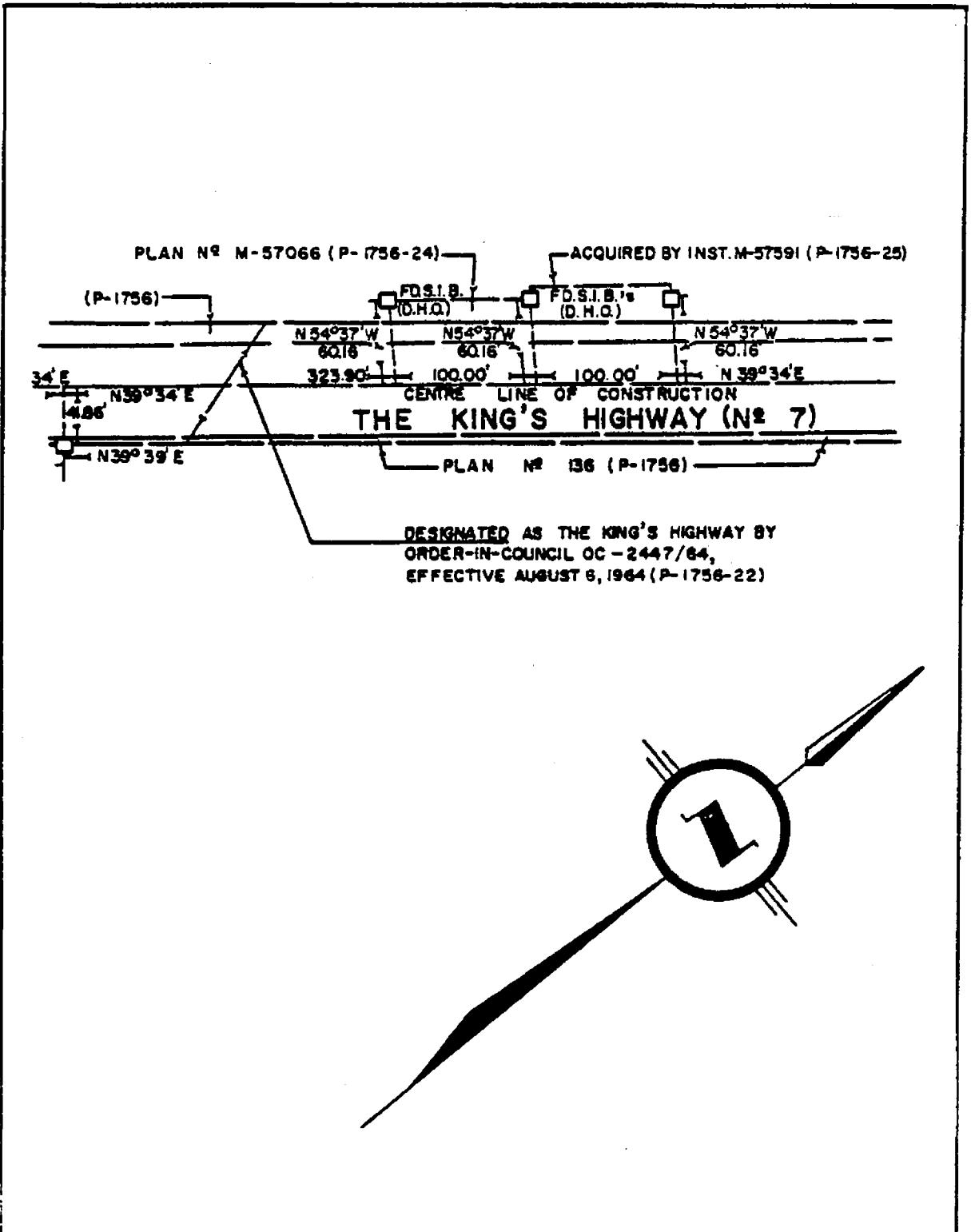
A portion of the final plan of survey, showing how the information relating to the status of the road widening is displayed.



Portion of D.H.O. Plan attached to Registered Instrument M-17316 illustrating the land to be returned to the former owner outlined in heavy lines.



Portion of Highways designation plan, giving the order-in-council number for its designation as a King's Highway.



Deed from private landowner to the Wellington, Grey and Bruce Railway Company.

Know all Men by these Presents, that

I, *Anthony Martin* of the Township of *Geoffrey Haman* do hereby in consideration of *Twenty four Dollars and thirty two cents* paid to me by the WELLINGTON, GREY AND BRUCE RAILWAY COMPANY, (the receipt whereof is hereby acknowledged,) grant, bargain, sell, convey and confirm unto the said WELLINGTON, GREY AND BRUCE RAILWAY COMPANY, their successors and assigns for ever, all that certain parcel or tract of Land and Premises, situate, lying and being in the Township of *Geoffrey Haman* in the County of *Wellington*, being composed of *two* parcels of Land numbered *Twenty four* and *Twenty five* in the *South* Concession of said Township, which is marked red upon the Diagram or Plan enclosed upon these presents, the same having been selected and laid out by the said Company for the purpose of their Railway, containing by admeasurement *One Acre and 69/100* of an Acre be the same more or less.

To Have and to Hold the said Land and Premises, together with every thing appertaining thereto, to the said WELLINGTON, GREY AND BRUCE RAILWAY COMPANY, their successors and assigns for ever, free from all encumbrances, but subject to the reservations, limitations and conditions contained in the original Grant from the Crown.

And I do hereby covenant with the WELLINGTON, GREY AND BRUCE RAILWAY COMPANY that I have the right to convey the said Land in manner aforesaid free from all encumbrances, *that need to be taken by Mary Jane & Thomas Bailey and their heirs and their assigns, of which I agree to save the said Company harmless.*

And that I will execute such further conveyance as may be requisite.

And I, *Mary Martin* wife of the said *Anthony Martin* hereby bar my Dower in the same lands.

In Witness Whereof, I do hereby set my Hand and Seal this *14th* day of *April* in the year of Our Lord one thousand eight hundred and *eighty-nine*

Signed, Sealed and Delivered, in presence of *Thomas Hildes*

Anthony Martin
Mary Martin

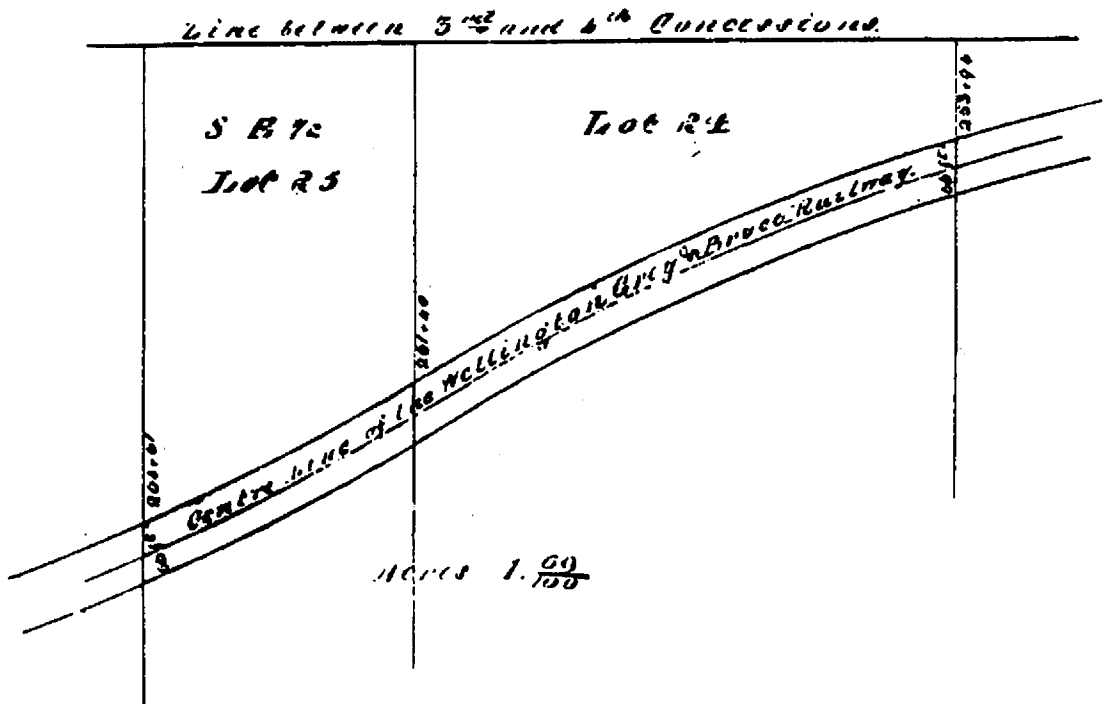


Plan Referred to in Deed to Wellington, Grey and Bruce Railway Company

PLAN REFERRED TO IN THE FOREGOING DEED.

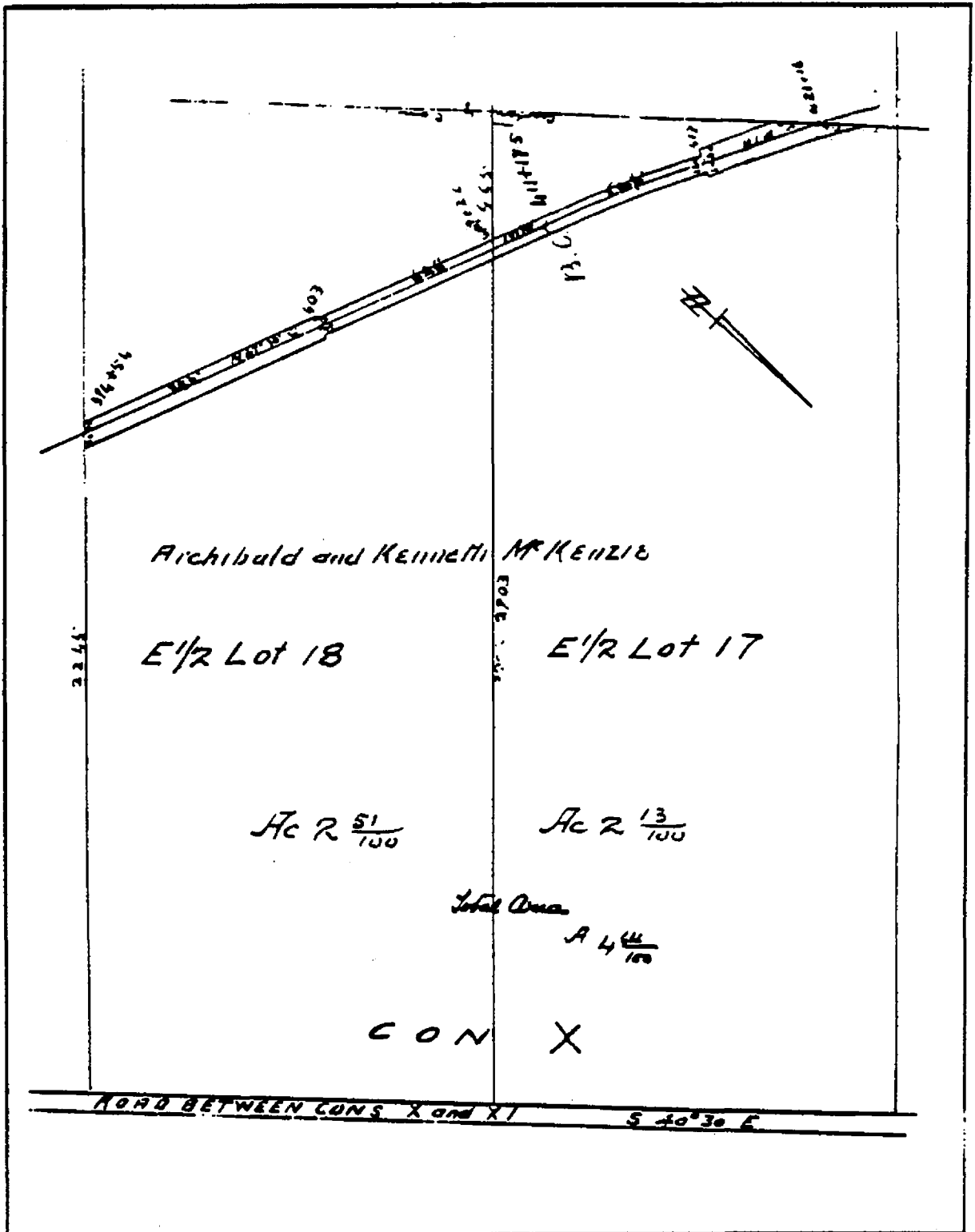
*Lot 24 and S 1/2 of Lot 25
in the Fourth Concession Divⁿ D.
Township of Caledon
County of Wellington.*

Anthony Martin

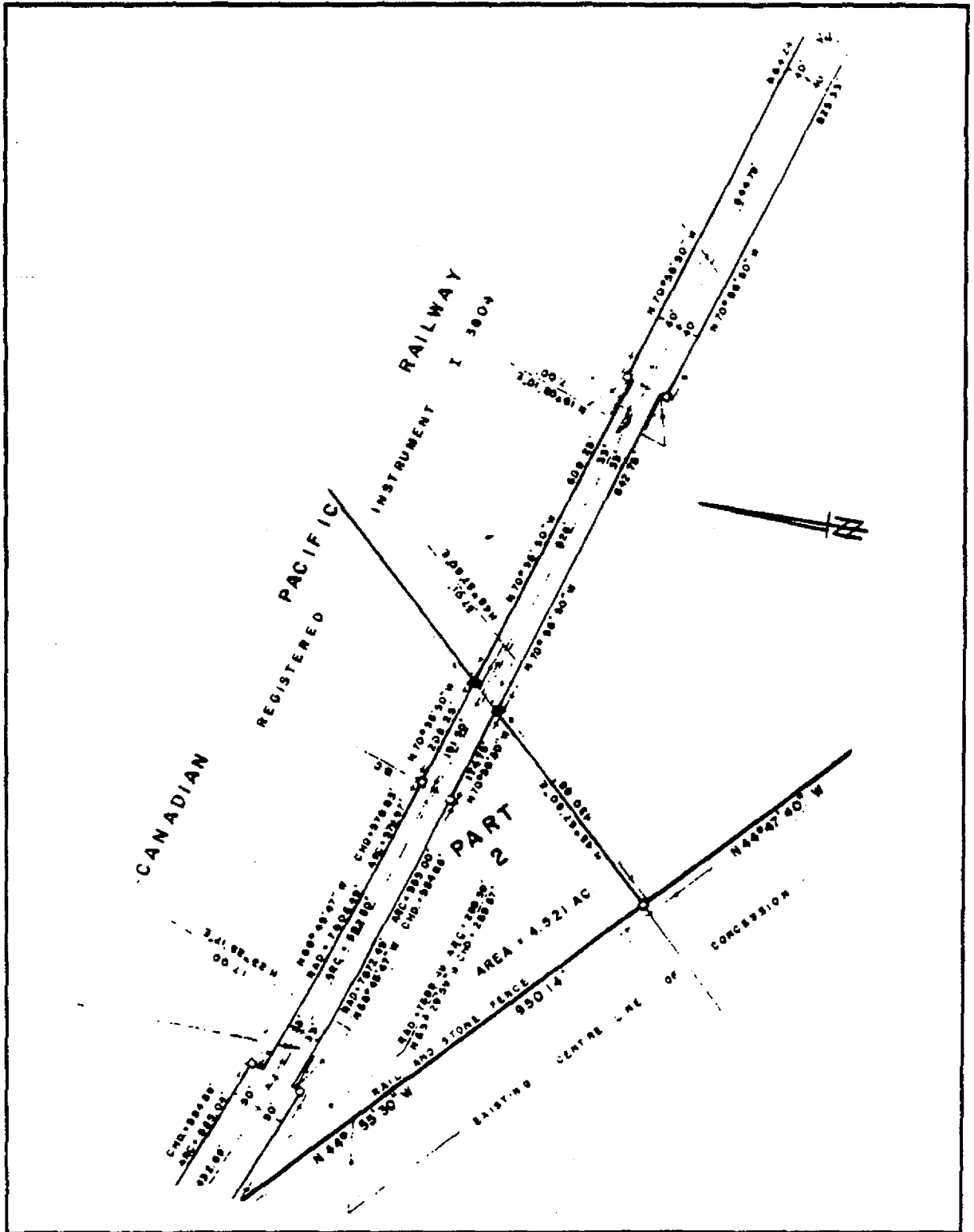


Scale. 200 ft. = One inch.

Sketch attached to Registered Instrument I-3804 Conveying the railway land to the Guelph Junction Railway.



Portion of Plan of Survey showing the retraced limits of the Railway shown in Registered Instrument I-3804.



Sample page from an Abstract Index showing the entry of a Plan made under The Boundaries Act, followed by the deposit of a couple of reference plans.

SHEET NO 140

From Page 189 Photostat Book 12

101 NO 1032 101 NO 8

PLAN NO	PLAN	DATE	CLASS	GRANTEE	CLASS	PLAN NO	REMARKS
211553	Plan 88-207			The Director of Titles			Under The Boundaries Act dated 29 Sept 1971 1/2 of the land in the plan is being registered as a separate plan comprising of the land in the plan and the land in the plan 88-207. Other
211554							Other
217800	Deed			see deposit No 61-8-330. Reference Plan 1/2 of the land in the plan is being registered as a separate plan comprising of the land in the plan and the land in the plan 88-207. Other			1/2 of 618-319 Other
222576	Deed			see deposit No 61-8-330. Reference Plan 1/2 of the land in the plan is being registered as a separate plan comprising of the land in the plan and the land in the plan 88-207. Other			Other
225576	Mortg			see deposit No 61-8-330. Reference Plan 1/2 of the land in the plan is being registered as a separate plan comprising of the land in the plan and the land in the plan 88-207. Other			Other
225611	Deed			see deposit No 61-8-330. Reference Plan 1/2 of the land in the plan is being registered as a separate plan comprising of the land in the plan and the land in the plan 88-207. Other			Other
225612	Mortg			see deposit No 61-8-330. Reference Plan 1/2 of the land in the plan is being registered as a separate plan comprising of the land in the plan and the land in the plan 88-207. Other			Other

Words Glossary

- abstract** — The activity of recording information about a document, received for registration into an index book divided into geographic units; or,
The book used in the Registry system and known as the "Abstract Index" in which entries are made each time a document is recorded.
- boundary** — The physical extent of title to a parcel on the ground.
- cadastre** — A public register of the quantity, value and ownership of real property.
- deposit** — The activity of lodging documents, or instruments in the Registry or Land Titles system for permanent custody and which have a collateral, or indirect effect on ownership; or,
The type of document which is the subject of a depositing activity.
- fee simple** — The most complete and absolute form of ownership of land known in English law. Consider also the analogy to the container completely filled with sticks.
- grant** — The act of assuring or transferring property by documentary form as opposed to physical delivery of the property.
- instrument** — A legal document which affects the state of title to a parcel of land; eg: a deed.
- patent** — The initial grant from the Crown to a private landowner of a parcel of land.

- quality of title** — The completeness with which an owner can enjoy his ownership. Outstanding claims against the land lower the quality of title.
- real property** — Property which cannot be moved and could be recovered by one of the traditional forms of real action.
- register** — The activity of lodging documents, or instruments in the Registry or Land Titles system for permanent custody and which have a direct effect on ownership; or,
The book used in the Land Titles system and known as the "Parcel Register" in which entries are made each time a document is recorded.
- root of title** — An instrument which can stand alone by not depending on other documents for validity and which may be considered as evidence of a previous owner's title usually of high quality.
- title** — The right to ownership of property.