

Procedures for Locating Written Boundaries Chapter 10 Lecture Notes

Purpose:

Locate boundaries already described by an instrument.

Discuss the duties, abilities and obligations of the surveyor with respect to locating previously described property.

Most people think the surveyor rushes out, does some field work, paints, marks, sets stakes, lath ribbon, etc. To the contrary, 2/3 of the time spent in boundary surveying is spent doing "office" work...analyzing, researching, compiling, reviewing, calculating, plotting, reading and studying documents, maps, plats, notes, etc. This is done at the county surveyors, recorders, assessors, local agencies, quasi-agencies, title companies, other surveying firms, your own office.

The determination of the proper starting point or basis may take days to determine whereas the measurements in the field may only take hours.

Boundaries defined by written documents:

Writings used to describe property (deeds, will, etc.) are indispensable evidence.

Transfer of real property must be in writing.

Deeds: instrument or document used that contains a legal description of the property in question.

The legal description is rarely complete in and of itself. It generally refers to other documents, maps, and plats: deeds, surveys, adjoiners, monuments and prior conveyances in the chain of title.

Deeds that are valid when formed are not made invalid because of the loss of evidence.

Locating land described by written conveyances is a great challenge to the surveyor. The surveyor must be a detective, historian, judge, jury, forester, measurer, donkey, gopher, bloodhound, and pit bull!

A surveyor's acts are based on the judgement, reasoning, and conclusions based on the evidence uncovered; besides rule and regulations of the profession.

A systematic procedure and uncovering all available evidence will allow the surveyor to come to the correct conclusion.

Arrangement of Subject Matter & Systematic Procedures in Conducting a Survey:

No two surveys are the same, however there may be similarities between two different surveys.

All questions of claims follow three categories:

1. Questions of Title (Who)
2. Questions of where title lines exist. (Where)
3. A combination of the two?

"What boundaries are is a question of law. Where boundaries are is a question of facts."

Land Surveying:

Evidence can be grouped into 5 phases:

1. Contact
2. Research
3. Field work
4. Compilation of Evidence (Analysis)
5. Presentation

Defining Surveying Terms:

1. Re-survey – Locating land previously described by description, maps, and plat in a subdivision of record.
2. Survey in accordance with instructions in a written description
3. Possession Survey

PRINCIPLE 1

Monuments:

1. Are the monuments described as a result of a survey?
2. Is the survey a result of the monuments that created the conveyance?

Metes and Bounds: "Measures and boundaries" A method of describing land by describing the courses that contain the land. Using the lengths and directions (metes) and the boundary lines of travel or terminus (bounds).

PRINCIPLE 2

Overlaps and Gaps:

Hiatus – an opening or gap between two adjacent parcels

Gore – a triangular piece of land made by an overlap or gap. Ordinarily the Sr. rights parcel owns overlap unless possession rights exist.

Encroachment – When possession overlaps paper title; generally in Sr/Jr rights conveyances.

Legal Authority for Regulating Property Surveys:

How a survey is done is a question of interpretation of the meaning of the conveyance.

The court is the only entity that can truly locate a disputed boundary location.

PRINCIPLE 3

Property Surveyor's Authority:

PRINCIPLE 4

In a re-survey no one is forced to accept the surveyor's findings. The surveyor's monuments are given force only by consent of the landowners or court.

Fact Finding and Conclusions:

PRINCIPLE 5

A surveyor not only seeks out all the evidence and information necessary to determine boundary location but must come to a conclusion for the determination.

Four facts the surveyor must address before making a conclusion:

1. Facts furnished by the client
2. Search of written documents (permanent records)
3. Field work (monuments, measurements, possession, etc)
4. Testimony

Contact with Clients:

1. Initial contact – no soliciting, word of mouth, they seek you out.
2. Conference with client
3. Contract
4. Agreement

3 and 4 should be one in the same!

The surveyor may have to educate his or her client in land surveying and the law before beginning the process.

Research of Records and Documents:

PRINCIPLE 6

Research:

1. Adjoiners Conveyances
2. All maps and plats called for or not in the vicinity of the project
3. Surveys by others
4. Plats and Maps by others
5. GLO

The objective is to gather any and all written information pertaining to evidence of title.

Documents Used:

This is a decision of the surveyor no the client!

PRINCIPLE 7

Ownership of Land –Vs- Location of Land:

PRINCIPLE 8

Surveyors locate land boundaries, title boundaries, and not ownership boundaries. A surveyor may advise but not determine.

Location of Easements:

PRINCIPLE 9

Locate only those within the recorded description and visible by public notice. Never agree to locate ALL easements.

Anything else is committing to liability for its authenticity.

Dominant – makes parcel more valuable

Servient – make the parcel less valuable

Field Work:

Not just measuring but also finding recovering and setting. See page 315 for descriptions and instructions.

Field Evidence:

1. Finding monuments called for
2. Tying in with new measurements
3. Draw conclusions for these treasures

Monuments:

PRINCIPLE 10

Find monument called for or its original position formed by the monument.

1. Discovery
2. Other monuments to perpetuate
3. Witness
4. Reputation (Uncalled for monument)

PRINCIPLES 11 & 12

Possession:

Should not be ignored especially when possession disagrees with the written title. (Show encroachments)

PRINCIPLES 13

Possession before and after original survey.

Testimony:

Determine authenticity and accuracy of person and testimony.

Measurements:

One form of evidence used to find corners and tie them in.

Courts determine permissible uncertainty of measurements.

PRINCIPLES 14, 15, 16 & 17

Compilation of Evidence (Analysis):

1. Check for Blunders and quality of measurements

2. Determine Final position of corners
3. Calculate Area

Platting:

Every Survey should result in the preparation of a plat, whether recorded or not!

PRINCIPLE 18

Final conference with Client

Surveyors Report

Original Surveys & Platting Laws