

THE SURVEYOR'S OBLIGATION TO HIS CLIENT

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The following are some notes and personal opinions regarding the extent of surveyor's obligation in marking the limits of a metes and bounds severance of an original township lot or subdivision lot.

Discussion of this matter with other Surveyors, and with students returning from our Course of Instruction, reveals that there are two general opinions in this matter.

(1) That the surveyor, having been provided with a copy of the deed or of the description contained therein, has fulfilled his obligation to the client when he has, to the best of his ability, marked on the ground the limits of the parcel as described in the document provided.

(2) That the surveyor, having been requested to mark the limits of a metes and bounds parcel, should before completing his survey, make an investigation to determine the order in which the metes and bounds severances of the original lot occurred and should particularly examine the descriptions of adjoining parcels. He should find by field survey an over-plus, shortage, lack of parallelism of side lines or other conditions affecting the original lot not evident from inspection of the Registered Plan. He should, in making his survey of the actual parcel, consider the effect that any overlaps or gaps in title caused by improper descriptions or physical conditions may have on his client's title and should show same on his plan and in his report.

I would appreciate hearing discussion on the above matter at our next Association Meeting.

I personally favour the second procedure for the following reasons:

(1) Descriptions for metes and

bounds severances, when drawn in a solicitor's or conveyancer's office are usually prepared on the assumption that data shown on the Registry Office plan is exact. If there is a shortage or over-plus in the lot, or if the parcels are described as parallel with different limits which appear on the plan to be parallel but are found to be otherwise on the ground, the result must be confusions or gaps in title.

(2) Such confusions or gaps are not likely to be found by the solicitor in his title search.

(3) A surveyor's client, having paid to have his boundaries marked by a survey, should be entitled to expect that such markers define the limits to which he has clear title. If there is an overlap due to the manner in which parcels have been described, and if the adjoining owner has prior title, this would not be the case. The result could be litigation or could make necessary the removal of fence or buildings which had been erected on the line as staked. It could result in an embarrassing situation for the surveyor if called upon later to mark the adjoining parcel.

I do not feel that the surveyor has completed his obligation to the client until he has checked at least the description of each adjoining parcel. If his instructions have been specifically to mark the lands described in one certain instrument without reference to adjoining parcel boundaries, I feel that he should, in order to be free from obligation as to confusions, make it very clear on his plan or in his report, that he has performed his survey from data given in the specified instrument only and that he will not accept responsibility for possible confusions.

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The great thing in the world is not so much where we stand as in what direction we are going.

Oliver Wendell Holmes