

If a side line in a block has been established when the lines were to run on the same astronomic course as the Governing line, then that particular line should not be re-run in accordance with the new act but all other lines in the block should be run in accordance with the present act.

That particular section gives no authority to a surveyor to re-establish a line but only to establish lines.

We must always bear in mind that the final decision rests with the courts and must govern ourselves accordingly.

I would like to quote from "A Summary of the law relating to Surveying in New Zealand" to show the similarity to our own.

"When there is a contradiction of terms or when the central points are disturbed, it is remarkable how many there are who mistake altogether the duty that now develops upon the Surveyor. It is by no means, uncommon to find men whose theoretical education is supposed to make them experts, who think that when the monuments are gone, the only thing to be done is to place new monuments where the old ones should have been, and where they would have been if they had been correctly placed. This is a serious mistake. The problem is now the same as it was before; to ascertain by the best evidence possible of which the case admits, where the original ones were, " ---" and it may so happen, that notwithstanding the loss of all survey data, there will still be evidence from which the surveyor will be able to determine, with almost absolute certainty, where the original boundary was".

"Occupation, especially if long continued, often affords very satisfactory evidence of the original boundary when no other is obtainable, and the Surveyor should enquire when it originated, how and why the lines were located as they were, and whether claim of title has always accompanied possession and give all facts due force as evidence".

Our court decisions are based on "British Common Law" as are those of New Zealand.

## SPECIAL ARTICLE

## SURVEYOR AND PLANNER: TEAM OR RIVALS? \*

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Historically the surveying profession is old and the planning profession relatively new, although both surveyors and planners have been known since before Biblical times. In this country, up to about ten years ago, subdivision plans were prepared almost entirely by registered land surveyors. Since the general acceptance of urban and rural planning in this last decade, the surveyor has sometimes taken a dubious view of the increasing number of subdivision plans designed by planners, to the partial exclusion of the traditional surveyor's work. (I say partial because in every province in this country the final plan of subdivision must, by statute, be prepared and submitted by the registered land surveyor.) At the same time, the professional planner takes an equally dubious view of the subdivision plans that are still designed by the professional surveyor.

Does the professional surveyor feel that the professional planner is encroaching on his field of work, and is the planner in fact doing so? When the

whole situation is viewed dispassionately I think the general answer is no. I know that many professional surveyors will agree with me, as I also know that some will disagree. Let us first take a really close look at the two professions and see whether there really is a conflict over subdivision.

It is a peculiar fact in this country that the great majority of registered land surveyors are employed in private practice and the equally great majority of professional planners are employed in official positions of one or other of the three levels of government, and the minorities include a very small number of professionals. The surveyor, dealing more directly with the owners therefore, has for decades held to his position that his subdivision has eventually to have the unqualified approval of his client, the man who owns the land. This owner, in the great majority of cases, wishes his land to be divided for practical and monetary reasons only. His land is an asset to be capitalized, and his rights to capitalize it is inviolable under common law. He generally has little or no interest in how the subdivision of his land affects the adjoining property, or how it affects the rational expansion of the municipality itself, either in relation to the immediate area or to the over-all growth policies that the municipality may have adopted by virtue of a master or general development plan for the whole community. The surveyor, in the main and naturally, is not greatly concerned about land use, existing or future, or about zoning. He is concerned most about the security that his work will bring to his client.

On the other hand, the professional planner, whether he is retained by a private land owner or developer, or by a municipality, is mainly concerned with the effects of his subdivision plan on the evolving pattern of land uses of the municipality as a whole. This is not to say that he is not equally concerned, when the client is a private owner or developer, with his client's wishes and desires in the matter. One can assume that by his specialized training and experience the professional planner is best equipped to take the overall viewpoint into consideration.

This difference in outlook between the professional surveyor and the planner may be exemplified by reference to the "Theory of the Bundle of Rights". This theory states that land itself embraces everything attached to it, under it, and over it. The private rights to land are therefore comprehensive. Such multiplicity of rights is commonly known as the "Bundle of Rights". In theory only does the ownership of land entitle the owner to unrestricted exercise of the entire bundle of rights. In any organized society, an owner cannot avail himself of all of these rights without qualification, and in practice the separate rights in the bundle are liable to restrictions, such as through the powers of zoning, eminent domain, taxation, and escheat to state. In other words, to use this analogy in terms of the difference in attitude of the surveyor and the planner, one might say that the surveyor tends to look upon a client's rights in the theoretical sense, that is, without restrictive qualifications, and the planner in the more restrictive sense, that is, with mental qualifications, feeling constrained to judge whether the particular subdivision is for the good of the whole rather than for the sole good of the individual owner.

In his training the surveyor learns, among other things, the mechanics of subdivision, both in the field and on the drawing board. He learns the legal procedures to implement this subdivision work. He is a master with the surveyor's field tools, the attainment of proper accuracy in surveys, and the filing of registered plans, exquisitely drawn on linen. He learns, through experience, to translate an owner's wishes into lots and parcels and access to these lots and

parcels, and to provide a plan that will satisfy the owner. He is not well trained to assess the trends in changing land uses and in modern land design, and for these he must depend on what he picks up in the course of his professional practice.

The training of the planner, on the other hand, skirts only very elementarily over the art and methods of physical surveying. Certainly the planner undergoes the surveying discipline, but only to a very rudimentary degree. His basic training has long since become a matter of controversy, as seems natural for a newly developed profession in modern times. To be able to even conceive a master plan for a community and to point the way that growth would logically follow, and to forecast the kind of growth according to area, the planner must learn the principles of surveying, architecture, engineering, geology, agriculture, law, geography, economics, valuation, demography, and the structure of government. The ability to recognize the essential "oneness" of things, and in particular the relatedness of the above skills, is the only ability that qualifies the professional to deal with such eventually interdependent, far-reaching, and responsible activities as those involved in subdivision design, which affects the lives, physical assets, and future of our people.

It is rare, however, for the planner to know intimately all the difficulties of surveying and posting in the field the subdivision plan he has prepared. He has to fall back on the surveyor's explicit knowledge of these pitfalls, and if he is wise he will modify his plan at the suggestion of the surveyor and will leave entirely to him the detailed intricacies of working out exact bearings, correctly tying to existing surveys, and the sometimes laborious process of getting the plans approved by all the proper authorities.

One further point should be mentioned. Owing to the relative newness of the planning profession, there is a great dearth of well-qualified and practically acceptable planners in this country. This can be set against a "glut" of surveyors. The result is that a situation is evolving in which many subdivision plans must be designed by professional surveyors. Many surveyors have told me quite emphatically that they would be glad to be relieved of this particular creative work if it were possible. The very framework in which such subdivision plan should be prepared is outside the knowledge, or desire for knowledge, of the surveyor, and he can become unwantedly involved in it. Only in time will the complete solution evolve.

It would seem from my experience that if, indeed, the surveyor's traditional work can be said to be encroached upon by another profession to the disadvantage of the surveyor, it can also be said that far too many transfers of land are being handled entirely by the legal profession --- at least in Alberta. Such transfers, to my mind, are strictly the prerogative of the professional surveyor, to be exercised if need be under the watchful eye of the owner's legal adviser.

I have tried to clarify the dilemma that possibly exists in the minds of some professionals regarding the logical relationship between the surveyor and the planner. In matters of subdivision of land, the surveyor and the planner actually complement each other, in a team sense: neither is actually encroaching on the prerogatives or precisely defined field work of the other. The work of the planner and of the surveyor are not independent of each other; they are interdependent. In the formation of a subdivision plan, its creation, and its implementation on the ground, and in the keeping of records, the ideal situation is one where the planner and the surveyor assist each other.