

REGISTRARS REQUESTED TO EXERCISE DISCRETION

Editor's Note: The following memos from the office of the Inspector of Legal Offices are published in "The Ontario Land Surveyor" with the approval of Mr. R.E. Priddle, Assistant Inspector of Legal Offices.

MEMO TO ALL REGISTRARS OF DEEDS

August 20, 1964

Re: ONTARIO REGULATION 156/64
Surveys, Plans & Descriptions

Sections 5 to 8 of Ontario Regulation 156/64 have been causing Registrars, solicitors, and surveyors some concern. These sections, drafted with the advice of experts, which represent the first attempt to legislate in detail on the subject of written descriptions of land, now appear to be somewhat too stringent, and for that reason we are requesting the Registrars to exercise the discretionary powers conferred upon them by Section 4 of the Regulation, as suggested below:

Sec. 5 (c)

Metes and Bounds

Note 1: A description of a part of a lot lying to the east etc. of a described line that ties to a lot angle should qualify as a metes and bounds description.

Note 2: Where a new description of the whole of a parcel previously conveyed, is drawn to comply with the Regulation, a reference to the registration number of the last previously registered deed should be added at the end of the new description.

Note 3: A description of land in an assignment of mortgage should be sufficient if it is in the same form as in the mortgage being assigned.

Note 4: Where a lot is divided by a lake, river, etc., a description of all that part of the lot lying to the north etc. of the river etc., should be sufficient.

Note 5: A tie to an angle in the broken front of a lot should be avoided if another satisfactory tie point is available, unless the angle is defined by reference to a recognized form of survey monument.

Note 6: A description by reference to lot and concession or plan numbers and lease registration numbers should be sufficient in a multiple assignment of oil or gas leases.

Note 7: Where a parcel is comprised of a rectangular part of a rectangular lot, a description of, for example "the northerly 30 feet in perpendicular width throughout from front to rear of Lot 3 according to Plan 546 etc." should be acceptable.

Note 8: A description of, for example, the south 47 acres or the northeast 5 acres of a lot, is not a definitive description and should not be accepted except where the same description has been previously registered, and the cost of preparing a more accurate description would be excessive, having regard to the circumstances.

Sec. 5 (c) (ii)

Curved Boundaries

This clause can logically apply only where the curved boundary has been surveyed. The

data required should not be expected where the curved boundary is a natural boundary (e.g. the bank of river), or in the case of a metes and bounds description that includes the whole of a curved lot limit according to a registered plan. Similarly, it should not be necessary to repeat curve information shown on a registered highway plan. However, where a parcel boundary is only a portion of a highway curve, the length of the boundary should be defined as being either arc measurement or, preferably, chord measurement from a defined survey monument.

Sec. 5 (c) (iii)

Ties to Lot Corners

Instead of requiring a tie distance from a lot corner to an angle of a parcel being described, often an acceptable tie could be made to a street intersection, an intersection of a lot line with a highway (shown on a registered highway plan) or a railway. Similarly, in describing part of a township lot, a tie to a defined survey monument shown on a registered plan of subdivision of a part of that lot should be adequate if the plan itself is tied to a township lot corner. In many cases, ties could also be permitted to posts and monuments of the types mentioned in Section 57 of The Surveys Act, if they are shown on registered plans. Ties to municipal drains are not considered adequate, and ties to the banks of rivers, high water lines of lakes, etc., even though they may be the limits of lots, are frequently not dependable, due to flooding, erosion, accretion, etc.

Sec. 5 (d)

Exceptions

In addition to the instances in which descriptions by exception are permitted, descriptions which except established roads, streets, or highways (whether they are given roads, travelled roads, expropriated roads, or roads otherwise acquired) and railway rights-of-way, should be acceptable in most instances.

Sec. 5 (f)

Feet and Inches

Where previous measurements in chains, links, rods, roods, poles, perches, etc. are converted to feet and inches or feet and decimals of a foot, both measurements should be given with the latter measurement bracketed (e.g. thence northerly along the east limit of the said lot, a distance of 165 feet (10 rods) to the

Sec. 8 (a)

Succession Duty Certificates

Note 1: A description in a general certificate should be sufficient if it is in the same form (whether in full or abbreviated) as in an executor's deed mentioned in clause d of Section 8 of the Regulation.

Note 2: Subsection 8 of Section 58 of the Act permits the use of either: (a) a description by reference to a registered instrument and the registration thereof, or (b) a "local description", which under Section 1 (ea) of the Act means a description drawn in accordance with the regulations.

Sec. 8 (b)

Mechanics' Liens etc.

A description under this clause should be sufficient if it describes the land by reference to the registration number of a previously registered instrument, whether or not the description in the previous instrument complies with the regulation.

Editor's Note: The following is an excerpt of interest to Surveyors from Mr. Priddle's memorandum dated June 26, 1964, to the Registrars regarding the forthcoming Regulations under The Registry Act.

- (6) Regulations governing surveys, plans and descriptions of land come into force on July 1, 1964. The following points should be noted:
- (a) Section 4 confers upon registrars discretionary powers to accept plans and instruments that do not comply with certain sections of the regulations. Registrars are requested to exercise these powers freely until the legal and surveying professions are aware of the new requirements.
 - (b) The regulations apply only to instruments executed after July 1, 1964.
 - (c) Section 7 provides for graphic descriptions instead of written descriptions, upon certain conditions. The land shown on a plan attached to and to be affected by an instrument should be indicated by a heavy outline, and only the land affected by the instrument should be shown on the plan. A description referring to an attached plan could read, for example:
 - 1. The part of Lot 3 in Concession 4 of the Township of Smith, County of Blank, shown within the heavy outline on the attached print of a plan of survey made by A. B. Green, Ontario Land Surveyor, dated July 2nd, 1964.
 - 2. In the Township of Smith in the County of Blank and being composed of that part of Lot 246 - according to Plan 123 registered in the registry office for the registry division of the County of Blank, designated as "Part 1" on the attached print of a plan of survey made by "etc."; together with a right of way for (purposes) over that part of Lot 246 according to Plan 123 designated on the attached print as "Part 2".
 - (d) Before a description by reference to an attached plan can be used, the original of the plan must be delivered to the registrar, and be in his custody. This will necessitate the numbering of the linens so that they may be readily located. I would suggest that they be numbered numerically beginning with 1, and possibly prefixed by "RD-", for Registry Description. A notation should then be made by the registrar on the instrument of the filing number given to the original plan, for example "Original linen of attached plan filed for reference under No. RD-1."
 - (e) If an instrument conveys three separate non-contiguous parcels, the attached plan may show them only within heavy outlines, or as Parts 1, 2 and 3. If a subsequent conveyance or other instrument deals with only one of those parts, a new plan will be required, because an attached plan must show only the land affected by the instrument to which it is attached. There is nothing to prevent a subsequent instrument using a written description instead of an attached plan.
 - (f) In abstracting, a brief description should be entered, to indicate the part of the lot affected, as well as a reference to the attached plan. The original

plans and attached prints must not be so large that they need to be folded more than once to reduce them to slightly less than "legal size".

- (g) Attached prints of plan should be folded once and completely microfilmed with the instruments. The original should not be folded unless absolutely necessary, but should be rolled, laid flat, or preferably suspended. If folded they should be folded only once and placed in large envelopes.

Richard E. Priddle
Assistant Inspector of Legal Offices

-05-

VARIOUS ASPECTS OF A SURVEYING CAREER

by J. W. Gavin

A surveyor was asked, "What is the most important aspect in a surveying business?" "Collecting the money" was the reply. In buying into an already-established survey business, money is a most important consideration. The ideal situation, I would think, would be to have the agreed-upon purchase price plus sufficient money to live on for one year. If this were possible, I would say that a person could probably carry on the business in the black with hardly any credit needed from the bank. From our own experience, it would appear that a business would need about \$6000 to \$7000 cash assets to operate in the black. Without this reserve, I would say that it would take a minimum of five or six years to get into the black.

Some of our younger employee-surveyors look at the tariff of \$60.00 per day and think that all they have to do to earn \$12000 for 200 days work is to hang up their shingle and watch the money roll in. A rather interesting figure taken from our operations shows that the profits on gross receipts varies from 17% to 40% per year but averages out to about 25%.

In my opinion, there are many advantages in buying into an already-established business as against setting-up a new business. In an already-established business with a good reputation, the clients are there and only have to be held. The necessary plans are available plus field notes of previous surveys. The office space, accounting, filing have been set up together with trained personnel for both office and field work. The nucleus of survey equipment, camp equipment are all available. Liaison has already been set up with all the various government departments such as Lands and Forests, Examiner of Surveys, land Titles, Registry Offices, Department of Highways, Hydro, Public Works, etc.

The value of a Land Surveying practice is a rather intangible thing. Without someone qualified to run the business and make use of the facilities, it does not have too much value. Before purchasing a practice, it would be well to look with a great deal of care at the equipment and its condition, the plans, type of notes, system used for recording and the method of indexing and filing the field notes and plans. Another thing to be considered is the method used by yourself and if different, which is the best method? If you consider your method best, can the other system be adapted or conversely, can you adapt yourself. I know personally that it can be extremely frustrating