



EDITORIAL

Streetline Confirmations under The Boundaries Act

Approximately two years ago the Borough of North York in Metropolitan Toronto decided to confirm under The Boundaries Act all streetline surveys necessary for project construction, i.e. engineering, improvement in road surfacing, new curbs and sidewalks, etc.

The major reason behind the decision was that the Borough spends annually a significant amount of money for legal surveys required to define the limits of lands which the Municipality directly owns or administers, which lands (including streets, parks, school sites) account for a minimum of 25% of the lands within the community.

The street limits established in the course of this resurvey programme are always subject to displacement or re-location by subsequent independent surveys and because the streets contain roadways, sidewalks, sanitary and storm sewers, water and gas mains, hydro and telephone lines as well as possible future underground storage, parking and other commercial uses, the need for confirmation of the limits of these lands becomes not only desirable, but essential.

For a small additional effort and cost, the municipality can obtain a decision on the legal validity of their survey by making application under the Act to the Director of Titles. Thus a new original survey is created and the boundaries, as monumented, become true, unalterable and not subject to challenge at a later date.

Although, in the past, municipalities have utilized the Boundaries Act for streetline confirmations, generally speaking, these applications were concerned with the boundaries of old trespass roads in the municipality and did not represent a policy covering all new legal surveys.

The present series of applications by the Borough is the first time a municipality has utilized The Boundaries Act as part of a continuing program of streetline surveys initiated for other purposes.

This idea is now spreading to other municipalities within the Metro Toronto region and surrounding areas. It has been slow in gaining momentum, but the next few years could see a flood of this type of application. The following figures will give a flavour of the increased number of streetline plans under application:

Year	No. of Plans
1969	8
1970	23
To May 11 1971	74
To Dec. 31 1971	Estimated 134

As a further use of The Boundaries Act, the Director of Titles has been asked to include confirmation of co-ordinate values as well as boundary confirmation. This idea is presently being investigated by the office of the Surveyor General of Ontario who is responsible for the co-ordinate system in the Province. Presumably the Surveyor General will be responsible for confirmation of the co-ordinate values of control monuments and the Director of Titles may then confirm the co-ordinate values of legal corners related to the already accepted control monuments.

An expanded program of streetlines confirmed as unalterable under The Boundaries Act, integrated with confirmed co-ordinate values for a control net and property corners, could begin to establish a new pattern for urban surveys. To seal off the problems and disputes of yesterday under a new co-ordinated "original" survey of street patterns, could bring order and reasonable costs a little closer to hand. Perhaps the Borough of North York has sponsored a minor breakthrough.

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Senior Examiner

QUESTIONS AND ANSWERS

Following is a question received from a reader and the answer given thereto. The answer was written by our Legal Division and is not an official decision of the government. Q. Regarding the status of streets on registered plans of subdivision which bear the note on the street and in the Owner's Certificate that the fee in the streets is not dedicated as public highway. The municipality has never passed a by-law assuming the streets, nor has the municipality done any work on them. Most of the lots on the original registered

(continued on page 31)

QUOTABLE QUOTES

The Court of Appeal of Ontario has given an interpretation of Section 13 (1) of The Boundaries Act as to who has the right of appeal to the Supreme Court from a boundary confirmation by the Director of Titles.

Section 13 (1) of the Act is as follows:

"Any person objecting to the confirmation may appeal to a judge of the Supreme Court who may decide the matter on the evidence before him or direct the trial of an issue and may dismiss the appeal or order the director to amend the survey and plan in such manner as the judge deems proper."

In interpreting the meaning of "any person", in *Re Fielding and The Queen*, O.R. 1968, Vol. 2, p. 407, Justice Aylesworth states:

"In applying ourselves to the construction of the Act and to the meaning of the words I have quoted from s. 13 thereof regarding a right of appeal from the Director of Titles, namely the words "any person", we find some help in principle from the decisions of *Amon v. Raphael Tuck & Sons Ltd.*, (1956) 1 Q.B. 357; *Wigley v. British Vinegars Ltd.*, (1964) A.C. 307; *Griffiths et al. v. Smith*, (1941) 1 All E.R. 66; and *Metropolitan Board of Works v. London & North Western R. Co.* (1880), 14 Ch.D. 521. We are satisfied that so far as the right of appeal is concerned the person contemplated is someone with an actual interest in or claim to the land, the boundaries of which are to be determined."

On page 405 a partial summary of the decision is stated as follows:

"Held, the broad language of s. 13 (1) of the Boundaries Act granting a right of appeal to "any person objecting" to an order of the Director of Titles must be given a restrictive interpretation appropriate to the intent of the Act and thus be limited to those persons with an actual interest in or claim to the lands, the boundaries of which are in issue . . ."

ACTION AND NEWS

Condominium Conference

U.D.I./T.H.B.A. held a condominium conference at the Town Hall, St. Lawrence Centre for the Arts, Toronto, on May 17, 1971.

A member of the Legal Surveys Division attended this conference to gain further knowledge in this rapidly expanding area of real estate development. The conference was composed of panels who discussed the condominium project under the following headings: planning, marketing, legal and management.

We understand that the hall was filled to capacity, the conference being well represented by solicitors and developers, but not by surveyors.

The Land Titles Act was extended to the County of Simcoe on June 1, 1971.

Metric System

(continued from page 24)

ourselves and our staff to think in meters, decimeters and centimeters. This will be essentially a problem of familiarization.

Why Change?

After studying the Government of Canada's "White Paper on Metric Conversion in Canada", prepared for the Hon. Jean-Luc Pepin, Minister of Industry, Trade and Commerce in January, 1970, I am convinced that legislation is imminent, making conversion to the metric system necessary. This legislation may be permissive or make conversion to the new system mandatory. The method by which this change is accomplished is of little importance; the effect will be that this system is imposed.

Permissive legislation would, most likely, allow the change to be gradual and on a voluntary basis. Under this legislation, change will be imposed by our clients because they themselves have been forced to adopt this system due to economic pressures.

Action To Take

We should anticipate this conversion by enacting by-laws allowing the inclusion of metric data on plans of legal surveys. We should initiate action now to have changes made in the various acts and regulations giving the metric system legal status, on plans of legal and control surveys.

I am not advocating complete conversion, at this time, but I am suggesting that surveyors be encouraged to show metric data on their plans in addition to feet and tenths of a foot. Plans of legal surveys which are fully integrated into the Ontario Co-ordinate System should show tables of co-ordinates in both feet and meters for all monuments established in that survey. In this way, the surveys we are performing at present will not require conversion at a future date.

Secretary's Page

(continued from page 30)

- (b) Accommodation — Hotel or Motel (receipt)
- (c) Meals — day rate \$12 or \$15 — except when paid by host.
- (d) Telephone, telegraph, etc. at cost.
- (e) Miscellaneous —
 - (1) registration — receipt
 - (2) tips — \$3.00 per day
 - (3) entertainment (?)

It was resolved that the memorandum of S. G. Hancock re expenses for Delegates and Wives be accepted with the insertion of automobile per mile .15¢, meals \$15.00 per day per person and entertainment \$15.00 per day.

Printing of Certificates of Authorization

Council resolved that the Secretary have the Association's Certificates of Authorization to practise surveying designed in a form similar to the Citation form and that the existing typed certificates be replaced thereby.

Report of Geodetic Sciences Committee

(continued from page 16)

of the University of Toronto, with a cross-appointment to Erindale College to develop a surveying program within the earth sciences at the College.

The committee continues to study curriculum content with the college and with prominent surveyors at the national level.

Survey law holds a significant position in the earlier years of the interim program. The committee is aware of the fact that an appropriate legal course of studies is not available in Ontario. It is desirous of developing one with the full co-operation of the other provincial associations, as it is believed that a broad-based course of the principles of law applied to survey does not have provincial bounds.

It is expected that Dr. Gracie will be working on the final curriculum during the fall school term and at that time we should have recommendations on the development of the legal subjects.

Summary of Association Brief

(continued from page 9)

held monthly meetings, interviewed recognized leaders and specialists in survey education in many countries of the world, and established a sub-committee of Ontario specialists in Geodesy, Photogrammetry and Cartography.

The committee at present is involved in a study group with the guidance of Dr. J. Tuzo Wilson, Principal of Erindale College, which includes others within the engineering, physics and law departments of the University of Toronto. Without prejudging the results of these studies, it appears that serious consideration is being given to re-orienting our university educational program from engineering to the earth sciences.

This is a step which appears to be endorsed by the other provincial associations across Canada as well as the leaders in the geodetic sciences in many countries. If this is to be the pattern for the future needs of the profession and the public, Ontario could again be taking the lead in this particular field.

Law & Surveying

(continued from page 20)

plan have been sold. The portion of the street that we are now dealing with is a dead-end section of a street that has never been opened or used by the public or by the owners within the subdivision. The owners of the original subdivision who own the adjacent land are now incorporating this portion of the street in a new plan of subdivision and this portion of the street will become parts of lots on the new plan.

Who owns the fee in the street?

A. In the absence of proof of non-dedication it would appear to be the law that upon registration of a plan of subdivision all streets are dedicated by the owner to the municipality concerned and that such dedication is irrevocable upon the sale of a lot on the plan and the fee in the street is held by the municipality. (See Re: Westwood Addition, Hamilton (1945) O.R. 257; Boland v. Baker and North York Township et al (1953) 2 D.L.R. 455).

In order to answer the question it is therefore necessary to consider whether or not sufficient indication has been provided as to the non-dedication of the portion of the street being a dead-end. Provided that it is clearly shown on the plan with respect to the portion of the street concerned that the fee was not dedicated as a public highway and the same notation was made in the owner's certificate on the plan, it would appear that this would be more than sufficient to take it out of the general rule that on registration of a plan of subdivision the fee in the street vests in the municipality. There is no case directly on this point but it would be very difficult to expect a court to give any other interpretation. It follows that the original subdivider has the fee in the portion of the street concerned and he would be able to deal with it as he sees fit.

FROM THE MAIL BAG

Dear Sir:

I wonder if anyone else has noticed the major fallacy in the Government White Paper on the Metric System?

It (the Paper) goes to great lengths to rationalize the adoption of **one** system, it goes on page after page setting forth the merits and reasons why the country should adopt one procedure.

But the White Paper itself is Bi-lingual!

Yours truly,
K. McLean, O.L.S.