

Chuck Salmon

Knowing your Property Rights: **Real Estate and Survey** **Professionals Working** Together!



British Columbia land surveyors work closely with Realtors® and other allied professionals to provide the necessary boundary location information to ensure the purchasers know what they are buying and understand where their property boundaries are.

This relationship may be stretched thin at times by the legitimate costs associated with determining property boundaries and relating the improvements on a property to those boundaries.

Many purchasers find that when trying to finance their property, they are required to have a survey done. Unfortunately they may consider the costs excessive because the true value of the work has not been explained to them.

Financial institutions lending money for property purchases have been using a new form of protection called title

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insurance, an industry that has been growing in British Columbia in recent years. Policies vary, but title Insurance usually protects **just the financial institution** in case a problem occurs in the future.

The purchaser needs to know exactly what the title insurance policy is protecting.

The homeowner may not be protected against the resolution of a problem or against any retribution that may be owed to another party because an improvement or other issue does not fit within the appropriate property setbacks or boundaries.

A survey, while possibly more costly than title insurance, will **protect the homeowner** from issues that may arise

in the future or make the homeowner aware of any potential issues before they arise. A survey will also identify the true location of property boundaries.

For instance, I recently learned of a situation where the property owners had believed from the date of original purchase some 15 years ago that their property boundary followed a concrete wall. Fifteen years later the property owners got into a dispute with their immediate neighbours. A land surveyor was called out to show the owners the location of the true boundary between the properties.

The field survey determined that the concrete wall was approximately 4 feet beyond the real property boundary. Fortunately the property was reasonably large and the location of this property boundary did not impact any fixed improvements, such as their home. It did, however, affect the concrete wall and a garden that these owners had put in.

The owners were quite irate. I understand, however, that they have calmed down now because they have

come to the realization that this matter could have been diffused if they had commissioned a survey at the time of purchase. And they would not have invested both time and money in the development of a garden area that they didn't own.

British Columbia property owners are protected by the Torrens system of land title registration, which ensures owners that they have title to the property. The exact size and extent of the property represented by that title, however, may not be as it appears on the ground. Their **title** to the property is guaranteed—just not the physical extent of the land. The only way to know the location of the true boundaries is through a professional survey.

For those reasons and many others, it is vital for Realtors® to ensure that they know the physical extent of any property title they are selling.

If the property has been surveyed recently, its boundaries may be clearly marked by survey monuments. On properties that have not been surveyed for many years, the monuments may be long gone.

In all areas, it is important to ensure that property boundaries are known and that those boundaries are based upon survey evidence on the ground.

Other issues might impact the location of the property boundary as it relates to a natural boundary. Natural boundaries have very complex issues relating not only to statute law but to common law. The rights and incidences associated with riparian issues can affect the ownership of land adjacent to waterfront. Two major factors are accretion and erosion. Accretion is the slow and imperceptible outward growth of land, while erosion is the slow and imperceptible loss of land. Both factors may affect the ownership of lands adjacent to a water body.

Some rural lands have creeks, streams, or rivers running through them. Again, the limit of ownership may well

be affected by the natural ambulatory movement of the water causing the banks to change and thereby change the title limits of the watercourse.

Another situation that may prompt a purchaser to consider involving a land surveyor in the title transaction would be if the property being purchased had a water boundary protected by a retaining wall. Over the years, the various owners may have shored up the bank and added fill to make the area appear pleasing. You must determine whether your property purchase includes the land located beneath those improvements to protect yourself against legal problems in the future.

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In all these cases, it is vital to involve a land surveyor when a purchaser is considering buying a property with a natural boundary that defines part of the property.

I would go so far as to say that Realtors® should ask a land surveyor to provide advice when **any title is being transacted**, to avoid property-line location problems in future for the purchaser or the vendor.

A good working relationship between Realtors® and land surveyors can ensure a smoother business transaction and make for a very satisfied homeowner. In future real estate transactions, that homeowner will remember the quality of professional service that the Realtor® provided. ▲

Chuck Salmon, BCLS, is the Secretary, Treasurer, and Registrar of the Association of British Columbia Land Surveyors.