

BOUNDARIES

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Why Do I Need A Land Surveyor?

If you have had anything to do with real estate, you will likely have been informed at some point that you require the services of a land surveyor. Typically, the first place you will hear this is from your local municipality, your

realtor or your lawyer when you are planning on selling, subdividing or developing your property. If you have never encountered such direction, or if you have and don't understand why you would need a land surveyor, it pays to be informed and prepared. Hiring a land surveyor has the potential to save you money and headaches while giving you peace of mind.

A land surveyor is a professional individual who has completed

typically six to nine years of schooling and a rigorous professional articling process. Known more specifically in Alberta as Alberta Land Surveyors (ALS), they are the only people who are legally allowed to establish boundaries. This includes the determination of the location of anything relative to those boundaries such as buildings or fences. In order for a survey of land to be completed legally, it must be supervised and signed off by an ALS registered with the Alberta Land Surveyors' Association (ALSA).

One of the most common surveys required in real estate is the survey for a real property report (RPR). An RPR is a legal document that clearly illustrates the location of visible permanent improvements on your property



relative to property boundaries. It is essentially a snapshot of the property at a moment in time that can and will be relied upon by buyers, sellers, lenders or municipalities as an accurate representation of the improvements on your property. As a result, an RPR is a very important document in such things as real estate transactions, development permit applications or mortgage applications. It offers protection to all parties involved. For the seller, an RPR provides protection from potential future legal liabilities related to property boundaries and improvements. For the buyer, an RPR clearly shows what is being sold and identifies any potential boundary problems that could hinder future development or neighbour relations. For the property owner, an RPR identifies any encroachments from adjacent properties that



The Alberta Land Surveyors' Association (ALSA), established in 1910, is a self-governing professional association legislated under the *Land Surveyors Act*.

The Association regulates the practice of land surveying for the protection of the public and administration of the profession.

should be dealt with and can be used in support of a development permit application.

While a real property report is a valuable document for all property owners, there are times when additional land surveyor services will be required. The survey of a real property report does not typically involve marking the property corners on the ground. As a result, if you are planning to build something like a garage or a fence, you will need to ask to have your property lines marked on the ground in the course of the survey. For many properties, particularly within town limits, this survey involves more than just locating survey posts at your property corners. For a variety of reasons, including destruction of posts during construction activities or the fact that posts were never set in the first place, many properties will have no legal survey posts at all on the property corners. In these situations, a survey of a larger area surrounding your property will be necessary to determine your legal property corners. Should you have legal survey posts on your property corners, it is critical that these posts be protected. In fact, it is illegal to tamper with them at all. Any construction done in the vicinity of survey posts must be done in such a way as to leave the post undisturbed.

There are a number of other activities that require the services of an Alberta Land

Surveyor including the subdivision of land, the creation of condominiums or the survey of roads and right-of-ways. Should you find yourself needing a Land Surveyor at some point and want to know more, don't hesitate to contact one and ask questions.

The Alberta Land Surveyors' Association is another great place to go for information on Alberta Land Surveyors and find a surveyor near you (www.alsa.ab.ca).



When you hire an Alberta Land Surveyor, you are acquiring the services of a professional. It could be the greatest financial investment you make in your property.

Ben Giesbrecht, ALS

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From the Archives

Check out these articles from past issues of the *Boundaries* newsletter.

- ❖ [Buying a Condo? What Will You Own?](#)
- ❖ [New Foundation and Garage Move Costs \\$5,000](#)

- ❖ [What is the difference between a plan of survey and a descriptive plan?](#)
- ❖ [How much does a survey cost?](#)
- ❖ [How do landowners or their agent apply for subdivision approval?](#)

This newsletter is published by the Alberta Land Surveyors' Association as a public service. If you would like to receive a copy of *Boundaries*, please contact us at info@alsa.ab.ca or 1-800-665-ALSA.

Readers may reprint an ALSA original article as long as credit is given to the *Boundaries* newsletter and the Alberta Land Surveyors' Association. *Boundaries* is also online at www.alsa.ab.ca/boundaries-news

Reading Measurements on a Survey Plan



Question: Where can I find additional information with respect to reading measurements on a survey plan? In particular, I am having difficulties measuring lot sizes on a legal subdivision plan. For example, how can I measure the frontage of a lot when I'm given the arc distance? How can I differentiate between the various numbers on the plan?

Reply: Subdivision plans, which are all registered in Land Titles, with Canada Lands Survey Records or with the Metis Settlements Land Registry, have to meet a standard and are required to show the dimensions of the property being created. Therefore, the dimensions of all parcels created by the plan should be present on that plan.

My experience as an Alberta Land Surveyor, as far as determining frontages of lots, is that the municipal jurisdiction that the parcel lies within, have criteria that they use to determine the frontage dimension as the property boundary is not always a perpendicular

dimension, and therefore they need to be consulted to determine their criteria.

In your example of you determining the frontage of a lot by measuring it, I must advise that measuring the frontage would require finding property corners and measuring between them. This exercise, within Alberta, falls within the exclusive scope of practice of Alberta Land Surveyors and therefore you would be in contravention of the Land Surveyors Act of Alberta and therefore may be subject to sanctions if you contravene the provisions of the Act. That being said, the frontage dimension of the property line is shown on the legal plan and is in the appropriate public filing facility and available for your review at that facility. Copies may also be available from the staff of the facility.

Some plans define dimensions of a curved property line by giving the arc or chord distance (clarified in the legend of that plan). Reduction of the data given, to the data you need, will require knowledge of geometry and trigonometry. These dimensions could also be obtained by hiring an Alberta Land Surveyor to perform these calculations for you.

All dimensions on the plan are clarified in the legend of that plan. The various numbers, as you mention below, should all be clarified in the legend, and this clarification coupled with a knowledge of geometry and trigonometry should give you what you need. The staff at the appropriate land registry office should also be of some help to you to understand what specific numbers that are shown on the plan, are, when you show them the number that has you confused.

David McWilliam, ALS (Ret), ALSA Registrar

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Ontario surveyors say land registry selling unauthorized copies of their work

TORONTO AND VANCOUVER, Nov. 15 /CNW/ - A proposed class action was filed in Ontario Superior Court of Justice today on behalf of all land surveyors in Ontario who are the holders of copyrights in drawings, maps, charts and plans registered, deposited or filed in the Ontario Land Registry Offices, and which were copied by the defendant, assembled in its data base and/or sold by the defendant without the consent of the plaintiff. The claim seeks \$50M in general damages, an injunction to prevent future use of copyrighted material without permission, and other damages.

The plaintiff, Keatley Surveying Ltd., claims that the defendant breached the Federal Copyright Act after the plaintiff registered and deposited a large number of works in the provincial Land Registration Office for the District of Manitoulin and elsewhere in Ontario. The plaintiff alleges that the defendant, as a third-party supplier to the provincial government, made unauthorized copies of the plaintiff's works, assembled them in a database along with unauthorized copies of drawings, maps, charts and plans created by other land surveyors in Ontario and similarly registered, deposited or filed in Ontario Land Registry Offices. The plaintiff further claims that the defendant sold unauthorized copies of the surveyors' works to members of the public



for a fee, collected money from the sale of the unauthorized copies and retained the entire purchase proceeds.

No part of the process of registering, depositing or filing copyrighted works in the provincial registry offices derogates from the federally mandated copyrights in such works.

At no time has the defendant notified the plaintiff or other class members that copies of their respective surveyors' works have been sold for a profit. Further, at no point has the defendant sought to obtain the consent of the plaintiff or other class members to sell copies of their respective surveyors' works to members of the public.

It is the plaintiff's assertion that the defendant's business model is based on selling unauthorized copies of the surveyors' works for a profit in breach of the clear provisions of the Copyright Act.

The Federal Copyright Act provides automatic protection for the creator of drawings, maps, charts and plans and as such the sole right to produce or reproduce the work; publish the work; produce or reproduce and translation of the work and the sole right to communicate the work to the public by telecommunication.

Plaintiff and the proposed class are represented by William O'Hara of Gardiner Roberts LLP and by Ward K. Branch and Luciana P. Brasil of Branch MacMaster LLP.

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