

Preparing a Survey Report Part 4: Frequently Asked Questions

This is the fourth article in a series of articles suggesting formats and contents of a survey report. Previous articles dealt with opinions on the location of corners and boundaries [Feb. 2008]; encroachments, gaps and overlaps [Mar. 2008]; and limitations of the surveying services [Jun. 2008]. This article will discuss using a portion of a survey report to deal with Frequently Asked Questions (FAQs) from the client.

Surveyors that choose to include this section in a survey report will often include some of the contents that would have been covered in other sections of the survey report.

The reason for including this section is to anticipate questions that a client might ask the surveyor. It does not take much time in practice for surveyors to hear the same questions from different clients. Surveyors can use a section of the survey report to anticipate and answer questions the client may have in regard to the services performed.

Consider some frequently asked questions that are common on almost all boundary retracement surveys.

One frequently asked question is why there is a difference between the record or deed distances and the retracement distances shown on the plat.

Why are there differences between the record distances and retracement distances?

When comparing the boundary distances stated in your deed with the distances shown on the plat, you will discover differences between the measurements. Differences are common, especially when there is a long period between the last survey and the current survey. In fact, it would be unusual not to have differences. The differences usually arise from one or more of the following sources:

Skill The distances stated in your deed were measured by individuals that more likely than not lacked training and experience in making measurements. It was not uncommon for surveyors to rely on local help, such as the client and a neighbor, to handle the chain or tape to perform the measurements. Procedures necessary for precise measurements were ignored or not known.

Uncorrected Errors Many errors that are now taken into account when measuring distances were ignored or not accounted for in the original measurements. For example, it was common for chains or tapes to be laid on the ground or measured along the slope rather than elevated so the tape

is horizontal. Tape corrections were ignored. Links in the chain became worn and stretched without compensation made for the stretched links.

Equipment The equipment used by the original surveyors was often unable to measure the distances as precisely as current equipment. A chain was composed of links no smaller than 0.66 feet (7.92 inches). Often the surveyor measured to the nearest half a rod (approximately 8 feet). In some cases, no equipment was used and distances only estimated—often occurring when crossing wide streams in the wintertime or bogs in the summertime.

Similar to the explanation for differences in distances is the question that often arises seeking an answer for the difference between record bearings and retracement bearings.

Why are there differences between the record bearings and retracement bearings?

The bearings shown on the plan differ from the bearings stated in your deed description. The lack of skill and imprecise equipment (compared to the present equipment) explained previously

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for the differences in distances account for some of the difference between bearings. In addition, the change in magnetic north over time also accounts for some of the difference. Local attraction (localized magnetic pull) also accounts for some difference. However, the biggest difference results from the dissimilarity between true north (aligning with the axis of Earth's rotation) that is used as the basis for the bearings in the current survey and magnetic north used as a basis for the bearings in the deed. This difference is known as the magnetic declination. The magnetic declination is approximately 20 degrees for the location of your property and at the time that the original survey was performed.

Another frequently asked question that is similar to the previous questions is why there is a difference between the area stated in the deed and the area shown on the plat.

Why is there a difference between the deed area and area shown on the plat?

Area is calculated from the distances and directions. (In some cases, the area cited in the deed was estimated rather than calculated.) Therefore, differences between retracement measurements and record measurements will result in a difference between the area stated in the deed and the area shown on the plan. In a few cases, only the net (neat) area was shown rather than the gross area. The net area would exclude the area under roads, easements, bogs, etc. In other words, only the area that could be used for usual and practical activities was shown.

Another topic drawing questions from the client concerns the boundary shown on the plan versus what the client owns. Often the surveyor discovers that possession or use of the client's property (or on behalf of the client) does not conform to the record information. Clients often have difficulty understanding that the extent of their title and rights do not always conform to the boundaries set forth in their deed.

Aren't the boundaries shown on the plat also the boundaries to the property that I own?

The boundaries shown on the plan represent the surveyor's opinion on the

location of the record or deed boundary. These boundaries may not conform to your ownership boundaries. Your deed is only evidence of your title, not proof of your title. Various legal doctrines such as acquiescence, adverse possession, etc. may result in the location of the ownership boundary residing in a different location than the record or deed boundary. In some cases, a common grantor mistakenly conveyed part of the same property to different people. These are some reasons why title insurance is often recommended.

Clients will often question why the surveyor shows fences, areas of use, features, etc., when the client wanted only a boundary retracement survey (that is, only their boundaries shown).

Why does the plat show fences, trails, roads, utility lines, and other features or areas of use?

Use, occupation, or possession that does not conform to the record boundaries or deeds may give rise to certain adverse rights or conflicting title that is not reflected in the records (or records discovered within the time frame of the research). In some cases where the use or occupation is within the boundaries, the structures or use violates building set back distances or other zoning restrictions. As a result of the ramifications resulting from occupation, use, or possession, the visible occupation or use is shown on the plat.

Common problems encountered by the surveyor often result in common questions that can be answered in this section of the survey report.

What should I do when (if) my neighbor's surveyor does not agree with the survey that was performed for me? (that is, the common boundary shown on the plat is different from where the neighbor's surveyor shows the common boundary)

It is not unusual for two surveyors looking at the same information to arrive at different opinions. Conflicting information, the disappearance of boundary evidence, and so on make an opinion anything but certain. Any potential boundary dispute must be discussed with your attorney.

Experience indicates that you generally have four choices: 1) You can accept the neighbor's claim. While this choice may result in the possible loss of some title or rights, the loss may not be worth the cost to settle the dispute. 2) You can talk to your neighbor and negotiate a compromise over the difference. The compromise may be as simple as splitting the difference or paying the neighbor to recognize a particular boundary. While negotiation is often successful, attempts at negotiation or compromise will sometimes result in heated words and increased animosity causing what the negotiation was meant to prevent—costly litigation. 3) You can litigate with your neighbor and attempt to have the court determine the correct boundary location. Litigation costs can exceed \$10,000 without guarantee of success. The complexities of boundary litigation often overwhelm a judge or jury. Decisions are made despite the fact that the judge or jury are confused. More people than not are frustrated by the cost and slowness of litigation, even those that are successful. 4) You can agree with your neighbor to submit the contentious difference to alternate dispute resolution (ADR). This option may include mediation or arbitration. Arbitration is equivalent to hiring a judge (or third surveyor) and agreeing to be bound by that decision. Hiring a judge or third surveyor is often far less expensive than the normal litigation process and is usually much quicker.

There are numerous other topic areas that can be dealt with in this section. Consider a few of the common questions heard over 35 years of practice:

- Can I replace the monuments you set with other objects?
- Can I put a fence on the boundary you marked or do I have to keep it back from the boundary?
- Can I hammer the pins you set so the entire length of the pins are below the ground surface?
- Will you know if the corner pins are moved?
- If the pin is removed later, do you replace them for free?
- Should I replace the ribbon that you have hanging around my property?

- How can I maintain the visibility of my corners and boundaries?
- Why did the survey cost so much, you were only surveying for a couple of hours?
- I had a title search done when I bought the property, so why do you have to perform research too?
- How come two surveyors can't agree on the same location?

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- Should I record my plan?
- Do I have to record my plan?
- Can I cut the trees that are on the boundary?
- Why did you have to cut some of the vegetation on my property?
- Can I get more plans later if I want them?
- Can I use this plan to subdivide my property later?
- How long is this survey good for?
- Why did you put (that ugly) orange paint on my corner monuments?
- Should I paint the blazes on the trees that are around the corner monument and along the boundary?
- Is this plat all I need to develop my property?
- Who else will know about the information on the plan?
- If I record my plan will my neighbor be required to recognize the boundary shown on the plan?
- If you survey for my neighbor, will I get some of my fee back?

Not all of these questions are necessarily appropriate for the contents of the survey report. There are many other questions that can be added to this list. The point is, this section of the report can be used to answer common questions and educate the client about the services provided and the boundary that was reestablished.

Once the surveyor has developed a good written response to a common question, the response can be used again and again for other clients.

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