

CHAPTER 1

PURPOSE OF THE BOOK

This book was developed to meet the needs of attorneys, abstractors, realtors, land planners, entrepreneurs, and others who must use and evaluate the work of professional surveyors. Boundary survey plats or maps, property maps, topographical maps, survey reports, and property descriptions, among other things, are all products of the professional surveyor. Rapid increases in technology, data availability, land values, community/regional planning, and the modern propensity for litigation have meant that more and more nontechnical individuals have begun to use and rely on increasingly complex and technical land information.

The most significant of the modern advances in Land Information Systems (LISs) or Geographical Information Systems (GISs) has been the Internet. Virtually any tidbit of information that can be associated with a geographic position can now be made available to anyone with an Internet connection. Anybody and everybody who desires to explore land uses, owners, zoning, regulations, conditions, and so on can now have that data at their fingertips. Municipal, state, and federal archives; agencies; and other organizations maintain web sites where the visitor is free to explore databases without restriction or *professional assistance*. Without a clear understanding of the source, reliability, and *intended use* of that data, an unsophisticated user can cause more harm than good. Indeed, there is a real danger that the ease with which this information is obtained will facilitate misapplication of that data while at the same time circumventing professional assistance.

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As an example of the sort of confusion that can result from misuse of the sophisticated GIS data banks available today, an electronic database may be compiled for the intended purpose of identifying properties for appraisal and taxation. This data would typically be presented on the Internet in the form of a map developed from aerial photography. The boundaries on that map were created by technicians who reconciled fence lines and other visible features with whatever deed documentation was available. A user might access that map and, because the computer allows it, obtain distances, directions, and quantities of the real property parcels as presented in that graphic representation. While presented by the computer as precise, the distances, directions, and acreage obtained in this example would be far from accurate.

The location, configuration, and description of real property parcels are just some of the multitude of important geographic questions people typically have. The recovery, documentation, and interpretation of this data are the professional specialties of the Land Surveyor. Once a person realizes the necessity of obtaining the services of a professional surveyor, they may have difficulty in communicating to the surveyor just what it is they need. From attorneys to private citizens, the word *survey* has many different meanings. For example, a determination of boundary location for the purpose of erecting a fence is a “survey.” The determination of the elevation of a building for the purposes of obtaining flood insurance is a “survey.” The recovery or remonumentation of the boundaries of a parcel of land for the purpose of an exchange of title is a “survey.” Each of these examples is called a “survey,” yet the scope of work, the responsibilities of the surveyor, and the *expectations* of the persons ordering the “survey” are all very different.

A better basic understanding of just what a surveyor does and does not do can make the difference between complete service and unsatisfactory results. Much litigation, confusion, and aggravation can be traced to a misunderstanding between the surveyor and the client. It is essential that the surveyor be informed of the exact purpose of the survey being requested. The completeness of the surveyor’s report, the extent of his or her research, the areas examined, and other pertinent work vary greatly, depending on the type of survey that is being conducted.

Compounding the problem is the fact that the person requesting the services of a Professional Land Surveyor may not be the person using and interpreting the results of the work. This “third-party” use of a surveyor’s maps or reports is rife with dangers, not the least of which happens when the user assumes that the surveyor did what the user wanted done when in reality the surveyor carried out the client’s

orders. For example, an owner of a vacant urban lot may request that a surveyor recover only the boundaries of that lot. Easements, servitudes, building restrictions, and other important title restrictions that impact on the enjoyment of that lot do not affect the boundaries of that lot. The surveyor would then recover or mark the boundaries and issue a report in the form of a drawing to the owner, showing the dimensions of the lot and the locations of the boundary markers. If, at a later date, the owner were to sell the lot, he or she could present this drawing to a buyer. The buyer, having no knowledge of the limited request of the previous owner, might then rely on the drawing produced as if it reflected all of the information about easements, servitudes, buildings, and other facts important to the buyer. The resulting lawsuit would charge that the surveyor neglected to perform the extensive work that the buyer needed when he or she complied with the limited request of the owner.

The grief, aggravation, and expense resulting from the previous scenario could easily be avoided if the buyer or the buyer's attorney confirmed that the drawing presented to them contained all of the information that they wanted to know. Third-party situations like this one have resulted in so many lawsuits that many surveyors now place explanations of the extent of the work done by them in producing the survey plat directly on the plat. Some state registration boards have even adopted a regulation or "standards of practice" that require such statements.

The Land Surveyor is an investigator—a detective more than anything else. The subject of the investigation is the location of the boundaries of real property. In the pursuit of the evidence necessary to determine, with relative certainty, the original location of a particular boundary line, the same rules of evidence apply as in any civil court. Surveyors not only measure angles and distances, but also perform extensive records research in private and public files in an effort to reveal as much information as possible about the *location of boundaries*.

This extensive research does not normally include many other factors involved in property rights. Title insurance is a different service from a boundary survey, although most title insurance policies include the requirement that a boundary survey be performed. Easements, servitudes, building restrictions, setbacks, or side clearances for new construction, flood zones, and regulatory zoning, among other things that limit the use and enjoyment of real property, are not essential to the recovery of boundaries. If you wish to have all, or any, of these items shown on a survey plat, you must tell your surveyor.

The surveyor will report evidence of these factors limiting the free enjoyment of a real property parcel whenever it is discovered in the

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normal course of boundary recovery. If an original subdivision plat includes an easement, the surveyor will normally report it. If an easement is granted separately from the subdivision recordation, the surveyor may not have the occasion to discover it. The records search by a Land Surveyor takes a much different route than that of a title examiner. Provide the surveyor with the complete title record if you wish it to be shown on the survey plat. Otherwise, a boundary survey will result in the recovery and a report (plat) on the real property limits of a particular parcel *and nothing else*.

This book is intended to bridge the ever-widening gap between the users of land boundary information and the producers of that information—professional Land Surveyors. To that end, the information in this book will be only as technical as necessary to convey general concepts and will be presented in such a way that every reader, from one experienced in the use of land boundary information to the novice, will gain a better understanding of the profession of land surveying and the products of that profession. The early chapters of this book provide a very important background to understanding real property surveys because they deal with the root causes of confusion and misunderstandings concerning boundary surveys and the survey plats or maps that are produced as a result of surveys.

Real property laws, traditions, and practices vary throughout the United States. This book will not attempt to address the specific details of every state but will describe in a general setting the common facts found throughout the United States. The reader is advised to determine how the particulars of real property laws and the principles and practices of boundary surveying in his or her area vary from the general concepts addressed in this book. Most local surveyors or professional surveying organizations are very happy to assist anyone in familiarizing themselves with local practices.

A large portion of this book is devoted to the writing, reading, and interpretation of legal descriptions of real property parcels. That portion will be devoted to the mechanics of legal descriptions and will not presume to advise the user on the appropriate form of legal description to use for a particular situation but, rather, will tutor the reader on the geometric and semantic aspects of describing real property parcels. The great differences between those regions of the United States known as “metes and bounds” areas and United States Public Land Survey (USPLS) areas will be explored in depth.

This book will serve both as a handy, daily reference guide and as a tutorial text. The reader may want to refer to portions of this book when ordering survey work or when evaluating survey plats, legal

descriptions, or reports already received. Although this book will improve the reader's understanding of land surveys, it will not make the reader a Land Surveyor. Many highly technical aspects of measurements, computations, details, and equipment are only lightly referred to, if at all. Sophisticated research and recovery techniques, so vital to the recovery of boundaries, would make a book in itself. Your Professional Surveyor is the expert you must rely upon for these skills.

This book will not serve as a substitute for qualified legal assistance in the interpretation of real property rights or transfers. The survey plats and problems used as examples in this book are highly simplified versions of their more complicated actual counterparts. The laws concerning boundaries and real property rights differ from state to state and change over time. Some general rules are mentioned, but these are not to be interpreted as universal laws. The attorney is the professional who should be relied upon for the status of real property law in a particular area. The reader should make note of such regional variations as may exist when he or she is using this book.

