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Property Boundary Information for the Laymen

DATE: November 10, 2010

TO: Interested Persons

FROM: Lance King LSIT

Introduction:

This memorandum is prepared for the purpose of providing general information about Property Boundaries. It is hoped that it will provide the reader with additional information and an understanding of the role a surveyor plays in property boundaries. This report is merely a bundle of information and personal opinion, the author of this report is not qualified to write about or discuss the many laws pertaining to surveying or real property title issues.

Definitions

Property

This refers to the interests, benefits, and rights inherent in the ownership of physical real estate. It is the bundle of rights with which the ownership of real estate is endowed.

Property Line

The division line between two parcels of land, or between a parcel of land and the street.

Boundary Line

A line along which two areas meet. In specific cases, the word "boundary" is sometimes omitted, as in "state line", sometimes the word "line" is omitted, as in "international boundary", "county boundary", etc. The term "boundary line" is usually applied to boundaries between political territories, as in "state boundary line", between two states. A boundary line between privately owned parcels of land is termed a property line by preference. A line of the United States public land surveys, is given the particular designation of that survey system, such as section line, township line, etc.

The term boundary line as defined above is often misused and applied to the division line between privately owned parcels. I will point out that surveyors are probably the most guilty of this misuse, I often see this misuse in books, reports, case law and state statute. It is probably misused the most when problems between private parcels occur; the term "boundary line" being more "official", is substituted to provide an emphasis on the argument. In this memorandum I will often continue this emphasis and make such a substitution.

The creation of Property Boundaries

The most common creation of a property boundary is the subdivision, a plan called a plat is formulated and executed. Surveyors physically place monuments on the ground at each corner of each lot, along with monuments at the beginning

and end of each curve along the street. The plat is then recorded and the property lines are created.

The second most common method is the single split of a parcel of land. This process varies greatly from state to state with many different requirements and procedures. Basically an owner wishes to split his or her land and sale to another party. Some of these parcel splits are performed by the owners writing (in words) the description of the parcel they are selling. Others have a surveyor measure the area to be sold The surveyor then prepares a map and a land description. In most cases both of these methods are legal and acceptable methods for creating property boundaries.

The third method is a matter of law, by rulings on property disputes a judge may create, modify, and relocate a boundary line.

When surveyors create boundary lines they are almost always retracing older boundary lines. For example, when creating a subdivision the outer boundaries of the subdivision has to be retraced to control the limits of the new lots within its outer boundary the same is true for a single lot splits.

Original Boundary Monuments

The original boundary monuments in their original location control the boundary line, this means that if the original monuments used to convey the land are found and proven to be in their original location those monuments mark the boundary line. Often in the retracement of boundaries it is found that original distances and angles that were taken between the original monuments are different than the retracement measurements. This is often due to the development of more modern and precise equipment.

What does this mean?

If the monument is proven to be in its original location, it is held as fixed and the boundary line is fixed in its original location. This is done because we cannot continuously move monuments and boundaries between parcels just because newer, better and more precise measuring devices are available.

The Surveyor and the Boundary Line

The Surveyor is either the original surveyor setting original monuments, which when proven will be held as fixed locations marking the original boundary line, or the surveyor is a retracing surveyor, retracing the foot steps of the original surveyor or original parcel creator.

The retracement survey is the arena in which I will provide information and personal opinion.

The retracing surveyor will be asked by the landowner to "mark the boundary of my property".

What does this mean?

When you buy property the land is conveyed "sold" to you in writing using a deed, this deed is the writings that describe the land and often refers to maps and other documents that aid in describing the land you are buying.

The surveyor will need at a minimum your deed. Other documents that may aid in the retracement of the boundary lines are: other survey maps in the general area, your neighbors deeds (on all sides), any information regarding the property lines in the area including agreements, claims from others, old fence line or usage line locations, title report and junior senior deed research. These documents are not fact of the lines but are used as evidence of the lines, these documents are much like the pieces of a puzzle and fit together to form the complete picture. The surveyor uses all the information you provide, all the record information on file, along with additional information not of record that he or she may have knowledge of, performs interview with you and other local land owners in the area and performs field measurements. After performing all this work and a full review of all documents the surveyor forms a Professional Opinion as to the locations of the boundary line.

An Opinion?

Yes a Professional Opinion and like all opinions it will be based on the information that was discovered and provided. Each piece of information is like a piece of a puzzle that form a complete picture, the withholding of one piece of the puzzle changes the puzzle and thus may change the picture. (The opinion).

In most cases the deed document along with other record maps and field measurements will allow the surveyor to retrace the original line and all will be well.

Selecting a Professional Land Surveyor

When selecting a Professional Land Surveyor you should make sure that you are selecting one that collects all the evidence possible, forms an opinion based on sound survey practices, state laws, regulations, case law and all the relevant evidence, an opinion that locates the original line and when challenged in court is upheld.

If you find yourself "on the other side of the fence" and don't like the opinion that your neighbor got from the surveyor, keep in mind that it is only an opinion and if you did not contribute to that opinion and you know you have relevant information about the true boundary line, chances are you may get a better and more complete opinion once all the evidence has been brought to light.

You know what they say about opinions.

Sincerely,

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