

A GUIDE TO UNDERSTANDING LAND SURVEYS

Second Edition

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For my father, Eugene

FOREWORD

Like that of other highly skilled professions, the complexities of surveying are not well understood by the average person. Although common knowledge includes measuring and drawing maps, there is considerably more responsibility attached to a routine survey. In addition, the land surveyor is involved with many other things, such as the application of legal rules in deciding boundary questions, writing and interpreting land descriptions, researching records, resolving conflicts and encroachments, using aerial photography and satellite data, as well as testifying in court. Also important is the ability to work and communicate with others to address their needs or to satisfy their requirements. To have an appreciation for, and an understanding of, what a surveyor is concerned with requires some study.

Stephen Estopinal has ably explained in a readable manner many of the functions and procedures required in every survey—routine or otherwise. He has gone beyond that, however, and has delved into the reasons that make these functions and procedures necessary. With a basic understanding of what is done and how it is accomplished, the reader not only will have an appreciation for a survey, a plat, or a land description but also will be able to evaluate it in its proper perspective and realize any inherent inadequacies or discrepancies that may exist. Additionally, and perhaps even more important, the reader will have a much better idea of when a survey is needed to solve a problem or to obtain an approval, and what data will need to be collected or evaluated.

As Stephen Estopinal has outlined in Chapter 1, one of the objectives of this book is to meet the needs of others dealing with rights and interests in land. A highly positive aspect of this book is the author's continual relating

of the survey and title aspects to one another, demonstrating that, although they are different, title and location are two separate entities, which are companions resulting in a single concept of land ownership and possession.

DONALD A. WILSON

Land Boundary Consultant
March 1992

PREFACE

The user of land information has been severely handicapped, because the survey profession had assumed that the information produced in maps and plats was as easily understood by the lay person as by the surveyor. Misconceptions and incorrect assumptions on the part of attorneys, landowners, realtors, and others who use the information produced by land surveyors have led to expensive and totally unnecessary paperwork, delays, and even litigation.

After being hired as a consultant on a case that proved to be one of unnecessary turmoil created by the misinterpretation of old survey information, I began to search for a good reference book that I could recommend to nonsurveyors, particularly attorneys, who frequently reviewed survey information. I discovered that libraries are filled with books about surveying or the science of measurement written for surveyors, as well as books about real property law written for lawyers and even books about real property law written for surveyors. Nowhere could I find a book about surveying that was written for the nonsurveyor. The first edition of *A Guide to Understanding Land Surveys* was my response to that need.

Since it was first published in 1989, I have received many comments on the book. Surveyors were delighted that they finally had a reference book that they could give to their clients that would help both to communicate. Attorneys, realtors, and other users of survey information were delighted that they finally had a book that they could read without wading through a bunch of "how tos" on the techniques of surveying. Each group found elements that they thought could be added or expanded on and areas that

they thought could be trimmed down. This second edition is a response to that input, yet retains the unique character of the original work.

Chalmette, Louisiana
June 1992

STEPHEN V. ESTOPINAL

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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, land values, and community 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.

Persons who find themselves in need of the services of a professional surveyor 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 person 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 upon 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 only recover 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