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The cover photo titled "Field of Fences" was published in The Calgary Herald on November 6, 2003. The photo was taken by Mikael Kjellstrom.

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president's message

by Jim Halliday, ALS

Every year, we get another year older.

As I travel across the country and participate in the annual meetings of the survey associations, it seems that the most prominent item of common concern is demographics. Now that I have attended the majority of these meetings, it seems that Nova Scotia may be the only province sitting in a comfortable position with respect to surveyor to public ratios. To me, a declining membership leads to the concern of overburdening and burn-out for our volunteer workforce.

Within ten years, demographics are likely to not only put a squeeze on our capacity to provide land surveying services but also threaten the sustainability of our professional associations.

Demographics are a bit like freight trains. You know where they're going long before they get there – but it seems there's little you can do to stop them. In the case of professional surveying associations across Canada, we're facing an unprecedented exodus of our senior-most land surveyors that may put a dent in our ability to provide service – and will almost certainly put a crimp in the volunteerism that our professional bodies are built upon.

As we look at our current figures, almost half of our 300 current Alberta Land Surveyors are over age 51. Another third are between the ages of 41 and 50 years. Only 59 of our current surveyors – or about 20% – are age 40 or under. About 40% of our active land surveyors have been practicing 25 years or more.

Within ten years, it is entirely possible that half of our current active membership will be retired. We are adding 12 to 15 new members a year, which compared to other provinces is an encouraging pace—but ultimately it will prove barely sufficient to

As we wind down the calendar year, I would like to take this opportunity to wish all a most enjoyable Christmas season.

maintain our numbers. It will certainly not seamlessly replace the centuries of accumulated experience that are on the verge of leaving the profession.

In another five or ten years:

- *Will there be enough land surveyors to serve the needs of the expanding market?*

Market research indicates that the economy will continue to grow not only in Alberta but also across the country.

- *Will there be enough hands on deck to continue the pace of volunteerism on which our Association is built?*

- *When the shift takes place and the dust begins to settle again, will we still have land surveyors in all the right places?*

Alberta may be one of the luckier provinces. Many University of Calgary graduates in geomatics, as well as other disciplines, come from other provinces but, owing to the strong economy here, opt to stay in Alberta. For most other provinces, the demographic crunch is more severe.

Outside of our cities in rural Alberta, almost two-thirds of active Alberta Land Surveyors are over 50 years of age. Only 5% of active surveyors in rural Alberta are under 40. Who will succeed the oncoming wave of retiring rural professionals? In my experience, it is not an easy task to attract the recent geomatics graduate or newly commissioned land surveyor to the smaller centres.

This leads to the issue of self-governance. Fully one-quarter of our members currently play active, continuing volunteer roles in our Association. As I have previously stated, this is what makes us strong and viable as a self-governing profession. We ask for, and receive, much from our members. But in the face of the demographic situation, is it sustainable?

To summarize, in addition to Council and Executive we have fourteen statutory, standing, advisory and ad hoc committees. Committees usually meet once a month and members serve two or three-year terms. ALSA members also devote their time to represent the Association on several other bodies, including the Alberta Society of Surveying and Mapping Technologies (ASSMT), the Western Canadian Board of Examiners (WCBE), the Geomatics Engineering Liaison Committee (GELC), the Canadian Council of Land Surveyors (CCLS), the Real Estate Transaction Committee (RETC), Buried Facilities Task Force, Digital Submissions Review Committee and the Cadastral Mapping Specifications Advisory Committee. Collectively, ALSA members pour tens of thousands of hours into making our self-governing profession work.

We are already encountering a trend of non-attendance in committee meetings. Is this a function of a buzzing economy and “full plates back at the office”—or simply of volunteer burn-out? Is it the tip of an iceberg that will one day threaten to sink the good ship ALSA?

Discussions with past presidents who have had the task of heading the nominating committee reveal that finding people who have the time and energy to serve the Association is

....continued on page 10



councillor's forum

by Dirk Vandenbrink, ALS

Snell & Oslund Surveys Ltd. recently moved to another location in the same building and, during the moving process, I went through all the 'stuff' in my office intending to move only what was important to me and what was important for my business.

It is amazing what a person collects over time and I ended up throwing away several large boxes containing old letterhead, old rate schedules, outdated advertising that I had put aside to look at later, used envelopes, broken gammon reels and other broken field equipment, outdated computer parts, probably a hundred or more 5 1/4" diskettes, old rolls of fax paper, old promotion brochures and outdated software manuals just to name some of the items.

We also discovered some interesting historical items buried in a few boxes that had not been unpacked from our last move. We found annual reports of the ALSA from 1912 and 1921. We also found Tariffs for Making Surveys in the Province of Alberta for 1915 and 1921. These were undoubtedly left behind by Charlie Snell long before my time. We had been at this location for about ten years and what struck me, as I was going through the moving

...the experience on Council has been rewarding...it also allows me to get away from my busy office and the phone a few times each month.

Moved by Mr. McDonald, seconded by Mr. Townsend, "That the matter of giving publicity to the invalidity of certificates as to surveys by persons other than authorized surveyors be referred to the Council with a recommendation that a circular should be drafted, printed and issued to that end."
—Carried

Excerpt from Annual Report of the Alberta Land Surveyors' Association, 1912

process, was how much had changed in the way we do our business in those ten years. The fundamentals, however, of what we do as Alberta Land Surveyors have not changed all that much, even compared to 90 years ago. We are still primarily in charge of determining or establishing owner-

ship boundaries. We are just using different technology and methods to do so. Several of the issues described in those old annual reports are not all that different from some of the issues we face today.

Our ALSA Council was charged by the membership at our last annual meeting to consider creating a task force to develop a vision for the future of the Alberta Land Surveyors' Association. In the beginning of October, Council met for two days in a combined Council meeting and visioning workshop. As a result of this meeting, Council was able to focus in on some of the issues that could be critical to the future of our Association and prioritize some action items accordingly. As a first-time member of Council, I found this process to be very enlightening.

One item of priority is the future membership of our Association. Our Alberta economy has been beneficial in attracting new Alberta Land Surveyors to our province. Even so, when you look at the age demographics of our Association, there will likely be a severe shortage of Alberta Land Surveyors within the next ten to fifteen years. If present trends continue, the shortage will be even more severe in some of the other provinces. Our profession needs to look at ways to attract new members without lowering the educational standard.

In closing, I would like to say that, so far, the experience on Council has been rewarding. This is the first year of my two-year term. It does take some commitment of time but it also allows me to get away from my busy office and the phone a few times each month. It has been a privilege to work with the fellow surveyors and staff of our Association.

TARIFF II		SUBDIVISION SURVEYS							
For any Survey under Section 51 of The Land Titles Act, where only one plan is required and a description, the minimum charge is		\$35.00							
For Survey of any number of lots up to 10, including plans for registration, charge		\$50.00							
Number of Lots		RATES PER LOT IN SOUTH ALBERTA LAND REGISTRATION DISTRICT				RATES PER LOT IN NORTH ALBERTA LAND REGISTRATION DISTRICT			
		60 ft. lots	50 ft. lots	33 ft. lots	25 ft. lots	60 ft. lots	50 ft. lots	33 ft. lots	25 ft. lots
17 to 25 lots, with plans for registration	.....	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00
26 to 30 lots, charge as for 30 lots	.....							
30 to 40 lots, with plans for registration	.....	2.50	2.50	2.00	2.00	2.50	2.50	2.00	2.00
41 to 50 lots, " " "	.....	2.25	2.00	1.75	1.60	2.25	2.25	2.00	1.80
71 to 100 lots, " " "	.....	2.00	1.75	1.50	1.40	2.25	2.00	1.75	1.60
101 to 200 lots, " " "	.....	1.75	1.50	1.50	1.30	2.00	1.75	1.50	1.40
201 to 300 lots, " " "	.....	1.50	1.40	1.20	1.10	1.75	1.50	1.30	1.20
301 to 600 lots, " " "	.....	1.50	1.30	1.10	1.00	1.50	1.30	1.20	1.10
601 to 900 lots, " " "	.....	1.40	1.20	1.00	.90	1.50	1.30	1.10	1.00
901 to 1200 lots, " " "	.....	1.30	1.10	.90	.80	1.40	1.20	1.00	.90
1201 to 1800 lots, " " "	.....	1.25	1.00	.80	.70	1.30	1.10	.90	.80
1801 to 2000 lots, (if adjoining the same Townsite)	.....	1.10	.90	.70	.60	1.15	1.00	.80	.70
2001 lots and over	.....	1.00	.80	.65	.55	1.00	.80	.70	.60

Note.—The above rates are subject to clauses 1, 2, 3 and 4 of Their III of "Additional Rates and Rules."

Excerpt from: Tariff for Making Surveys in the Province of Alberta 1915



editor's notes

by Brian Munday, Executive Director

We receive a ton of information at the Association office. Ok, maybe it doesn't really weigh a ton but I am sure if we printed out every email message and stacked them up with every letter, newsletter and magazine we receive, it would probably be close to a ton.

Every now and then, as I read through this mountain of material, I will see several stories or articles within a short space of time that seem to hit on the same subject.

I read an article called, "Blasphemy Then, Reality Now" by Dr. Noel Hershfield of the *Alberta's Doctors Digest*. Dr. Hershfield's article was a comment on Ivan Illich's diatribe on modern medicine, "Medical Nemesis: The Expropriation of Health." Dr. Hershfield stated that many of Illich's ideas were considered blasphemy at the time by most physician commentators, but that today, they are coming true. Illich apparently advocated that anyone was at liberty to take any drug or treatment of his or her own choosing. Illich also suggested that anyone should be able to seek out any healer desired whether it be a homeopath, doctor or witch doctor.

I have not read Ivan Illich's work so I cannot comment on Dr. Hershfield's interpretation of Illich's work. However, the main point, as I read it, was that the general public is taking more and more responsibility for their own health care. Instead of blindly accepting how one doctor has diagnosed me, I might get a second opinion or start asking some specific questions. I might choose to visit a health food store for vitamin supplements or I might consider a visit to an acupuncturist rather than dealing with traditional treatments.

The second story that came to my attention was from the *Gem State*

The second thing...that we need to do as an Association is to educate the public about what an Alberta Land Surveyor does and prepare for the future as more landowners feel they can be their own surveyor.

Surveyor, the magazine of the Idaho Society of Professional Surveyors. In the article, Kim Leavitt writes about "...a man who wanted me to give him coordinates on the corners to his aliquot-part section land property. He wanted to find his property corner with his hand-held GPS unit. When I inquired about his intent, he suddenly became evasive. I explained to him that the corner he was searching has never been placed by the original surveyor, except from the section and one quarter corners. His response astonished me. He told me that he was going to find or place his corners himself. He didn't listen to the rest of the discussion about not placing corners without the benefit of a license." Mr. Leavitt goes on to discuss the importance of the profession educating the public about the public's knowledge of surveying and the misunderstanding about today's technology. All of us probably have stories about clients who thought they could be a surveyor because they had a hand-held GPS unit or a tape measure to measure from the corner of their house to a fence post. They did not see any reason why they could not do it themselves.

Then, finally, I received an email from Scott Partridge. They say things always happen in threes. Scott directed me to the website for www.ussurveyor.com. On this website, they announce that you can order a "survey your own property" video or DVD for only \$19.99 plus shipping and handling. The advertisement goes on to state that you can save hundreds of dollars. It's supposed to be the first edition of a series that shows the easy method of locating iron pins or metal monuments on and around your lot. "This is an easy and understandable guide to the mystery or how 'land surveyors do it.'" When I last looked at the website, the video was "coming soon." I don't know if this video will really be advocating that landowners should dig up their iron posts to locate their own property corners or whether the video will, in the end, encourage that landowners hire a professional land surveyor to accurately locate their property corners.

So what do all of these things have in common? The public is expecting to be able to do more and more things on their own without the benefit of trained people. It really wasn't that long ago that gas stations moved from full service to self-service. Nowadays, most of us would rather pump the gas ourselves.

How many of us go into the bank anymore? More and more of us are using ATM machines to withdraw money and pay bills. The do-it-yourself business is growing rapidly with more and more Home Depot and Rona stores popping up all over.

What is the reason behind this phenomenon? I once spoke to the University of Calgary geomatics engineering students about this and gave them my theory. I told them that

I thought people like to feel in control of situations. If we want a job done right, we are going to do it ourselves. This means depositing the cheque for the right amount, renovating the bathroom just the way you want it, or even preparing your own will with one of those do-it-yourself will kits.

As a society, we get angry and frustrated when a clerk at the retail store says you can't return an item without the receipt. We get angry when the government tells us we should have filled in this form and not that one. We get angry; we've lost control over the situation. So when the opportunity to do it yourself arises, we take it.

What can the Alberta Land Surveyors' Association do about this growing trend? First, when we receive a phone call from someone about something an Alberta Land Surveyor has done or allegedly done, I try to ensure that the caller knows that I am listening and care about the situation. I then often ask them what they think should be done under the circumstances. It's amazing how giving these callers a sense of control can defuse a situation. Not always, but quite frequently. The public calls the Association office when they feel

they have lost control of their situation. It may be that they have lost control over a piece of land that they thought was theirs. It may be control over the ability to stop an Alberta Land Surveyor from coming onto their property.

The second thing I think that we need to do as an Association is to educate the public about what an Alberta Land Surveyor does and prepare for the future as more landowners feel they can be their own surveyor. The Association's Public Relations Committee is embarking on a new five year public relations plan. I have no doubt that the plan will try to deal with these issues and giving landowners some sense of control.

The broader issue of technology and the future of the Association will be addressed by Council. It is a difficult and big issue to try and get a hold of, but we will have no choice to do so.

Last summer, the Association Council passed a privacy policy. The policy deals with what information we collect about the members and what information we make available. The Association's Register of Members is available to members. It is also available on the website.

The Association does not sell its membership information to anyone. However, I am sure that anyone who had enough time and patience could create a digital file of names and addresses of our members.

Recently, many of you will have received several free copies of the *Canadian Lawyer* magazine. The Association did not sell your membership information to the *Canadian Lawyer*. We had supplied names and addresses of Alberta Land Surveyors to the *Alberta Law Directory* with the intent that lawyers could obtain the names of Alberta Land Surveyors through this directory. The *Alberta Law Directory* provided this information to the *Canadian Lawyer*. With Council approving the Association privacy policy last year, we would no longer be providing information to the *Alberta Law Directory* or any other similar directory.

This fall, the Government of Alberta is expected to pass a personal information protection act. The act will apply not only to self-governing professional associations but also to private corporations. You may wish to review your own corporate privacy policies in light of this legislation.

President's Message *continued from page 5*

increasingly difficult. We have many talented members from smaller companies who would do the Association a real service as president – but for whom such a commitment would be extraordinary. We have to find ways to make the job doable for any land surveyor. The position should not be the domain of the practitioner who is employed by the large companies.

Is there a better way? Is the ultimate solution to rely on more paid staff positions? The new buzz words in the human resources world are

phased retirements and flexible work arrangements. If these are things that will work and contribute to the well-being of individual companies, can they also be applied to the association model? If one result of our success is that we can retire earlier, then there may be an opportunity to tap the energy and lengthy experience of the young retiree for the benefit of the Association.

The discussion raises many questions which I don't for a moment claim to have all the answers, but they point to real issues that we must consider. We continue to be one of the most responsible, proactive associations of any profession you

can mention. As professional land surveyors, we have set the pace for taking care of business. I have no doubt we will continue to rise to the challenge, demonstrating the leadership that has characterized our profession for over 90 years, and manage these issues.

I encourage you to let Council know your thoughts.

Every year, we get another year older. Hopefully, every year we get another year wiser.

As we wind down the calendar year I would like to take this opportunity to wish all a most enjoyable Christmas season.



letters

Editor's Notes

Brian: Once again you've hit the nail on the head with your article. I was caught by two specific issues.

First, the issue of the use of "old" surveys in the real estate closing process. We are struggling with the issue in Texas right now. Not only the lawyers but the title agents, the realtors, the sellers and virtually anyone else along the way thinks there is no harm in "adjusting" the surveyor's drawing rather than paying for a new survey. I think time and the market will correct the process by creating a series of problems that will have to be resolved before any other transactions can occur with a piece of real estate. We'll see.

Second, the issue of ethics is one of constant concern to our members. Usually the culprit is the non-member surveyor who is low-balling prices or cutting corners on the job or the final work product. We have been having some of the same conversations about what the Society can do to enlighten members and non-members alike to ethical decision making. Like you, we've found a few of the college programs have a single class in ethics but we've been contemplating the idea of creating some case studies for use at chapter meetings. Sadly, it's not moving very quickly. Surely one's last exposure to ethics should not be in a college classroom.

Please keep me posted if you come up with any good ideas to generate more discussions of ethics within the surveying profession.

Great article! Keep 'em coming.

ANNE GLASGOW, EXECUTIVE DIRECTOR
TEXAS SOCIETY OF PROFESSIONAL SURVEYORS

Presentation at OHS

Brian: I just thought I would send you a message to let you know Allan Main came to do a presentation to my class yesterday about land surveying

in early Alberta. His presentation was fabulous and the children were very interested in his presentation. He spent a full two hours with the children. We are all going to write thank you letters to him for his presentation.

BONNIE CHANDLER

Scholarships

It is my pleasure to write and thank you for your generous donation of \$2,500 to the University of Calgary. Your gift has been designated in support of the J.H. Holloway Scholarship in Geomatics Engineering.

Each year, more than 24,000 students choose the U of C for its innovative curricula, experiential teaching methodologies and unique learning resources. Our award-winning team of 1,700 faculty members embraces a vision of teaching and research that reflects the needs, skills, attitudes and discoveries of Calgary's thriving business and cultural communities.

In many instances, achieving our goal as "Calgary's university" is possible only by virtue of the generosity and vision of benefactors like you. Your organization's gift is a direct investment in the learning experiences of U of C's students. Thank you.

LYNN VAN HYFTE, DIRECTOR OF DEVELOPMENT
LEADERSHIP GIVING, UNIVERSITY OF CALGARY

I am writing this letter to thank the Alberta Land Surveyors' Association for its generous contribution to the Geographical Information Science Scholarship. I am both honoured and grateful to receive this award.

GLEN HENDRICKSON

I would like to thank the Association for selecting me as the recipient of the Alberta Land Surveyors' Association Scholarship for the 2003-2004 school year. I am currently complet-

ing my last year in Geomatics Engineering at the University of Calgary. I am enrolled in twelve courses, among which are those required by the Western Canadian Board of Examiners to earn my certificate of completion. Upon graduation, I wish to pursue a career as an Alberta Land Surveyor and Canada Lands Surveyor. In particular, I would like to focus on subdivision design and layout, and engineering surveying.

Since finishing high school in 1998, I have worked under Paul Stoliker and Doug MacAulay at Alpine Land Surveys Ltd. in Canmore, Alberta. Over the past five summers, I have learned a great deal of the land survey practices and have had the opportunity to act as party chief in several instances. I have also had the opportunity to draft subdivision and condominium plans, currently being constructed in Canmore. In addition, I also participated in the internship program at the U of C. This resulted in my placement under Challenger Geomatics in Calgary and allowed me to have active oilfield experience throughout Alberta and Saskatchewan.

I intend to use your scholarship toward my tuition fees at the University of Calgary for my winter semester. Again, I would like to extend my appreciation towards the Association.

TYLER HANSEN
GEOMATICS ENGINEERING STUDENT

The 2003-2004 year has been a challenging year for the scholarships and awards program at the University of Lethbridge. We have seen an increase in student enrolment, but we have been able to maintain the same level of academic achievement to receive entrance and continuing awards. This has been made possible by the generous contributions that

you and many other friends of the University of Lethbridge have made to the awards program. On behalf of the Students Awards Committee, thank you for your support and encouragement of the students who are pursuing their university education.

The 2003 recipient of the Geographical Information Science Scholarship is Glen Hendrickson. Mr. Hendrickson finished high school in Invermere and is enrolled in the Bachelor of Science program with a major in Geography.

*REBECCA LORE, COORDINATOR
SCHOLARSHIPS AND STUDENT FINANCE
THE UNIVERSITY OF LETHBRIDGE*

Thank you for selecting me as the recipient of the J.H. Holloway Scholarship in Geomatics Engineering. It is very difficult to maintain a part-time job while being a full-time student. Your generous contribution gives me the freedom to focus my efforts on my studies rather than on financing my education. It also allows me to

complete another semester without needing a student loan. This allows me to apply all of the money I make in summer work to my next year of education rather than reducing the debt incurred in my previous year.

I genuinely appreciate your consideration. Thanks again.

*MIKE WOLLERSHEIM
FOURTH YEAR GEOMATICS
ENGINEERING STUDENT*

Please accept my sincere gratitude for the Graduate Studies Scholarship (J.H. Holloway Scholarship Foundation) received today.

I am extremely honoured and grateful to be a recipient for this scholarship - a nice surprise indeed.

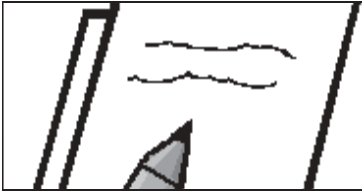
FRED CHENG, ALS, P.ENG, M.ENG

Where is Dr. Ballantyne?

I thought it appropriate that we announce in *ALS News* that Dr. Brian Ballantyne is now with Challenger Geomatics in Calgary. Dr. Ballantyne's e-mail address is bballantyne@challengergeomatics.com.

Dr. Ballantyne is a lawyer with expertise in land tenure; particularly in land registration, riparian rights, survey law, aboriginal title, land valuation, and environmental ethics. He has degrees in geography (Trent University), surveying (University of Toronto), environmental ethics (University of Otago), and law (University of Calgary), and was called to the Alberta Bar in 2003. He was a lecturer for five years at the University of Otago in New Zealand and an assistant professor for five years at the University of Calgary. He articulated with the City of Calgary Law Department and continues to teach part-time at the British Columbia Institute of Technology. He has consulted and published widely, has offered many professional development seminars, and now pursues land tenure opportunities as in-house counsel with Challenger Geomatics Ltd.

*DAVID THOMSON, ALS
CHALLENGER GEOMATICS LTD.*



association notes

Changes to the Register

Rick Gauthier: new e-mail address rick.gauthier@cadastralgroup.ca.

Bob Haagsma, ALS has taken employment with Challenger Geomatics Ltd. in Rocky Mountain House. His new e-mail address is bhaagsma@chalgeo.com.

Bill Halma, ALS: e-mail address is whalma@telus.net.

Mark Kocher, ALS left Fugro/SESL Geomatics Ltd. on October 20, 2003. He is now the President of Millennium Geomatics Ltd. His new e-mail address is mastko@millenniumgeomatics.ca.

Gordon MacDonald, ALS has joined Raymac Surveys Ltd. in Calgary effective October 20, 2003. His new e-mail address is gord.raymac@shaw.ca.

Jim MacLeod, ALS is no longer with Crape Geomatics Corporation and is operating as a sole practitioner. He can be reached at 19 Waterstone Crescent, Airdrie, AB T4B 2E5; phone: (403) 815-5878; fax: (403) 912-8375; e-mail: macleods@shaw.ca.

Millennium Geomatics Ltd. (P219) is a new surveyor's corporation under the supervision and control of Mark Kocher, ALS. Address: 420, 301 - 14 Street NW, Calgary T2N 2A1; Telephone: (403) 270-9575; Fax: (403) 270-0353; www.millenniumgeomatics.ca.

Natural Resources Canada—correct e-mail addresses as follows:

rbeaumon@nrcan.gc.ca
showard@nrcan.gc.ca
dlipinski@nrcan.gc.ca
bnecyk@nrcan.bc.ca
dstracha@nrcan.gc.ca
psulliva@nrcan.gc.ca

Phil O'Connor, ALS has left EXH Engineering Services Ltd. effective September 5, 2003. He is now employed with Midwest Surveys

Inc. in Grande Prairie effective September 21, 2003. E-mail: Philo@midwestsurveys.com.

Connie Petersen has left Brown Okamura of Lethbridge effective December 1, 2003. She will begin employment with Stantec Geomatics Ltd. of Calgary on January 5, 2004.

Doug Rutherford: new e-mail address—drutherford@snellandoslund.com

SARPI Ltd. (P218) is a new surveyor's corporation under the supervision and control of Robert Radovanovic, ALS. Address: 5204 Dalton Drive NW, Suite 308, Calgary, AB T3A 3H2; phone: (403) 286-6286; fax: 286-6288; e-mail: solutions@sarpigroup.com; website: www.sarpigroup.com.

Scott Geomatics: effective October 2, 2003, Council approved the cancellation of registration.

Rob Scott, ALS has been employed with All West Surveys Ltd. in Calgary since August 5, 2003. rob.scott@allwest.ca is his new e-mail address.

Snell & Oslund Surveys (1979) Ltd. has moved. Their new address is 5128 - 52 Street, Suite 1, Red Deer. Postal code, telephone and fax numbers remain the same. New e-mail is: info@snellandoslund.com.

Dirk VandenBrink: new e-mail address—dvandenbrink@snellandoslund.com.

Bob Wallace, ALS: new e-mail—bob.wallace@globalsurveyscorp.com.

Associate Members

Blain Anderson is now employed with the newly-created Millennium Geomatics Ltd.

Wayne Latam (AS038) was registered on November 6, 2003.

Ivalylo Nedev (AS039) was registered on November 6, 2003.

New Members

#703 RADOVANOVIC, Robert S.



Robert Slobodan Radovanovic was born in Edmonton, Alberta on February 19, 1977. He graduated from Ross Sheppard

Composite High in 1994 and went on to receive a B.Sc. in 1998 and Ph.D. in 2003 from the University of Calgary.

Vic Wolchansky, ALS and Jovan Mistic, ALS served as Rob's principals from 1998 until he received his commission on October 6, 2003. He also holds a designation as a professional engineer.

Rob was a member of the ALSA Public Relations Committee in 2001-2003 and co-chaired a FIG working group on GPS modernization and GNSS development.

Experience involved extensive oilfield surveying for most of his working career and deformation monitoring/engineering surveys while at the University of Calgary.

Squash, snowboarding, reading and travel are a few of Rob's leisure activities.

Rob lives and works in Calgary and is President of the newly formed surveying firm of SARPI Ltd. in Calgary.

#704 ROOP, Andrew W.



Andrew Roop was born on March 31, 1969 in Digby, Nova Scotia. He graduated from Digby Regional High School in 1987, COGS

in 1989 and received a degree in engineering from the University of New Brunswick in 1993.

Articles were served under Alberta Land Surveyors Bruce Jones and Con Lenius from 1999 until he received his commission on November 5, 2003. He has been member of the ALSA Public Relations Committee since 2002.

Andrew has worked in the oil and gas, municipal, land development and project management aspects of surveying. He is employed with The Focus Corporation Ltd. in Calgary.

Hockey, cycling, canoeing and spending time with family are a few of the activities he likes to do in his spare time. Andrew is married to Stephanie and they have two children, Ryan (11 years) and Patrik (9 years).

#705 HOBBS, Geoffrey M.



Geoff Hobbs was born in North Vancouver, B.C. on September 30, 1967. He graduated from Argyle Secondary High School

in North Vancouver in 1985 and from BCIT in 1987. He went on to receive a B.Sc. in Geomatics Engineering from the University of Calgary in 1992.

Geoff holds a commission as a B.C. Land Surveyor (1995) and, on November 17, 2003, was the first candidate to receive his ALS com-

mission under the MRA. He was Chairman of the Lower Mainland Group for BCLS from 1996 to 1998 and is a member of the Petroleum Club in Grande Prairie.

Geoff started in private practice in North Vancouver, B.C. He relocated to Fort St. John in 1999 to work with McElhanney Land Surveys Ltd. From there, he transferred to McElhanney's Grande Prairie branch office.

Other interests include curling, golf and cooking. Geoff is married to Sandy and they have one child, Madyson, age 21 months.

A Self Governing Profession

“... ask not what your country can do for you, ask what you can do for your country.”

JOHN F. KENNEDY

The above quote by the former president of the United States is equally applicable to professional associations, “ask not what your profession can do for you, ask what you can do for your profession.” What would your career, income, and life be if it was not for the opportunities that have been made available through the hard work and dedication of your predecessors? Did the statutory framework for the Alberta Land Surveyors' Association just happen? Is it the same now as it was in 1910? Or has it been enhanced by many long hours of committee and Council deliberations by your colleagues and former colleagues?

We all know the answers to these questions. Our Association is respected and envied by surveyors across Canada and perhaps even around the world. We have the respect not just of sister associations, but of other professional organizations and government as well.

A small association always has difficulty attracting sufficient members to maintain an active governing council. When we look across Canada at some of the very small

associations, (the Association of Manitoba Land Surveyors comes to mind with approximately fifty members) you have to wonder how they survive. Anyone who has ever had any involvement with the AMLS will recognize that they survive through the dedication of their members. I am sure every member must serve on at least one committee, and everyone knows that, at some time in their career, they will be expected to serve on Council and probably as president. As the oldest provincial land survey association in Canada, the AMLS has a wealth of history, and they work hard at displaying it proudly. At their 100th annual meeting in 1980, they produced a framed montage of all of their past presidents since 1880—a commendable display of volunteer effort not to speak of the show of pride they have for their Association and its heritage.

But I digress. We all subscribe to our Code of Ethics.

Article 1 states: “An Alberta Land Surveyor shall serve society, his clientele and his profession with the ultimate objective of contributing to the knowledge of land, to the better management of land and to the preservation of peaceful and lawful enjoyment of land.”

Article 6 states: “An Alberta land surveyor shall assist in maintaining and improving the integrity and competence of the profession of surveying. The fourth bullet goes on: devote some of his time to the affairs of his Association. Changes in human affairs and imperfections in human institutions make necessary constant efforts to maintain and improve the survey profession, institutions, procedures and systems.”

I could quote several other sections of the Code which also set out specific obligations to one's association but, the point is, as a professional you are in a privileged position of being a self-governing profession. The price you pay for that privilege is exactly what it says—you are self-governing! Plain and simply, that means that it is your responsibility for the govern-

ance of the organization and no one else's.

As well as being a duty to serve your colleagues, it is also an honour to have the respect of your professional colleagues. It is also about self-development—taking on new responsibilities and working with others is a great way to develop self-confidence and learn to appreciate other points of view. And, it is a great way to meet other people, whether it be colleagues, other professionals, government officials or whoever.

Serving your profession is an opportunity for you to offer your perspective on different issues based on that unique blend of education, experience and personality that only you can bring to the table. Like Uncle Sam says - we need YOU!

G.K. ALLRED, ALS

Analysis of Fall 2003 Professional Examinations

The Surveying Profession

The October 2003 Surveying Profession Examination consisted of nine questions covering knowledge and understanding of areas such as: the ALSA Code of Ethics, Manual of Standard Practice, business practice, current affairs of the ALSA, the Land Surveyors Act and other surveying related legislation in Alberta.

Six candidates attempted the exam with a pass rate of 67% (four candidates received the 75% pass grade). The average mark was 68%.

The overall result for this sitting of the Surveying Profession Exam was satisfactory. For those candidates who did not receive a 75% pass grade, it is suggested that attention should be focused on areas such as: the ALSA Code of Ethics, current affairs of the ALSA, as well as knowledge towards responsibilities and obligations of an Alberta Land Surveyor.

Statute Law

The statute law exam followed the same format as in past years; questions directly related to all of the legislation that an Alberta Land Surveyor may deal with on a daily basis.

In the review of the exam answers the following was noted:

- 1) The answers for some questions showed which students worked in the land development industry and those who worked in the oil and gas industry. If you are not familiar with one of these industries, talk to other articling students or land surveyors to brush up on the acts, regulations and terminology.
- 2) Most students did not receive full marks for the question on the discipline process. This should be fairly straight-forward as there is a whole section in the Land Surveyors Act (Part 5 Discipline).
- 3) Answers for the required amount of land that can be dedicated to reserves and roads in a subdivision were quite different than is stated in the Municipal Government Act. Please review MGA Part 17, sections 662 and 666.

Overall, the exam results improved dramatically with twenty-four applicants writing. The average score was 84%.

A reminder for those who did not pass or are attempting the exam in April 2004;

When studying:

- understand what each broad "part" of the act covers. Then examine the individual sections;
- discuss the sections (even those that you think you understand) with as many surveyors as possible and with other articulated students.

At the exam:

- be concise with your answers. Understand exactly what the question asks and answer only that;
- save time with your answers: do not rewrite the question as part of your answer.

Practical Surveying

The Practical Surveying Exam at the October 2003 sitting consisted of ten questions each worth ten marks. It was comprised of the following questions:

- Evidence assessment (2 questions)
- Integrated surveys – ASCM ties and closures
- Urban Subdivision – Registered Pre 1912 old wooden posts
- Rural Subdivision – lots out of a ¼ section
- Subdivision of a Legal Subdivision (Fractional section)
- Unsurveyed territory calculations
- Unsurveyed territory wellsite calculations
- Real Property Report
- Urban Subdivision

Fourteen candidates attempted the exam and five passed for a pass rate of 35%. Two of the questions were used from last April's sitting of the exam. There was little improvement in the marks for the questions on evidence assessment and integrated surveys.

Questions that had particularly poor marks were the unsurveyed territory calculations and the real property report.

The computations portion of the exam was not increased but feedback from those writing this sitting was that, unlike the exam last spring, this exam was a bit too long.

The pass rate was relatively low compared to the 70% for last spring but, on review by the Registration Committee, it was felt the exam was fair.

**The next sitting
of the
professional exams
will take place on
April 5 and 6, 2004.**



feature

I would like to acknowledge Dr. Sue Nichols and Mr. Xiaolun Yi for their useful comments and advice in preparing this paper.

by Boipuso Nkwae

Boipuso Nkwae, of the University of New Brunswick, was the recipient of ALSA Graduate Studies Scholarship (2002) for his research on “Politics, Authority and Urban Land Conflicts in Southern Africa: Implications for Cadastral Systems and Land Tenure Reform.”

Extending Botswana’s Cadastral System into Customary Tenure Environment: *Fusion or Confusion?*

Abstract

Dual systems of land tenure have existed in Botswana since the colonial times, and have often times even intermingled. On one hand, there was the “western” system for European settlements and commercial enterprises based on sophisticated cadastral surveying and land registration tools. On the other hand, there were the indigenous tenure regimes that required no recording. However, with the increasing demand for development finance in the customary tenure areas after independence, the western cadastral system was eventually extended to tribal areas mainly to support land conveyancing.

The cadastral surveying and land registration approaches required some modifications before they could be applied in customary tenure areas because of the nature of customary land rights. They are often unclear and many types of customary interests are unrecognized under statutory law. The inconsistencies are further aggravated by the differences between what the land law stipulates and what land administrators actually practice.

This paper uses Botswana to illustrate the complexities of the cadastral surveying issues encountered in the statutory as well as in the customary tenure areas. It discusses the effect of the confusion over terminologies and concepts on customary land administration operations. Cadastral survey issues that impact on the design of digital cadastral databases are also highlighted. The paper recommends a number of principles to be adopted when extending cadastral surveying arrangements to tribal areas.

1. Introduction

Botswana’s cadastral system, like those in most countries in the southern African sub-continent, was directly influenced by the South African system. South Africa was first colonized by the Dutch in 1652, who were later replaced by the British in 1806. Apart from South West Africa (Namibia), Mozambique, and Angola, all of southern Africa was under British occupation. When Britain ruled South Africa, it did not replace the Roman-Dutch legal system, which was already in place at the time. Figure 1 shows the geo-

graphical location of Botswana in the sub-continent.



Figure 1: Geographical Location of Botswana in the Sub-continent

When Botswana became a British protectorate in 1885, the British High Commissioner and the nation’s administrative capital were based in South Africa (Vryburg and later Mafeking)¹. The system of regulating private land transfers through deeds registration was introduced in 1893 to confirm the land rights and interests of settlers. A concessions court was set up to validate the land claims by European settlers and a proclamation dated July 4, 1893 applied to the Bechuanaland Protectorate “the law of the Colony of the Cape of Good Hope relative to the registration of deeds and instruments in Deeds Registry Offices” [quoted in Ng’ong’ola, 1998]. Botswana’s first deeds registry² and survey office were located in Vryburg in South Africa, and later moved to Mafeking in 1907, also in South Africa. The offices were finally relocated to Gaborone (the current capital of Botswana) after independence from Britain in 1966. Due to this historical link with South Africa and Britain, the country’s land laws are based on the Anglo-Roman-Dutch model, “with due deference usually given to what was called *native law and custom*” (Bohannon, 1961, my emphasis). For example, the Botswana Land Survey Act is based on the South African Land Survey Act of 1927; the Botswana Deeds Registry Act is a reproduction of the South African Deeds Registries Act of 1937. This is the reason why Botswana’s cadastral system is often described as ‘essentially South African.’

Some of the characteristics of the South African cadastral system are:

- Unlike the Torrens system, it does not give guarantee as to title.
- Unlike most land title systems, it is not backed by an assurance fund³ but relies on the integrity of the legal and survey professions in

compiling and documenting the deed and survey records. As Dale (1976, p.209) points out: "The South African system is heavily dependent on documentation."

- The land surveyor carries the responsibility for the identification of boundaries, thus, providing a form of guarantee. The surveyor has a greater role in boundary adjudication than do Canadian surveyors; hence disputes which reach the courts are few.
- The key to the South African deeds system is the survey diagram (plan) or general plan (cadastral map), which describes the precise spatial extent of every land parcel that is conveyed. It also provides geographic indexing in the Deeds Registry.
- Diagrams and field notes are examined by the national Department of Surveys and Mapping.
- In Botswana, any conveyance has to have a survey diagram, as it is the integral part of a registered deed.

Botswana has three main land tenure categories, viz. customary, state, and freehold lands. Customary land is very important, as it constitutes 70% of the land holdings; and it is here that the majority of the people live. It is absolutely essential that this land tenure category be adequately managed and administered. The mismanagement of the customary land resource can have social, economic and political implications. Any customary land tenure reform contemplated must therefore facilitate, rather than hinder, the economic development of a country. The inequitable administration of land can result in a skewed land distribution, a situation that can result in political turmoil as experienced in some southern African countries, e.g. Zimbabwe, South Africa and Namibia.

In Botswana, customary tenure is found only in the rural areas. It is governed by the various tribal traditions, norms and customs. Boundaries are identified by natural features such

as mountain ridges, rivers, streams, anthills, trees, trenches, and foot-paths. Some general characteristics of this customary tenure are that it is:

- Easily accessible by members of the group but women had indirect access to land through their male counterparts.
- Very secure and heritable, as long as a piece of land is occupied and used, it would not be taken away without compensation and, upon death, the land is inherited by the son or other nominated relative depending on the local custom.
- Inalienable rights by individuals but can only be sold by a kinship group to an individual.
- Largely unwritten, stored within the community through collective memory and use of witnesses.
- Flexible and dynamic, that is, it is not static; changes in customary law may be introduced depending on the needs of the society.

Cadastral surveying⁴ in Botswana was initially meant to support the parcel-based registry of deeds in state land (urban areas) and freehold land (commercial farms). With the demand for development finance in the rural areas, the cadastral system was then extended into the customary tenure system. Both government and licensed private land surveyors carry out cadastral surveys. All surveyed properties have parcel identities called lot numbers and are allocated by the Department of Surveys and Mapping (DSM). All survey plans are examined and approved by the Director of DSM and archived in the DSM.

This paper will mainly focus on tribal land in Botswana to illustrate the complexity of the issues caused by the extension of the current cadastral system into customary tenure areas without any modifications. In an attempt to mitigate the limitations of the present cadastral surveying arrangement to support tribal/rural land administration, four principles are suggested to be followed when surveying tribal lands. Some technical issues facing cadas-

tral surveying in the rural areas are also analyzed.

2. Conceptual and Terminological Issues

The cadastral surveys in Botswana were originally carried out in state lands and freehold lands to complement a parcel-based registry of deeds system. It was the demand for security (collateral) from financial institutions that culminated in the extension of cadastral surveying and land registration to the tribal areas. When the cadastral system was first extended to the tribal areas in Botswana, what was practiced in the urban areas was transferred entirely with little modification. Therefore, there are inconsistencies because customary land rights are often unrecognized under statutory law.

For instance, the legal interest in allotted customary land is often given many technical terms borrowed from common and civil law traditions such as "tribal lot," "tribal grant," "tribal lease," "tribal farm lease," "tribal sub-lease," "tribal sub-sub-lease," and so on. The use of so many terms causes confusion, as many terms have no significant difference. Some of these terms such as "tribal sub-lease" and "tribal sub-sub-lease" may also be inappropriate as they might not be recognized under customary law. These terms tend to imply possible subdivision of an interest in allotted customary land. The cause of the terminological problem, from the viewpoint of general analysis, is the importing of inappropriate concepts, systems, and laws. When discussing the role of land registration in developing countries and its extension to the customary tenure areas, Henry W. West (1969, p.211) pointed out: "...there may be a confusing intermixture of customary land law and imported or "received" legal concepts, with a consequent urgent need for clarification." For instance, C. K. Meek [1946, p.294] states that both mortgage and compulsory sale are quite foreign to the traditional Afri-

can conception of the principles of land tenure, even in their modified form.

This confusion, as Bohannan (1963) states may be attributed to:

1. The employment of technical terms borrowed from common or civil law traditions. Several authorities like Bohannan, von Benda-Beckmann [1995] and Wilmsen [1989, p. 48] have long recognized the problem of “jamming” western property concepts into indigenous tenure systems as this had resulted in confusion and misconceptions over traditional land tenure concepts.
2. The failure to “diagnose,” identical or similar relationships where such exists, and in the confusing use of terms that suggests differences where none exist, or which suggests similarities where there is significant difference.
3. The ethnocentric view of researchers and policymakers when analyzing African land tenure, *e.g.* that the Tiv (an ethnic group found in Nigeria) have “farm tenure” and that they have no “land tenure.”

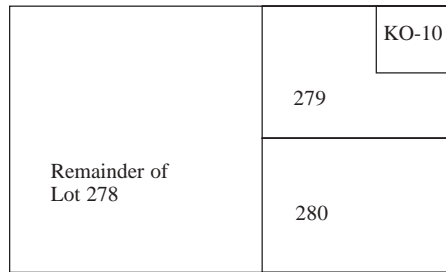
The use of a single term like tribal lot or tribal farm is advocated to minimize the confusion as well as the use of parcel identifiers that differentiate land according to land uses (residential, arable, commercial and industrial).

3. Cadastral Survey Issues

.1 The Case of State Land

In an urban area (state land), four technical terms are used to describe a surveyed land parcel, namely:

- a. *Lot.* A land parcel in a township/city with a plot number and is not for a lease purpose.
- b. *Lease Area.* It is a leased portion of a lot. The owners of a lot lease a portion of their plot to a tenant.
- c. *Sub Lease Area.* It is a portion of a lease area for sub lease purposes.
- d. *Remainder of a lot.* After subdivision of a lot, the portion that is left is called the *remainder*.



- i. Lot 278 Gaborone has been subdivided into Lots 279 and 280 and remainder of Lot 278 Gaborone.
- ii. Lot 279 Gaborone has been subdivided into a portion named Lease Area KO-10 situated on Lot 279 Gaborone Administrative District.

Figure 2: Example of Subdivision in the City of Gaborone

Figure 2 shows a typical land subdivision in the City of Gaborone

The Remainder Problem: In figure 2 when Lot 278 is subdivided, the remaining portion is called the remainder of Lot 278. In addition, future subdivisions of remainder of Lot 278 to create Lot 281 will also be called by the same name. Thus, the shape and dimensions change.

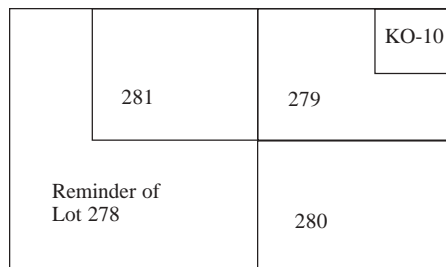


Figure 3: State Land Subdivision Process

This means that the remainder does not have a unique identity and the situation can become even more complex as the remainder keeps on being subdivided further and further. In terms of cadastral database design, the situation would be a set of one-to-many relationships as opposed to one-to-one relationships. Also, the remainder can be more than one parcel, as shown by an example in Figure 4.

.2 The Case of Freehold Land

In freehold land (farm), four technical terms are generally used to describe surveyed land parcels in an almost

similar manner to state land system, *viz.:*

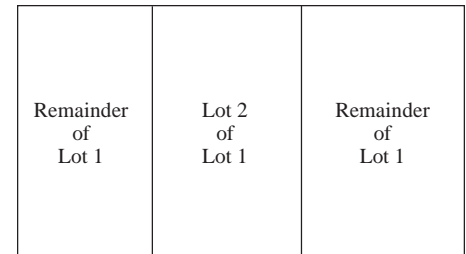


Figure 4: Parcel Subdivision Resulting in Two Remainder Parcels

- a. *Farm:* A land parcel in freehold land has a unique number within a degree area. A farm can be an original farm or a portion of a farm.
- b. *Farm Lease Area:* It is a leased portion of a farm. The owners of a farm lease a portion of their farm to a tenant.
- c. *Sub Lease Area:* It is a portion of a lease area for sub lease purposes.
- d. *Remainder of a farm:* The remainder of a farm after subdivision.

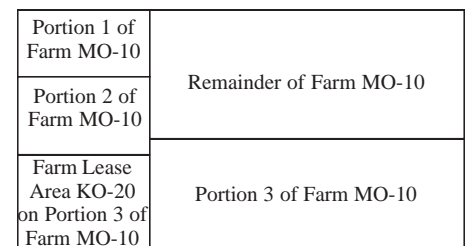


Figure 5: Freehold Land Subdivision Process

The freehold system shares the same remainder problem as the state land tenure category.

.3 The Case of Customary Land

The current cadastral surveying arrangements may be inappropriate to the conditions in tribal areas as the system is too expensive and time consuming. It is not the actual field survey, which is the problem, but rather the backlog caused by the government examination of survey plans. Perhaps Botswana should follow the lead of other jurisdictions such as the Province of New Brunswick in Canada and minimize the examination process.

Although the situation in Botswana is that customary land is non-



Surveyed lots, Mogoditshane Village

negotiable, banks will not issue loans without registered deeds. In most developing countries, “the availability of credit is controlled by western-style agencies thinking in terms of personal contract and individual security” (West 1986). Because of the requirement to provide security [collateral] for financial institutions, cadastral surveys and the registration of deeds were extended into the tribal lands. Some common observations on customary land in Botswana are:

- Most rural land is tribal land, belongs to the community and is administered by 12 district land boards assisted by 37 sub-ordinate land boards under the Tribal Land Act of 1968.
- Customary land parcels may be allocated under common law, through lease agreements.
- Under customary law, the land parcel is granted to users through certificates⁵ of customary land.
- No subdivision/consolidation is allowed.
- No village/settlement situated on tribal land at present has boundaries.

The land boards for their in-house land administration operations use the following terms:

- *Lease Area* – A plot under common law which has been allocated / leased to a user.

- *Sub-Lease Area* – The plot user leases a portion or all his /her plot to another user under common law. A customary owner would have to inform the land board, which normally issues a letter of acknowledgement.
- *Grant* - Any plot whether under common or customary law which has been allocated /granted to a user. It may include a grant of lease or ownership.
- *TGLP Farm* – A farm situated in customary land and allocated to an individual under common law lease. This was a result of the government Tribal Grazing Land Policy (TGLP) of 1975 aimed at improving agricultural productivity.

When it comes to the surveying of the customary plot, the following legal/survey terms are generally used, viz.:

- Tribal Lot* – a plot in a village that has been surveyed and can be registered at the Deeds Registry Office.
- Tribal Lease Area* – a portion of plot, which has been leased to another individual by the customary plot owner/user, has been surveyed and registered at the Deeds Registry Office.
- Tribal Grant* – a plot in tribal land outside of a village has been surveyed and registered at the Deeds Registry Office.

- Tribal Farm Lease Area* – TGLP farm that has been surveyed and registered at the Deeds Registry Office.

Since there is no subdivision/consolidation in tribal areas, there is no sub-lease area of tribal lot nor sub-farm lease area.

Figure 6 shows all types of plots in a rural settlement:

- Tribal Lot 10 Serowe situated in Bamangwato Tribal Territory;
- Tribal Grant RO-30 situated in Bamangwato Tribal Territory;
- Tribal Lease Area RO-31 in Serowe situated in Bamangwato Tribal Territory;
- Tribal Farm Lease Area RO-35 situated in Bamangwato Tribal Territory.

4. Challenges Ahead

1. Hypothetical Case of Double Registration

A customary landowner decides to sub-lease a portion of Tribal Lot 11 (Figure 7) to a proprietor to construct a business venture. Because of the need for collateral, portion RO-31 would be surveyed and registered. If it happens in future that the customary landowner of Tribal Lot 11

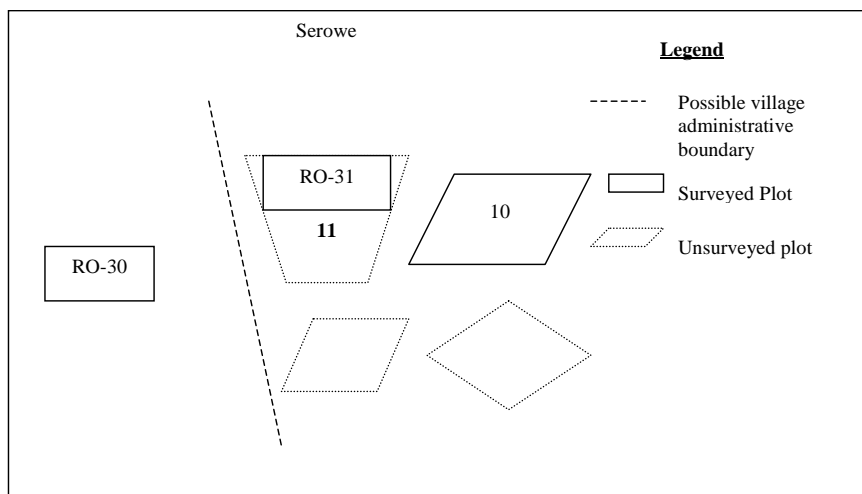


Figure 6: Surveyed Plots in and around Serowe Village

decides to survey and register the property, how would the property be registered? How should the overlapping portion be depicted since no subdivision is allowed under customary tenure? If it is double registered and the owner of Tribal Lot 11 defaults on the mortgage, does it mean the whole property would be affected by foreclosure or only the portion not contained in RO-31?

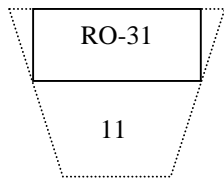


Figure 7: Example of Double Registration

2. The Conceptual and Terminological Confusion

The terms used by the land board allocation register cause confusion with the terms used for cadastral survey and deeds registration purposes. For instance, some surveyors use “tribal sub-lease area” for cadastral surveys in tribal area because the land board uses it in its land administration operations. According to customary law, customary land cannot be sub-leased. But, if individuals decide to sub-lease part of their properties, tribal lease area instead of tribal sub-lease area should be written in the survey diagram and lease agreement. This may cause confusion in the minds of many land surveyors and other land administrators. Is it not time that concepts and terminologies applied in customary tenure areas be clarified? For example, terms like “tribal lot” can be reserved for all residential, commercial and industrial lots and “tribal farm” used for all leasehold farms in tribal areas.

3. Need for Village Boundaries

The lack of village boundaries of whatever form has proved to be an inconvenience to tribal land administration in Botswana. It is not only the land surveyors who are hindered but

Statutory Tenure		Customary Tenure		
State land allocation	Freehold allocation	Type of allocation	Land Board allocation register	Cadastral surveyed (Deeds Registry)
Lot	Farm	Plot/lot	Certificate of customary grant	Tribal lot/grant
Lease	Farm lease	Field	Certificate of customary grant	Tribal lot/grant
Sub-lease	Sub-lease	TGLP farm	Lease agreement area	Tribal farm lease
Remainder of Lot	Remainder of farm	Lease/grant	Lease agreement / letter of acknowledgment	Tribal lease area

Table 1: Summary of allocation of title in various land tenure categories in Botswana

other professionals such as planners, agriculturalists, statisticians, social scientists and policymakers as well. The importance of village boundaries in land administration has long been recognized in Africa. When discussing the problem of lack of village boundaries in the Sudan, Michael Barbour (1961) stated: “When fairly detailed statistics are available, there is no record of the areas of which they refer, and the lack reduces the value of population census, inquiries into agricultural areas and yields, and similar data” (p.76).

Michael Barbour further emphasized the importance of village boundaries by saying: “Moreover, apart from their traditional duties of allocating land to cultivators, maintaining law and order, apprehending malefactors, local authorities need to know the limits of their territories when planning the provision and siting of schools and dispensaries, and when determining parliamentary and other constituencies” (Barbour, 1961, p.77).

In the context of cadastral surveying, the lack of village boundaries creates confusion when determining whether a particular land parcel lies inside or outside the village. A lot, which lies inside the village in

cadastral survey terms, is called a tribal lot and, if it is outside the village bounds, is called a tribal grant. The dilemma comes now when the village boundary limits expands, and then Tribal Grant RO-30 would now lie inside the village boundary limits. The question now is do you change the land records to reflect the changes in the village boundary? What should happen when two villages overlap? Since there is no “boundary” of a village, when a plot number is allocated this raises the problem of defining plot number, either tribal grant or tribal lot. With a village boundary like the one depicted (even if not surveyed) in Figure 8, the problem of determining where a particular tribal lot falls is easily resolved.

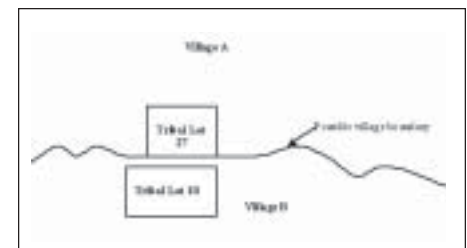


Figure 8: Possible Village Boundary

5. Concluding Remarks

This article recommends four principles to be followed when introducing cadastral surveying into a customary tenure environment:

1. The land registry agencies and the cadastral surveying records should adopt common terminology in the allocation and administration of customary land. When cadastral surveying was extended to the rural areas, some terms were borrowed from the “western” system and the Botswanan Land Board administration without scrutinizing their implications. The result has been confusion in minds of land surveyors and other land administrators. The terminologies and concepts being used should be clarified. Many of the terms have been taken from freehold and state lands without thinking about the implications they might have in a customary tenure environment.
2. Customary land is often treated the same way as freehold and state lands when carrying out cadastral surveys. Some concepts, which may apply in a freehold environment, may not mean the same thing when applied in a customary tenure environment. For instance, the concept of a sub-lease, which is perfectly acceptable under a freehold system, may not apply in a customary tenure system.
3. In extending the cadastral survey system into the tribal areas, we must not lose sight of the future, especially now that digital cadastral databases are being created. All land parcels should have unique parcel identifiers to facilitate parcel referencing and searching for other information.
4. Maybe the current cadastral system is not the right approach to facilitate the mortgaging of tribal land. Should we be thinking of revising the current legal regimes to accommodate customary tenure as opposed to the present approach of assimilating indigenous tenures into statutory tenure systems? As a part answer to this question, and a



Typical Village—Botswana

conclusion to this paper on the problems of extending “western” cadastral systems into customary tenure environments, it may be appropriate and relevant to quote Dr. Felix Keesing’s book on *The South Seas in the Modern World*. *The average Westerner tends to assume that his own particular property usages, with their attendant paraphernalia of maps, theodolites, fences and title deeds, have a kind of universal validity or even sacredness. Other systems of property holding, if they even come to his notice, are regarded as primitive, inadequate, and perhaps vaguely subversive. ... Yet, in reality, history shows that the present highly individualistic and legally complex system of the Western countries is a comparatively recent growth. ... It would be well to keep this in mind in exploring the problems of modernizing local systems of tenure, particularly as many of the difficulties and conflicts apparent in [ex-] colonial areas today resemble those occurring in Europe during the earlier centuries.* [Keesing, 1946, p.97]

Further, Keesing stated that:

It would seem under these circumstances that official policies regarding land should be very elastic and adaptable, hence of a kind that would encourage native groups to try out for themselves which types of tenure might best suit their needs in the modern setting. [Keesing, 1946, p.114].

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Footnotes

- ¹ For eighty years (1885-1965), Botswana had the dubious distinction of being the only territory whose administrative capital lay beyond its borders (Best 1970).
- ² The first deed involved the subdivision and transfer of a freehold farm, "Ramatlabama Kuil" in South-eastern Botswana and was prepared in May 1895 and registered on September 20, 1895.
- ³ Because the Government does not guarantee title, the South African system is often described as a negative system.
- ⁴ Botswana's cadastral system follows the South African survey and deeds registration systems. The South African system of registration of deeds is held to be as good as any other system of registration of title, insofar as the security of title is concerned [Meek, 1946, p. 274; Ng'ong'ola, 1998, Simpson, 1976]; but like most deeds registration systems it does not guarantee nor prove title. In Botswana, its weaknesses are compounded by the attempt by the Government to disclaim liability for bona fide errors or mistakes committed in the registration process [Ng'ong'ola, 1998].
- ⁵ A certificate of customary land grant does not imply certificate of title but merely spells out that a particular land parcel has been granted to so and so and includes a rough description of the land grant.



spr director's message

by Lyall Pratt, ALS

Phase 2 Update

Our target to complete all the internal interviews in Phase 2 of Practice Review is the end of this year. However, it now appears that in addition to a few follow-up reviews to be conducted next year, we will also have a few initial phase 2 reviews to initiate in early 2004. The first Phase 3 reviews will commence beginning next year.

Throughout Phase 2 we have seen a gradual increase in the weighted practice ratings. These are the statistics I have reported on each year in the June issue of *ALS News*. Phase 3 statistics will be reported by way of comparison to the Phase 2 numbers. With the almost negligible number of alleged plan errors being sent to our office since 1999, we will no longer in Phase 3 be dealing with this issue. We will, however, be asking practitioners about dormant plans in their practice and what, if any, measures they take to ensure plans get drafted and registered within the time limits set out in the legislation and the MSP.

Calibration

We will again be asking practitioners in Phase 3 about their calibration processes. All types of measuring equipment require periodic checks by comparison to a standard. Linear measurement devices are no exception. Section 11(2)(b) of the Surveys Act says: "a surveyor shall verify all electronic linear measuring devices used by the surveyor by comparison with calibration base lines established by the Minister for that purpose." The Province has established four calibration baselines in accordance with the requirements of this section of the Act. These calibration baselines are for users to verify that their EDM equipment measures within the manufacturer's stated specifications for systematic errors.

The Province has established four calibration baselines...for users to verify that their EDM equipment measures within the manufacturer's stated specifications for systematic errors.

All EDM equipment should be checked on a regular basis by comparison to the calibration baseline. Older or damaged equipment may be the most suspect, but an annual or biannual comparison should be made with all EDM equipment to comply with the legislated requirement. The Province also maintains two GPS validation networks.

The Geodetic Control Unit, Surveys and Technical Services Section, of Alberta Sustainable Resource Development will, on request, provide an analysis of your calibration data. Visit their website for further information.

Vehicle Signage

Part B, Section 2.2 of the Manual of Standard Practice says: *Alberta Land Surveyors shall place identification signage on all field vehicles used in the practice of surveying, with the company name to be a minimum of 5 cm in height. A logo, address and telephone number or any combination thereof may also be added. Signage of any subcontractors shall not be visible.* Point three of the Alberta Land Surveyors Commitment to Property Damage Mitigation document says: "I shall ensure my survey vehicle displays my company signage." While the use of vehicle signage is required for all field vehicles, it is also cost effective

advertising and good public relations for the survey company. We will again in Phase 3 of practice review be asking practitioners if they comply with the vehicle signage requirements of the Manual.

Descriptive Plans

In the last issue of *ALS News*, I wrote about the past nine years of registered plans in Alberta. In the past nine years there have been 8,947 descriptive plans registered in Alberta or about 994 per year on average. While there are often compelling reasons to use descriptive plans, our reviews have found cases where a plan of survey might have better served the client.

In many municipalities, a real property report is required along with an application for subdivision. Since the existing buildings are shown in relation to the proposed boundaries of the parcel, this involves establishing the proposed boundaries in accordance with the provisions of the Surveys Act. In some cases, I see where practitioners have even placed spikes at the corners of the proposed parcel. This is likely for the benefit of the client for fencing purposes but, of course, the plan dimensions, not the spikes define the corners. I would then question why not place statutory iron posts and do it as a plan of survey in the first place.

I am not suggesting that descriptive plans be avoided, only that in some cases a descriptive plan may not be the appropriate method. This is particularly true in situations where the amount of work and, therefore, the cost to the client is similar to a plan of survey.

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Case Study No. 18: Dates of Survey

This is the eighteenth in a series of articles featuring problems or issues commonly encountered in Systematic Practice Review. The purpose of these articles is purely educational, so no names or identifying legal descriptions are included. Opinions expressed are those of the author.

The Issue

Most major urban developments are surveyed and constructed in phases over several years. Usually the land surveyor conducting the initial phase one survey will be retained to survey the remaining phases. The phase 1 subdivision survey will require the land surveyor to locate or re-establish the limits of the parcel (often a quarter section or more) and integrate the survey in accordance with the requirements of Part C Section 5 of the Manual of Standard Practice. Once construction begins on this phase of the development, iron posts, reference markers, and even ASC markers are often destroyed by construction. Most of these subdivisions now use the delayed posting provisions of Section 47 of the Surveys Act. At least, in theory, the survey monuments are not placed until after all of the utilities and roadways have been completed. This helps to ensure some monuments survive. The issue that then arises is should the dates of survey for future phases be backdated to the start of the phase 1 survey for future phases of the subdivision, if the section monuments or ASC markers are destroyed by construction? And if a land surveyor does show a survey control tie or a boundary re-establishment on future phases of the development, should the monuments and markers

be shown as found on the subsequent survey plans when they are, in fact, destroyed? Should any such ties be shown as copied?

The Plan Examination

We examined a subdivision plan that was stage 18 of a large urban development. It is a subdivision of part of a quarter section. It was a delayed posting survey that was shown on the plan as being surveyed between the dates of April 7, 2001 and August 31, 2001. To the west and abutting the plan examined was another phase of the development, the plan of which was registered three years earlier. This earlier subdivision plan was also a delayed posting survey fully monumented by the same land surveyor on November 2, 1998 according to the memorandum shown on the registered plan. Along a common limit, survey monuments established by the previous survey were shown as found on the plan being examined. Other monuments to the south and east established by previous surveys were also shown as found on the plan being examined. The field notes provided for the survey were also examined. Some notes dated March 2000 (almost a year before the dates of survey according to the plan) show Fd. No Mk. at several corners where the plan shows Fd. I. symbols. The reference control for this subdivision was established June 18, 2001 according to the field notes. It was our observation that the plan did not match the field notes in two respects. The dates of survey were different on the plan than in the field notes, and the survey evidence shown as found was different on the plan than in the field notes.

The Field Inspection

Our field inspection was conducted in May 2002 before the final posting

was complete. In general, our field inspection survey agreed with the practitioner's March 2000 field notes that some survey monuments were not found that the plan showed as found. This was relayed to the practitioner in the report.

The Legislation

To register the plan, the practitioner swore an oath that the survey was performed between the dates of April 7, 2001 and August 31, 2001, and that the survey was performed in accordance with the provisions of the Surveys Act and the Land Titles Act. Something was not right here, and intentional or not, the land surveyor appears to have sworn a false affidavit.

Sections 45 and 46 of the Surveys Act deal with establishment of boundaries and re-establishment of part 3 boundaries. Both sections require that monuments be placed at the boundaries established and at any re-established positions. Section 47(4) of the Surveys Act says: "*on registration of the form referred to in subsection (3)(b), the Registrar shall endorse a memorandum on the plan, and the monuments placed pursuant to subsection (3) determine the boundary lines as though they had been placed before the registration of the plan.*" So, once the memorandum is placed on the plan by the Registrar, the monuments, not coordinates, govern the boundaries. In the case of the adjoining survey, the Registrar's memorandum was placed on the plan on December 9, 1998.

The Response

In his response to the report, the practitioner indicated that the dates of survey shown on the plan of survey were wrong. He says the survey was actually performed between the dates

of April 7, 1997 and August 31, 2001 and he has now registered a plan correction to show these dates. This was four years earlier than what was originally shown on the registered plan. The practitioner also said in his response: *“original subdivisions in this area date back to other files. As an office and in discussions with other surveyors, we struggle to keep ongoing neighborhoods to a manageable size and also keep records as to survey evidence between file to file. Much of what is done in today’s day and age is based on coordinates. In some cases, work is literally done in the middle of nowhere. Both our field and office staff make significant use of coordinate files to determine relative positions of survey points and information.”*

The Concern

I have a concern with this reliance on coordinates after the monuments have been placed and the Registrar’s memorandum has been placed on the plan, as it contravenes the Surveys Act. The change of dates of survey on the plan may appear on the surface to fix the issue. However, the subdivision approval application is dated 2000, so how could the survey of this subdivision begin three years before the application for subdivision was even made? How could this subdivision survey begin on April 7, 1997—over four years before the reference control for this delayed posting subdivision was placed? Reference control was established on June 18, 2001 according to the practitioner’s field notes. The monuments for the adjoining subdivision were placed by the practitioner between the dates of April 15, 1997 and November 2, 1998. Many were then not found in March 2000 according to his field records. They were not re-established either as required by the Surveys Act. From the response received, it appears to me that that the practitioner has relied on coordinates, from the previous survey and not the location of the statutory iron posts, some of which he could not find in March

2000. Coordinates no longer govern these corners and, if they are lost, the practitioner is required to re-establish them. By backdating the survey, he is in effect saying somewhere between these dates, I know those monuments were there, because I placed them. They may be gone before I actually started the survey, but if I backdate the dates of survey enough, I should be covered. I would ask is this ethical?

The Board Meeting

The practitioner voluntarily attended the Practice Review Board meeting where his report was considered. The Board raised a concern with him showing monuments as found where some of his recent field notes indicated they were not found. In response to this the practitioner said: *“the dates of survey for this plan are incorrect. 1997 is when this project was started and, in 1997, field notes the monuments were found which is why they are indicated as such on the plan. The monuments had been previously found within the corrected dates of survey.”* He also said: *this is stage 18 of a major subdivision, and I would welcome the Board’s input regarding dates of survey.”* After some discussion on the issue, the practitioner said: *“although we have not typically re-established posts that have disappeared between the first and later stages, we could re-establish these points.”* He also indicated that a notation Fd. I. (1998) Re-est. Pl. I. (2001) could be placed on the plan.

The Message

Monuments should not be shown as found on a survey unless they have been found during the course of the survey shown by the plan. Backdating the dates of survey to avoid having to re-establish a monument as required by law is questionable at best, and unethical at worst. When a subdivision survey requires monuments that are deemed lost, re-establishment in accordance with the provisions of the Surveys Act is required.

The coordinates governing period for delayed posting subdivisions cannot be extended beyond the time allowed by the Surveys Act. Once the Registrar endorses the memorandum on the subdivision plan, the monuments then forever govern the corners they were placed to define. However, in the hierarchy of evidence, a land surveyor *may* decide that the coordinates are good or even the best evidence as to the location of a lost monument. This must then be clearly displayed on the plan of survey. If ties are copied from past surveys, say so on the plan.

Always show the method of re-establishment for lost monuments when the method is not clear on the plan. This is a requirement of Part D Section 1.1 of the Manual of Standard Practice.

Mark Your Calendar

Upcoming Meetings and Events

Regional Meetings

Calgary

January 27, 2004

March 30, 2004

Edmonton

February 3, 2004

March 25, 2004

Seminar

Condominium Property Act

January 14

Edmonton and Calgary
(via video-conference)

Professional Exams

April 5 and 6, 2004



guardpost

by Bill Halma, ALS

In my twenty-five years as a commissioned land surveyor, I have not been prolific as a writer of articles for the benefit of our Association. This will be my first try.

The subject of this treatise will be the use and abuse of marker posts in the monumentation of our survey fabric.

I first became a part of our small surveyors world in the mid-sixties as a chainman. At that time, I seem to recall that pits were still being dug on road surveys. But wait, change was waiting in the wings in the form of modernity. Yes, a six foot metal monstrosity with an attachable plaque was created. The finished product reminded me somewhat of the individual grave markings for fallen German soldiers.

The plaque was rectangular with an embossed writing on a black background saying:



I looked, but could not find the standard penalty clause which was prevalent on our early survey pins.

At any rate, the new marker posts were to take the place of the four pits on road surveys. They could also be used in lieu of bearing trees in the northern wastelands where some oil and gas activity was occurring. Some of my time was spent north of Edmonton in said wastelands. I had the honour to transport these marker posts to their final resting place by means of shank's mare.

Please picture this—a three man crew going to work. The party chief has shouldered a tripod with attached Wild T-16 transit. He also has his

field book and a Curta calculator. On his belt, a ten or sixteen ounce plumb bob and in his left hand, an axe. Number one chainman has the power saw, a gallon jug for gas and a pint of oil. On his back, a packsack with the following: a 200 foot steel tape, some flagged nails, an axe file, some power saw tools and the lunches for the crew. Oh! Let us not forget the plumb bob and the clinometer on his belt.

Number two chainman brings up the rear with the needed day's supply of iron posts and a number of marker posts. In his pocket, he has a cloth bag containing the plaques for the marker posts, the necessary bolts and a wrench. On his belt, he also carries a plumb bob and a sheathed axe. There they go marching to work.

As you may gather from the foregoing, I am not a fan of marker posts. Not because of the difficulties in carrying this extra burden in the past. Not because of skinned knuckles when trying to attach the plaques with four bolts that just never seemed to line up with the four holes pre-drilled in the marker posts. Not because it takes an awful lot of swings with a sledge to get the sucker into the frozen ground to the prescribed depth. My point is that the placing of these marker posts took on a life of its own, resulting in the following statements that can be found in the manual of standard practice.

“Where practical, iron posts should be referenced by a marker post placed 0.3 metres distance therefrom and the direction noted on the plan.”

Sounds reasonable, does it not? The word practical is used and specific distance and direction is indicated. Then, why have I spent countless hours trying to locate the pin referenced by a marker post? My assumption is that the pin should be 0.3 metres from the MP. There is no

note on the plan showing direction. My locator does not give a clear indication where the pin is due to the presence of old wire on the corner fence post. Eventually, I end up digging the marker post out and pulling same to locate the pin. A lot of wasted effort which has defeated the original purpose of the marker post. My idea of practicality would have been to reference the placing of the iron post to the existing fence corner and stating this in a note on the plan. In this particular case, the pin was found 0.5 metres from the marker post. This is another oddity that, as professionals, we can't measure 30 cm correctly.

“Marker posts should not be placed where they may constitute a hazard to the public or interfere in the normal use of land. In general, marker posts should not be placed in developed urban areas.”

There are sections of high in southern Alberta that parallel the Canadian Pacific Railway. On these common boundaries, there are dozens of pins referenced by marker posts. They looked nice and spiffy, six to seven years ago, when first placed. Today, they look like pretzels leaning in every direction possible, waiting to impale something or somebody. I shudder to think what would happen to some young person slaloming the highway ditch on a snowmobile after a good snowfall and being pierced by one of our marker posts. The resulting lawsuit would make a mistake in the staking of a basement look like chicken feed to an insurance claim.

This, fellow practitioners, is the nub of what I wish to say in this article. I have talked to a few surveyors about my concern and was surprised when I heard one of them reply, “but Bill, you can't just remove marker posts. They are part of the

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public relations

by Jay Abbey, ALS

MADE TO MEASURE *Alberta Land Surveyors make a big impact thinking inside the box*

What do grade 8 students and the Alberta Land Surveyors' Association have in common? The "Science-In-A-Crate" program. To illustrate the relevancy and practicality of mathematics at the junior high school level, The Alberta Land Surveyors' Association and the Science Alberta Foundation have partnered to create important resource materials in the form of a math-based crate named "Made to Measure." The crate is a successful part of one of the Public Relations Committee's tasks, which includes promoting a career in land surveying at Alberta high schools and post-secondary institutions. For high school students to be able to pursue a career in land surveying, they must be enrolled in the appropriate math 30 and science 30 programs. By exposing junior high school students to math concepts and hands-on activities to solve problems found in the "Made to Measure" crate, students are given a chance to play the role of land surveyor.



What is Science Alberta? It is the Science Centre Without Walls. Created in 1990, this non-profit organization delivers a wide spectrum of innovative science-based programs

to Alberta's rural and urban communities. By designing and facilitating exhibitions, workshops, programs and publications for teachers, students, parents, librarians, and whole communities, Science Alberta continually inspires discovery and learning. Over 50 crate titles have been created by this innovative organization, for distribution throughout Alberta. The Public Relations Committee recognized the expertise of Science Alberta and its ability to promote the message of the ALSA.



Work on the "Made to Measure" crate began in late April 2002, when I was asked by Brian Munday to represent the Public Relations Committee and meet with representatives of Science Alberta, the manager of Learning Projects, Christine Leach, and crate contractor, Theresa Gross. The meeting gave me the opportunity to show them some typical survey projects, which included final plans, field notes, registered plans, township plans, maps, photographs and aerial photography. The second meeting was with the very enthusiastic Science Alberta crate creation team. With the assistance of Jarl Nome, articulated pupil, we showed the team some typical survey equipment used in the field in the past and in the present. A total station and data collector and prism, dual frequency GPS receiver, hand-held GPS receiver, steel chain and a Gunter's



chain. With the information provided, the crate team began brainstorming. In an incredibly short period of time, ideas flowed and were put forth for input.

It was Theresa Gross's job to find the appropriate mathematics curriculum that would be best suited to introduce measurements and methods used by land surveyors.

The crate was designed to complement the grade 8 mathematics curriculum, which includes shape and space measurement, transformation, 3-D objects and 2-D shapes. Grade 8 teachers and 160 students in six different classrooms tested the activities at a few of the local junior high schools and gave their feedback. With a few modifications, seven crate activities took form. The activities were presented to the Public Relations Committee on June 17th and, with the overwhelming support of the Committee, were approved.

The crate was launched at F.E. Osborne Jr. High School in the classroom of Mrs. Janice Pritchard on September 17th, 2003. The celebration was hosted by Science Alberta and attended by Sandy Davies, ALS, Jarl Nome, articulated pupil, Mele Rakai of the University of Calgary Department of Geomatics Engineering, a few special guests, myself and a film crew from Shaw Cable. The classroom was full of excitement, partly to do with the pizza, pop and cookies and the



crate activities. The students enjoyed themselves and, as a special thanks, handed out gifts of appreciation to the guests. ALSA brochures and pins were handed out to the students. It was very rewarding to participate in the creation of the crate and to see it in use.

The following are the seven activity stations contained in the “Made to Measure” crate.

Activity 1: *Digital Connections*
Creation and analysis of a digital network using land surveyor descriptions of vertex locations.

Background information is given about the Dominion Land Surveyor and the legal survey system. In this activity, students locate the position of ten radio tower sites on a map of Alberta using the Alberta township system. They then decide the network paths taken by the radio waves between towers. If they are successful in the network setup, all communities will have access to the internet.

Activity 2: *Looking for Black Gold*
3-D modeling of a potential well site by mapping data collected by land surveyors.

Background information is given about AEUB well licensing and non-

routine applications based on elevation differences. The students take on the role of computer technicians and build a 3-D elevation model of a well site, using puzzle-like pieces that depict contours on a well site grid. The students answer the question: is the elevation difference greater than 10m, and can the site be developed?

Activity 3: *“Orange” You Glad You’re a Surveyor?*
Data collection and pythagorean application in a land survey crew fieldwork experience.

Background is given about the use of triangulation and the measurement of distances and angles by land surveyors and their survey crews. The students work as members of a survey crew and measure a right angle triangle on a fabric floor land map. The students use baby steps (heel to toe) to measure distances and use a laser measuring tool (depicting a total station) to compare measurements.



Activity 4: *That was Then, This is Now*—*composite area estimation using photos and maps of property boundaries.*

Background is given about property boundaries and the importance of a survey and the role of the land surveyor. The students assume the role of land surveyor and use a stereoscope to view aerial photographs of a farm. They compare the changing boundaries of a river using a present-day photo and a historic township plan. They are asked if the farm is the same size as the current map tells them.

Activity 5: *The Big Leak*
Volume relationship of oil tank to surrounding ditch.

Background is given about environmental protection, storage tanks and berms. In this activity, the students determine the volume of an oil tank and then simulate an oil leak. They then test the size of three different ditches (berms) to determine the dimensions of the best ditch needed to contain the oil in case of a leak.

Activity 6: *The Lost Lemon*
Quadrilateral classifications as clues to create a treasure map to a lost mine in Alberta.

Background information is given about an Alberta legend that tells the story of Blackjack and Lemon, two prospectors who strike it rich, then lose it all. Students create a treasure map to determine the location of the lost gold mine. They apply their knowledge of properties of quadrilaterals to cryptic clues in order to crack the secret codes to create their treasure map.

Activity 7: *World Survey*
Application of map scale to visit some international work locales of Land Surveyors.



....continued on page 43



Adams man sentenced for forging land survey

By Lisa LaPlante, Berkshire Eagle Staff

PITTSFIELD—An Adams man who admitted that he forged a land survey and submitted it to the Williamstown Planning Board was sentenced Friday to six months of probation.

Jeffrey Meehan, 36, of Dubis Street pleaded guilty in Berkshire Superior Court to single counts of forgery, uttering and unregistered practice of land surveying.

According to Assistant District Attorney Joseph Pieropan, Meehan, an assistant surveyor and technician, had a \$3,400 contract with Jay Alexander Brooks and Elisabeth Goodman of Williamstown to survey a piece of land that was about to be transferred to a variety of abutters.

At the time, Meehan was working with licensed surveyor Eugene P. Galvagni Jr. who was expected to complete and certify the survey.

Meehan and Galvagni parted ways earlier this year, before the Williamstown survey was complete, Pieropan said. When Meehan asked Galvagni if he would complete it so it

could be presented to the Planning Board at the March 11 meeting, Galvagni declined and said he needed to be paid up front, Pieropan said.

On March 11, Meehan did present a survey to the Planning Board and it was approved by all four members and filed with the Registry of Deeds the following day, the prosecutor said.

On March 24, Galvagni was in the Registry of Deeds and happened to come across the survey with his name on it. The seal he uses to certify surveys had been photocopied and placed on the document and the signature on it was not his, Pieropan said.

“This really is a breach of public trust,” he said. “The Registry of Deeds is the keeper of true and accurate records.”

Meehan has since resubmitted the documents with an approved and genuine stamp from another surveyor and the Planning Board has not changed its action.

Defense attorney Mark J. Pasquariello said that Meehan had been the sole owner of a surveying practice since 1998. The company is now going through bankruptcy, he said.

He had had a contract with Galvagni since July 2000, but when his business began suffering and Galvagni stopped working with him, a number of plans were in process, Pasquariello said.

Meehan had an obligation to his clients, he said, explaining that Meehan used “very bad judgement” and panicked.

Judge John A. Agostini accepted a joint recommendation and sentenced Meehan to six months of probation. During the probationary period, he must pay \$1,000 in restitution and send a letter to the Registry of Deeds making it clear that Galvagni is not responsible for the survey that was the subject of the indictments.

WWW.THETRANSCRIPT.COM/STORIES
OCTOBER 27, 2003

Survey finds some homeowners are encroaching on FdL County property

By Peggy Breister, The Reporter

While the Fond du Lac County Highway on Airport Committee was wrestling with a couple neighborhood complaints about the Community Gardens, a land survey discovered that several property owners adjacent to the gardens are encroaching on county land.

The survey found property owners on the northeastern edge of the property had encroached on the property by as much as 78 feet, according to the survey map. The map also indicates a shed on county land behind one home.

The 12-acre county parcel at the corner of Grove Street and Pioneer Road is designated as airport property. It is to be used in an emergency for planes that can't land on the east/west airstrip at the airport across Highway 41. Since the land was unused and had become a weed bed, the county allowed the Community Gardens project through the University of Wisconsin-Extension to cultivate the gardens on the acreage.

The Highway on Airport Committee voted Wednesday to send a letter to all property owners adjacent to the

property asking them to remove within 30 days all buildings, shrubs and trees that encroach on county property. County corporation counsel will be asked to address those homeowners who do not comply within 30 days. Homeowners in the area off Pioneer Parkway could not be reached for comment Wednesday.

Earlier this fall, a few neighbors attended the Highway on Airport Committee and complained to committee members about noise, drink-

ing, lights and children urinating on the garden site.

The committee made a motion to kick the gardens off the site, but also discovered some of the neighbors had encroached on county property when it commissioned a new survey of the land to determine property lines.

*WWW.WISINFO.COM/THEREPORTER/NEWS/
ARCHIVE/LOCAL
OCTOBER 23, 2003*

Mohawk board settles property line question

*By Chick Perry
Telegram Staff Writer*

MOHAWK - Trustees met Monday evening with a local attorney and home owner in an effort to resolve the question of whether or not the resident's property is located in the village, where he pays taxes.

The problem had to be resolved this week because William Sklarz, who owns two parcels on Catherine Street he claims are located in the town of German Flatts, but not in the village, wanted to close on the property with buyers. He requested a refund from the village for the 17 years he paid taxes to the municipality.

In an effort to expedite a resolution, Ilion attorney Robert Applegate hired William Tiel, a licensed land surveyor from Ilion, as a consultant to research county land maps with Duane Miller Sr. of the Herkimer County Tax Mapping Department.

In reviewing the maps, Miller said there had been changes in the village line between the time the original tax map was made in 1844 and another map in the 1860s, suggesting perhaps an Elm tree, noted as a boundary then, might not exist today.

"It's an unprecedented situation and it's pretty much left to the local governments to resolve it," Miller said.

"The property straddles the town and village boundary lines at the end of Catherine Street in Mohawk,"

....continued on page 45

discipline decision

This hearing was conducted as per the complaint filed by the Practice Review Board on February 26, 2003.

Allegation:

That Walter J. Malainey, ALS failed to respond to correspondence requiring a reply within a reasonable time and as such was in breach of Part 1 Section 3 of the Professional Practice Regulation.

Finding of Fact:

1. Walter J. Malainey, ALS has been an Alberta Land Surveyor since June 20, 1983. At all times referred to in these findings, he was registered as an Alberta Land Surveyor with the Alberta Land Surveyor's Association.
2. A letter was sent to Walter J. Malainey, ALS on July 15, 2002 by Lyall Pratt, ALS, Director of Practice Review, requesting a response by August 26, 2002.
3. On September 5, 2002 Walter J. Malainey, ALS advised Mr. Pratt that the response would be received by September 30, 2002.
4. October 21, 2002: John Van Berkel, ALS, Chairman of the Practice Review Board, wrote a letter requesting the response by November 15, 2002.
5. December 16, 2002: Mr. Van Berkel wrote another letter requesting the response by January 17, 2003 as these letters progressed each got more forceful in expressing the urgency of the situation.
6. January 28, 2003: Mr. Van Berkel wrote another letter requesting the response by February 10, 2003.
7. February 26, 2003: Mr. Van Berkel wrote a final letter to R.A. Bassil, ALS, Registrar of the Alberta Land Surveyors' Association, lodging a formal complaint against Walter J. Malainey, ALS for "failure to respond to correspondence requir-

ing a reply within a reasonable time and that this failure constitutes unprofessional conduct."

Findings of the Hearing:

1. The Discipline Committee finds that Walter J. Malainey, ALS is guilty of unprofessional conduct for failing to respond to correspondence in a reasonable period of time.

Reasons:

1. Walter J. Malainey, ALS admits that he failed to respond to correspondence received from the Practice Review Board.
2. Section 3 of the Professional Practice Regulation pursuant to the Land Surveyors Act states very clearly "every practitioner shall respond to correspondence requiring a reply within a reasonable time of receiving it." To the date of this hearing, Mr. Malainey has not responded other than one very early verbal response. The Discipline Committee considers this unacceptable conduct.
3. Walter J. Malainey, ALS has been a member in good standing in the association since 1983.
4. Considerable time and effort on behalf of the Practice Review Board has been spent on this particular review as a result of this failure to respond and this is considered unacceptable conduct. In consideration of these findings the Discipline Committee hereby orders that:

1. Walter J. Malainey, ALS be ordered to pay the costs of the hearing in regard to this matter as follows:

Court Reporter -----	\$1,000.00
Travel -----	200.00
Legal Counsel -----	800.00
Miscellaneous -----	100.00
Total -----	\$2,100.00

- The full amount to be paid within ninety days of the date of this order.
2. Walter J Malainey, ALS be ordered to pay a fine of \$1000.00 to the Alberta Land Surveyors' Association. The full amount of this fine to be paid within ninety days of the date of this order.
 3. Walter J. Malainey, ALS be sent a letter of reprimand.
 4. Walter J. Malainey, ALS complete his response to his Phase 2 review and have it in the offices of the Association by the close of business on Friday June 6, 2003.
 5. Walter J. Malainey, ALS be directed to respond in a very timely manner to any further requests in regards to this current review that may be generated by the Practice Review Board in the course of completing this review.
 6. That this order and the letter of reprimand be published in *ALS News*.

Dated at the City of Edmonton this 23rd Day of May, 2003

LAWRENCE M. PALS, ALS
VICE CHAIRMAN, DISCIPLINE COMMITTEE

Letter of Reprimand:

On May 21, 2003, the Discipline Committee found you guilty of unprofessional conduct for failing to respond to repeated requests for a response to your systematic practice review.

Your failure to respond in any way has caused the Director of Practice Review and the Practice Review Board considerable extra time and delay. You, through this non-response, have caused your Association to expend unnecessary additional costs to carry out this discipline process. You have been disciplined solely for your non-response. One of the orders of the hearing was

....continued on page 47

Work Week is a credit course that takes place in the third semester of our geomatics program. It figures prominently into our second year students' educational and training experience. This year, the one-week practicum took place from October 20 to 24 inclusive.

Students were placed throughout Alberta, into British Columbia, and as far north as Fort St. John. Reading through the work week reports, it was interesting to see that our students were involved with everything from the job set up, CAD work to working in the field both in and out of town. It's always great hearing about the stories that took place during their busy one week.

This is a great opportunity for the students to have a chance to apply some of the skills they are acquiring while at SAIT. As well, they have a chance to demonstrate their learning ability. Our students were exposed to new software, total stations and GPS receivers. I would like to extend a very warm thanks to all the geomatics companies that were involved and made work week a success.

SAIT now has a Geomatics Club, which was established late last year with Gord Linnell as the Club's president. The Club's mission is to plan industry-networking nights, special events such as speaker series and offer our first year and second year students a chance to get to know one another.

We appreciate the continued strong support from industry towards our graduates, as well as the ongoing support for our current students. This fall, two companies sponsored a get together after work/school social for our first and second year students. The events help promote the companies and recruit for summer and full-time employment.

This year, we will be graduating approximately thirty geomatics students at the end of April. SAIT 2002 graduate employment statistics showed that the employment rate for the geomatics program was 100%. Most graduating students had firm job offers by the end of February.



news from u of c

First Year BBQ



The Alberta Land Surveyors' Association, the Department of Geomatics Engineering and the Geomatics Engineering Students Society hosted the second annual barbecue for first year engineering students on November 17.



There were booths set up from several land survey firms who were able to answer questions about land surveying and geomatics and talk to them about summer and intern positions. There were also a number of land surveyors present who just wandered around, took in the atmosphere, and spoke to the students.



The First Year barbecue started last year as a way to encourage the first year engineering students to select geomatics—and land surveying in particular. The students who stopped by the ALSA booth wanted to know what courses to take, what the career opportunities were. And there was one or two who wanted to know how much money they could make. I can't possibly earn more money than an engineer, can I?

The hot dogs and pop were gone before we knew it – even though we ordered the same amount as last year. It must be an indication that the event is popular and that we had a chance to talk with many, many students.

Many thanks to Sean Studer, articulated student, U of C graduate, and a member of the Public Relations Committee for making the barbecue a big success!



Andrew Hunter Receives Margaret P. Hess Graduate Scholarship

Andrew Hunter has been awarded the Margaret P. Hess Graduate Scholarship by the University of Calgary. Dr. Margaret Hess has been an educator at the Alberta College of Art and the Division of Continuing Education at the University of Calgary where she has lectured on the native cultures of the Great Plains and northern regions of the North American continent. The Margaret P. Hess Graduate Scholar-

ship is awarded to students whose area of study focuses on the Rocky Mountains and the Eastern Slopes, or the Arctic/Sub-Arctic regions, and whose research addresses the question of balance between protection of natural habitats and economic use of lands. Mr. Hunter's thesis focuses on the development of a spatio-temporal model for the prediction of grizzly bear movement within the Yellowhead ecosystem of west-central Alberta. The objective of the work is to obtain a better understanding of grizzly bear movement through its environment so as to be able to develop land use criteria that will ensure the preservation of natural grizzly bear habitat.

Professor Gérard Lachapelle Receives Honorary Professorship from Italian University

The Department of Geomatics Engineering is pleased to announce that Professor Gérard Lachapelle, CRC/iCORE Chair in Wireless Location has been conferred an Honorary Professorship from the Università' Degli Studi Di Napoli Parthenope, Naples, Italy. The Università' Degli Studi Di Napoli Parthenope is an autonomous and research intensive university established as the Istituto Universitario Navale at the beginning of the 20th century and that offers undergraduate and graduate study programs related to the scientific, engineering and economic aspects of the sea.

In awarding the status of Honorary Professor to Dr. Lachapelle, the Università' Degli Studi Di Napoli Parthenope cited his pioneering contributions and numerous outstanding achievements in the area of satellite-based positioning, navigation and location during the past 25 years.

The Surveys and Technical Services Section of Alberta Sustainable Resource Development is working on several initiatives designed to improve and update our services to you and all Albertans.

1) Director of Surveys Approves and Confirms Official Surveys

The Director of Surveys confirmed two official monument plans on November 18, 2003 that were registered at the Land Titles Office on November 27, 2003 as numbers 0325848 and 0325849. These plans give official status to the monuments established at the NE 33-85-14-5, NE 28-84-14-5, NE 21-91-13-5 and the E ¼ 21-91-13-5 within unsurveyed territory. These monuments do not create any surveyed government road allowances or section lines and were placed to assist the Lubicon First Nation, who is currently negotiating boundaries for a treaty land entitlement settlement.

2) Disposition Survey Standards

The Dispositions Subcommittee continues to meet monthly and develop draft standards for public land disposition surveys. During the last several meetings, discussions have concentrated on the need for standard monumentation. The practice of placing statutory iron posts and marker posts on surveys for most disposition types is being contemplated. It is expected these new proposed monumentation standards would be brought forward as recommendations to the spring 2004 Alberta Land Surveyors' Association Annual General Meeting in Jasper.

3) Public Land 'As-Built' Disposition Surveys

For a number of years, Alberta Sustainable Resource Development

staff has discussed the need for 'as-built' disposition surveys on public land. Knowing both the proposed location and the actual location where an activity has been built / constructed, are fundamental to effective and efficient land use management. Recently, an internal committee of headquarters and field staff has been established to define detailed requirements for 'as-built' surveys. It is anticipated that, over the next several months, the 'as-built' requirements will be drafted and presented to affected stakeholders, including the Alberta Land Surveyors' Association.

4) Canada-Wide Differential Global Positioning System (CDGPS)

On October 14, 2003 the Canada-wide Differential Global Positioning System (CDGPS) service was officially launched. Completion of the service culminates a five-year effort by Alberta Sustainable Resource Development, other provincial agencies and the federal government to develop a wide-area real-time differential GPS system. The CDGPS service is distributed via satellite and is available in Canada from coast-to-coast-to-coast. Features of the service include an expected accuracy of approximately one metre for users with mapping grade GPS receivers and sub-metre for users with dual frequency GPS receivers, twenty-four hours a day / seven days a week availability, and no subscription charge. The only cost for the service is the initial purchase of the CDGPS radio and ancillary equipment. In addition, CDGPS is referenced to NAD83(CSRS) making it spatially consistent in Alberta and Canada. For further information on the CDGPS service, please see www.cdgps.com.

5) National Standards for Integrated Surveys

At the Fall 2002 and 2003 meetings of the Canadian Council on Geomatics (CCOG), two resolutions were approved to further discussion and develop national standards for integrated surveys. As Alberta's representative on CCOG, I recently forwarded draft standards to the Alberta Land Surveyors' Association for consideration. Subsequently, the Standards Committee has been asked to review and comment on the draft standards. Below are the two resolutions.

Resolution F02-12: National Standard for Integrated Surveys

WHEREAS a continued interest exists to adopt a national standard for Integrated Surveys; and

WHEREAS the Task Force for a variety of reasons has not been able to develop national standards; therefore

BE IT RESOLVED that all jurisdictions are encouraged to participate in the Task Force on Integrated Surveys; and

BE IT FURTHER RESOLVED that the Task Force reconsider the recommendations of the Ballantyne Report on Integrated Land Surveys (January 2002) and create a draft set of principles and recommendations that can be used for consultation purposes with self-governing survey professions; and

BE IT FURTHER RESOLVED that upon receipt of the Task Force's recommendations, each jurisdiction consult with their self-governing survey profession and report their findings to the Task Force; and that the findings be consolidated and that the Task Force make recommendations to the Council by next year's annual meeting.

Resolution F03-12: National Standard for Integrated Surveys

WHEREAS the Surveyor General of Canada tabled a report on Integrated Surveys containing recommendations for a national standard and administrative principles to implement these, and

WHEREAS significant discussion ensued with respect to the recommendations; therefore

BE IT RESOLVED that each jurisdiction discuss the report with their respective organizations and survey associations, consider the report and provide comments and recommendations to the Surveyor General of Canada by April 1, 2004; and

BE IT FURTHER RESOLVED that the Surveyor General of Canada will receive the comments and compile a final report on the basis of these comments and recommendations for presentation at the Fall 2004 CCOG meeting.

6) GeoBase Portal Launched

On November 19, 2003, the GeoBase portal was publicly launched at

www.GeoBase.ca. GeoBase is a federal, provincial and territorial government initiative that is overseen by the Canadian Council on Geomatics (CCOG). Through the GeoBase portal, users have access to quality geospatial information at no cost and with unrestricted use. Six themes are included in GeoBase:

- Administrative Boundaries (inter-provincial and territorial boundaries and the exclusive economic zone of Canada)
- Canadian Digital Elevation Data (CDED) (national digital elevation model coverage at the resolution of 1:50,000)
- Canadian Geodetic Network (horizontal and vertical geodetic control information across Canada)
- Geographical Names of Canada (toponymy) (subset of Canadian Geographical Names Data Base)
- Landsat-7 Orthoimage (national coverage of recent ortho rectified satellite images)
- National Road Network (NRN) (centre line of all non-limited use Canadian roads)

Guardpost continued from page 29

monument.” I beg to differ, because, in my view, the pragmatism of safety overrides the legality of our regulations. Sometimes, we become prisoners of our own regulations. Reasonable and thoughtful action to prevent injury is a responsibility of us all.

This does not necessarily mean that we have to mount a campaign tomorrow to pull every marker post that I referred to earlier. It does mean that all practitioners should be instructive to their field crews to ensure that the use of marker posts does not constitute a hazard.

Lastly, I am sure that the farmer that cuts the many acres of highway property would thank us profusely if he did not have to contend with our marker posts. Also, please make sure the pins themselves are placed at ground level or slightly below for the same reason.

Public Relations

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Background is given about the opportunities land surveyors have to work internationally. The students determine exotic work locales through the application of map scale and ratios. They use a map of the world, a GeoLeg measuring tool and a small tape measure.

Other information supplied in the crate tells of the history of land surveying, the role of the land surveyor and the science of measurement, and the importance of the role of a land surveyor in determining legal boundaries. The crate mentions related careers in the field of geomatics and also suggests contacting a land surveyor and organizing a field trip to a land survey company. So be prepared!



I believe the crate program performs the objective to inform the public about land surveying and our profession and will increase the profile of the individual Alberta Land Surveyor and the Alberta Land Surveyors' Association.

The “Made to Measure” crate has been fully booked for the first half of the 2003-04 school year, and only eight available bookings are left for the second half of the year. There is

no charge for using the crate, and the cost of transporting it to a school is entirely covered by the Science Alberta Foundation.

I highly recommend that you, the membership, promote the “Science-In-A-Crate” program to your children, teachers and friends. To find out more information about Science Alberta and the crate program, visit www.sciencealberta.org and www.wonderville.ca.





legal notes

Real Property

ADVERSE POSSESSION—Court dismisses plaintiff's claim for possessory title or easement where she failed to show exclusion of registered owners and that her use of claimed lands was reasonably necessary for the better enjoyment of her property.

AR was the owner of 91 M Ave. GJ and ZJ owned the neighbouring 89 M Ave. from 1987 to 1996, and MD and LD owned it from 1996. AR claimed possessory title over a three and one-half foot portion of 89 M Ave. lying alongside her property (consisting of a portion of the driveway servicing 91 M Ave.), and commenced an action for a declaration confirming her interest, as well as for an injunction and damages. LD, in turn, commenced an action against AR relating to criminal charges that AR had initiated, and AR counter-claimed against, LD, MD and PF (LD and MD's son-in-law) claiming various torts.

HELD: AR's claim to possessory title or right-of-way dismissed, as well as AR's claims against defendant city; LD's claim against AR dismissed; AR awarded \$2,000 in damages against LD, MD and PF for harassment, and awarded \$2,500 in punitive damages. AS, who lived at 89 M Ave. from 1960 to 1984, testified that the occupants of 89 M Ave. did not regularly use the disputed lands given that 89 M Ave. had its own driveway, though the occupants used the lands to change the kitchen window and storm windows facing 91 M Ave. AR stated that she used and maintained the driveway, parked on it and hauled a trailer up and down it. Her use continued until GJ and ZJ built their new home, at which time they used the driveway during the construction, with AR's consent. For AR's adverse

possession claim to succeed, she must establish that there was (a) actual possession; (b) an intention to exclude the true owner; and (c) effective exclusion of the true owner from possession. The disputed area was never fenced and, while there can be possession without enclosure, it is still necessary to be able to find that the use by the owners of 91 M Ave. was exclusive of the owners of 89 M Ave. The court finds that the owners of the disputed lands were not excluded, and did make some minimal use of the property from time to time. Thus, the claim of adverse possession must fail. Turning to AR's claim for an easement or right-of-way, it must also be shown that the use of the disputed area is reasonably necessary for the better enjoyment of 91 M Ave. AR's use, including the hauling of the trailer, is essentially personal to her and not one necessary for the property. Also, the use made by AR has only been carried on since 1985, just over nine years, and falls short of the necessary 20-year duration. The claim for a right-of-way therefore, fails. The court then reviews AR's claim for damages against defendants, and finds no basis for the claims, other than the counterclaim against LD, MD and PF for harassment. While no physical assault occurred, the conduct complained of was reasonably and foreseeably likely to have an intimidating or discouraging effect upon AR with respect to her use of the driveway. The conduct resulted in damages to her of \$2,000, and the court awards punitive damages of \$2,500. As to LD's complaint of malicious prosecution, the claim is not established. Finally, AR's claims against the city are dismissed as she has failed to show that the windows at 89 M Ave. contravene the building code or that the city had acted on a basis tainted with corruption or

involving wrongful discrimination. **Robertson v. Jones, [2003] O.J. No. 3316, Ont. S.C.J., Spence J., Aug. 14/03. Full Text Order No. 2320-002 (41 pp.)**

REPRINTED WITH PERMISSION FROM
THE LAWYERS WEEKLY - SEPTEMBER 26, 2003

ENCROACHMENT—Appellate court upholds order that land owner pay adjoining owner \$80,000 for 1.5-.5 foot encroachment of house built in 1917.

Plaintiffs and defendants owned adjoining lots. The basement and building of defendants' house encroached on plaintiffs for 1.5 feet for 32.6 feet and six inches for a further eight feet. The roof eaves also encroached onto plaintiffs' lot by about four feet for a distance of 37.5 feet. The encroachment occurred when defendants' house was built around 1917. When defendants purchased the property in March 2000, the former owners had a survey prepared which identified the encroachment. They notified plaintiffs, and defendants bought the property with knowledge of the encroachment problems. Plaintiffs commenced proceedings claiming removal of the encroachment or an order declaring an easement in defendants' favour on payment by them of just compensation. Plaintiffs admitted the encroachment and pleaded entitlement to maintain it upon payment of reasonable compensation. Compensation at trial was fixed at \$80,000. Defendants appealed claiming the amount was excessive and plaintiffs cross-appealed claiming that the sum assessed did not reflect the special value of the encroachment to defendants.

HELD: appeals dismissed. The learned trial judge considered the benefit of the encroachment to defendants in determining compensation, but he considered the diminution of plaintiffs' property value to be a more reliable basis. Evidence indicated that defendants had purchased the property at a discounted price because of the encroachment, and that the encroachment negatively affected the market value of plaintiffs' property and deterred potential purchasers. The learned trial judge set the amount of compensation at \$80,000 after considering all relevant factors and the court is not prepared to say he erred in doing so. It also appears that the trial judge considered the various issues raised in the cross-appeal and gave reasons for not accepting plaintiffs' submissions. Again, the court is unable to say he erred in doing so.

Sidiropoulos v. Sullivan, [2003] B.C.J. No. 2196, B.C.C.A., Finch J.A. (Hall and Smith J.J.A. concurring), Sept 15/03. Full Text Order No. 2324-014 (4pp.)

REPRINTED WITH PERMISSION FROM
THE LAWYERS WEEKLY - OCTOBER 24, 2003

COVENANTS—Enforcement - Notwithstanding that owner had abandoned intention to subdivide lands and merely wished to build single family dwelling, court enforces covenant granted in 1990 by owner to municipality as part of subdivision consent making the granting of building permit(s) condition upon municipal services and roadway being made available.

In 1988, Mr. and Mrs. A (the A's) purchased lands in respondent city. The lands were fronted by G Ave. to the north. To the back of the lands lay L Drive, which ended directly against the southeast corner of the lands. At all material times, respondent had a policy or plan, known to the A's, to extend L Drive north to G Ave. in order to improve traffic in the area, and would ultimately have to acquire a strip of the lands along the eastern side. In 1988, the A's applied to respondent for subdivision into seven

lots, one lot lying along G Ave. and the other six lying landlocked to the south. If granted, respondent would have been entitled to require the A's to dedicate a strip along the eastern portion of the six lots as roadway to provide road access. However, the application was refused. In 1990, the A's applied to subdivide their parcel into two, one lot lying along G Ave., and the other lying landlocked to the south. As a condition to consent, the A's entered into a covenant which was registered against their property providing that "a building permit shall not be issued until the land is subdivided and has available to it municipal utility services including water, storm sewer, sanitary sewer and roadway." In 1992, the A's transferred the property to appellant, and in March 2001 appellant applied for and obtained the necessary building permits to construct one large single family dwelling on the lands. Respondent then revoked the building permits, alleging that they contravened the covenant. Appellant sought cancellation of the restrictive covenant and restoration of the building permits. The chambers judge found the covenant valid and not subject to cancellation. Appellant appealed.

HELD: appeal dismissed. Appellant concedes that respondent had an absolute right to require the covenant in 1990 when it granted the subdivision, and also the right to defer taking the roadway by agreement with the then owners. The covenant retained the ability of respondent to impose a requirement already imposed by law, until an indefinite point in the future when the owner decided to build on the property. The jurisdiction to require the dedication already existed as a result of the subdivision applied for and obtained in 1990 and the covenant affected the timing only. The court agrees with the chambers judge that the practical benefit of requiring that the subdivision take place was that a direct route would be provided on L Drive to G Ave. That benefit would be lost if the covenant

were cancelled or the property used for a single-family dwelling. In that event, respondent would be obliged to expropriate and pay for the strip, whereas in 1990 it was entitled to require dedication of the strip for road purposes without compensation. The benefit to the owner of appellant's property in having the road dedication deferred until a later date was clear; and in the meantime, they were permitted to subdivide on condition that the covenant be provided. Both parties benefited from the arrangement, and the court finds nothing objectionable or inappropriate in the analysis of the chambers judge, which in part regarded the covenant as an agreement between the parties.

Deep Six Developments Inc. v. City of Richmond, [2003] B.C.J. No. 2238, B.C.C.A., Newbury J.A. (Rowles and Oppal J.J.A. concurring), Sept. 30/03. Full Text Order No. 2325-018 (16 pp.)

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THE LAWYERS WEEKLY - OCTOBER 31, 2003

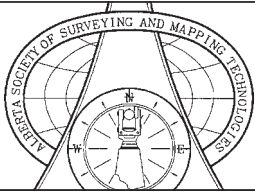
News wire continued from page 35

Applegate said. "Mr. Sklarz and his late wife paid taxes as if the property were in the village of Mohawk during the 17 years they owned the property," Applegate said. "The tax maps of the property show 25 percent of it is located in the village, 75 percent, in the town."

To make matters more confusing, there are two parcels involved, one with a house on it, the other an empty lot.

"The important thing is that the property located in the town has the house on it and involves improvements," Applegate said "The property receives water and electric services from the village of Mohawk and the concern is, if the property is not in the village, the owner would have to form a water district, even though the home is getting the services now, unless an agreement is reached with the village. It could also create a problem with the sale."

WWW.HERKIMERTELEGRAM.COM/ARTICLES
OCTOBER 28, 2003



assmt notes

by *Stutt Pottruff, Executive Manager*

All has been a very busy time for us with three Council meetings, courses, an open house at NAIT, a regional meeting in Edmonton, career fairs at SAIT and two high schools in Calgary, GIS Day in Lethbridge and a restructure of the Society.

In September, Gerald Roth and Jean-Paul Fournier of UMA Engineering of Lethbridge were certified. Diane Wilson of The Cadastral Group in Slave Lake was recertified as a Senior Technologist, Drafting/G.I.S.

Blaine Benson, one of the ALSA members on the Certification Board, had to step down because of his move to Edmonton. We benefitted from Blaine's timely advice on certification and on many other matters including our proposed curriculum. Thank you, Blaine.

Twelve employees from Stantec and Fugro SESL, Ivaylo Nedev and Llewellyn MacKenzie attended our Basic Survey Calculation Course at NAIT from September 26-28. Information on these courses can be found in NAIT's continuing education calendar and our website.

Glen Erdely hosted our booth at NAIT's open house October 17 and 18. He felt it was very much worth his time and was very good exposure for us. He met many students and signed up eight new members. This is the first time that we have been a part of their open house. I would like to thank Dwayne Westacott of NAIT and Dale-Lynn Lawrence for making it happen. Glen is also our regional representative in Edmonton and is a member of the NAIT Geomatics Engineering Technology Advisory Committee. He has been busy knocking on doors for us looking for new members.

There was a successful pizza, wings and beer night in Edmonton on October 23. Nine people enjoyed the

hospitality and discussions. The next meeting will be held near NAIT in March before the students take their final exams. Past President Kevin Laiss entertained all with his insights. We would like to thank Kevin for his enthusiasm and generosity.

Shannon Hala and Mike Spencer represented us at SAIT's Career Directions 2003 on November 5. Over 200 persons participated in our draw for a Garmin GPS Personal Navigator donated by John Darel of Cansel. It was won by Bonita Luo, a SAIT Database Administration student. They both enjoyed the day and reported that the majority of the people were looking for work in the GIS field.

In November, the southern members of Council met in Calgary. Shannon Hala reported that SAIT has agreed to run courses customized to our needs. Some of the proposed classes are basic and advanced GPS, basic GIS and an AutoCAD advanced users course. It is hoped that they can be added to their Survey Certificate Program. Shannon is be commended for the inroads she is making in this very important matter. Education is our mandate.

Council has agreed to recognize, with the input of our Panel of Examiners and Chair Ken Berg, the Land Information Systems Diploma Program at Olds College under Coordinator Bob Hoffos. Graduates of the program will be classified at a two-year tech level as are students from SAIT and NAIT. We wish them great success as they commence their first year.

Mike Spencer is taking our booth to GIS day in Lethbridge which is organized by the city. He continues to plan the 2004 AGM at Kananaskis May 21 and 22.

There were five certifications and a single recertification. Tammy Finn

of the City of Calgary, George McGeachie of Burnco Rock Products, Mike Mitton and Brian Nonay of Stewart, Weir and Ivaylo Nedev of Usher Canada are our new members. Armando Sanchez Lona of AMEC Infrastructure was upgraded to a Senior Technician, Drafting/GIS. We are processing an application from David Brown of Can-Am Surveys.

We recognized the following new NAIT students; David Mercer, the 2003-4 ASSMT bursary recipient, Kevin Earl, Weston Gibson, Dwayne Vanderveen, Ryan Kiziak, Matthew Nelson, Valerie Wolff, Tyson Altenhof and Brenda Teitsma.

Council also agreed to participate in two career day high school fairs in Calgary on December 4. It was learned that Bob Wallace, ALS of Global Surveys has agreed to be a member of our Certification Board. The ALSA has been advised.

And finally, Council accepted, in principle, the details of the executive assistant contract invitation. This person will take up the tasks of the Executive Manager, Registrar, Treasurer, *Link* Editor and website overseer. It is planned that this person will start in early February. It should result in increased communication between members and will free up members on Council from the ongoing business of the ASSMT to concentrate on policy issues.

May I say a few parting words. After a call from Syd Loeppky and an interview with Wayne Hughes, Tony Steven and Hugh Furber, I found myself at my first Council meeting in Red Deer on October 18, 1989. We had some pretty long meetings in those days. We were just starting the safety certification program that fall. Wayne Hughes and Tony Steven did an amazing job to get it going. It was

a wonderful course under instructor Bernie Woods. It was designed to increase membership and help our members.

Another major effort was the registered survey technologist category. Today, the Society is concentrating on increasing our credibility in the areas of certification and education.

My first office was at Wolley-Dod and MacCrimmon Surveys on Kensington Road followed by two offices at Team Consultants. I am grateful to Army MacCrimmon and Dave Hellard for their generosity. Just the revolution in technology is something.

I started out typing everything and now it's e-mail. Thank God. Some of my greatest memories other than Council were AGM meetings, SAIT, Crescent Heights and Calgary Expo career days, the many regional meetings in Calgary and Edmonton and the ALSA Golf Tournament.

I saw Hugh Furber's children grow up. The people were the best. A few I should mention are Ed Titanich, Maurice Fontaine, Al Bowler, Ken Berg, Brian Irwin, Henry and Rick Palindat, Barry Bleay, Wayne Latam, Farley McKenzie, Bob Baker, Alan Strid, Zenny Swydneycky, Roger Violette, Wanda Dezorzi, Les Bonke, Stephen Nichol, Kevin Laiss, Mike Spencer, Ken Revoy, Dwight Adams, Janet Rose, Terry Beck, Clint Johnson and David Allen. There were many others. There would be no ASSMT without them.

I am very pleased that we, with the ALSA, have kept the ASSMT alive and well. I am most proud of the people that I have asked over the years to take a part in the Society who continually to this day work for the betterment of the standing of surveying and mapping personnel in Alberta. I have been honored to serve. Thank you.

A Very Merry Christmas to all!

SPR Director's Message *continued from page 26*

ASCM Ties

Throughout the life of the alleged plan errors program, about 15 % of all alleged plan errors related to either missing survey control ties or misclosures with survey control. In our examinations through Phase 2, I note a similar deficiency rate. Some surveys did not tie to survey control at all, while others were not properly integrated. From the responses to reports received on this issue, it appears that some members are misinterpreting Part C, Section 5.4 of the Manual of Standard Practice. They seem to mistakenly think that ties to survey control are optional. Part C, Section 5.4 of the MSP says: *If a surveyor performs a survey within the bounds of a survey that has previously been integrated in accordance with sections 5.1 to 5.3 then the requirements of 5.1 are optional.* The key words in this section are **"within the bounds."** If your survey is totally within the limits of a previously integrated survey, (not just abutting an integrated one, or using a common section limit), then integra-

tion is optional. Some surveyors state on their plan *"bearings are grid and referred to plan xyz"* which is fine so long as their survey is totally within the bounds of plan xyz. If it is not totally within the bounds, then integration is required. The new survey must fall completely within the bold outline of the previously integrated plan to be exempt from the requirements for integration.

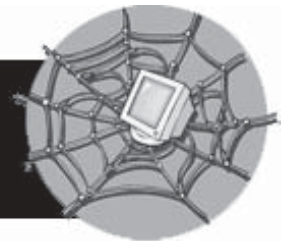
Discipline Decision *continued from page 36*

to complete your response to your Phase 2 review. Should you not complete this review to the satisfaction of the Practice Review Board, you may find yourself back in front of the Discipline Committee for other reasons.

The Discipline Committee considers your conduct in this matter to be very poor judgement for a professional land surveyor. Any communication could have avoided this entire discipline process and hearing. Yours truly,

LARRY PALS, ALS
VICE CHAIRMAN DISCIPLINE COMMITTEE

net notes



Surveyors in the News

All my idea, says surveyor

www.telegraph.co.uk/news/main.jhtml?xml=/news/2003/11/05/nholy105.xml&sSheet=/news/2003/11/05/ixnewstop.html

Global map for Zim on cards Harare Herald

www.herald.co.zw/index.php?id=26990&pubdate=2003-11-28

Battle over land continues Ghanaian Chronicle

www.ghanaian-chronicle.com/231112/page2b.htm

Original line between counties re-established Park Hills Daily Journal

www.mydjconnection.com/articles/2003/11/17/community/news5.txt

Check of land survey stopped school construction Sierra Vista Herald

www.svherald.com/articles/2003/11/24/news/news3.txt



history

This is the first in a series of articles on the history of the ALSA and its members. The ALSA will be publishing a book on the history of surveying in Alberta in time for the 2005 AGM.

Birth of the ALSA

Excerpt from JH Holloway's History of the Alberta Land Surveyors' Association, 1960.

There is little information on record about the birth of the Alberta Land Surveyors' Association, but it appears that when The Alberta Land Surveyors Act had been passed in 1910, the Dominion Land Surveyors then practising in the province immediately got together and organized the Association provided for by the terms of the Act. There was an unrecorded and apparently an unofficial meeting in the spring of 1910, but the first Annual General Meeting of the Association was held on the morning of January 17, 1911, in the committee room of the Edmonton Builders Exchange, wherever that may have been.

That meeting was attended by twenty members under the chairmanship of R.W. Cautley, Dominion and Alberta Land Surveyor. The first item of business at that meeting seems to have been the sorting out of a difference of opinion between the provincial Attorney General and the federal Minister of Justice as to the admissibility of Dominion Land Surveyors to membership in the Association. The old professional jealousy between Dominion and provincial land surveyors was apparently simmering and was having its repercussions in higher places, as the following extracts from the minutes show:

"Mr. Cautley was able to inform the meeting that the Deputy Attorney General, after consultation with the Hon. Mr. Mitchell (Attorney General), had definitely decided that any Dominion Land Surveyor resident in the Province on the 16th of December, 1910, was entitled to be registered under subsection 25(1) of the Act.

"Mr. Cautley also read an adverse

recommendation made by the Hon. Mr. Aylesworth, Minister of Justice, on complaint of the Surveyor General of Canada and communicated to the Lieutenant Governor of Alberta, with a view to demanding that the Act be changed or that it be vetoed."

Just what all the argument was about is rather obscure, but evidently there were some strong feelings on the subject. The first Annual Meeting, however, took the matter calmly, for the next paragraph of the minutes relates that upon motion of Mr. Cautley, seconded by Mr. Knight, it was agreed that this meeting do now adjourn to reconvene at the call of the chair, whereupon those present proceeded to elect the officers of the Association for the coming year.

The first president so elected was Mr. William Pearce, a well-known surveyor and former Inspector of Dominion Lands who in 1875 had been appointed as one of the members of the original Board of Examiners for Dominion Land Surveyors. His pioneering work in land settlement and irrigation was outstanding and although he was even then of fairly advanced age, he remained for several years an active and prominent figure in the Alberta Land Surveyors' Association. Mr. L. C. Charlesworth, who was then provincial Director of Surveys, was elected Vice-President, and Mr. R. W. Cautley, Surveyor to the Edmonton Land Titles Office, who later made a name for himself as a member of the Alberta - British Columbia Boundary Commission, was elected Secretary-Treasurer and Registrar.

The members of the Council were J.L. Cote, the first Alberta Land Surveyor to be appointed to the Canadian Senate, A.J. Latornell, City Engineer for Edmonton, A.P. Patrick, who carried on his private practice at Calgary until he was well past the age of ninety and died only a few years

ago, R. H. Knight, Maurice Kimpe and B. F. Mitchell, all in private practice at Edmonton.

With that and after passing a vote of thanks to the members of the provisional council for the good work done by them in organizing the Association, it was moved, seconded and carried, that this meeting do now adjourn until 8:00 p.m. this evening. What happened after 8:00 p.m. is not recorded, but no doubt a good time was had by all.

Place Names - Lake Belyea

Source: *Place Names of Alberta*, by Eric Holmgren, 1973.

Lake Belyea is in the furthest northeast corner of the Province of Alberta

Biography - A.P.C. Belyea

Albert P.C. Belyea was born in Gagetown New Brunswick in 1891 and died in Victoria British Columbia on May 10, 1968.

Mr. Belyea was a graduate of the University of New Brunswick in civil engineering. He moved to Edmonton in 1906 at which time he joined the province's surveys branch.

Mr. Belyea was a charter member of the Alberta Land Surveyors' Association, officially recorded as ALS 001 on January 1, 1911.

Mr. Belyea was the Director of Surveys from 1915 to 1922 and again from 1938 until his retirement in 1947. He was president of the Alberta Land Surveyors' Association in 1922 and made an Honorary Life Member of the Association in 1952. He moved to Victoria in 1954.

He was a member of the Ivanhoe Masonic Lodge and a former member of the University of Alberta Senate. Mr. Belyea was survived by his widow; one son, Albert of Olds, one daughter, Mrs. Ralph Field of West Vancouver; and five grandchildren.