Digging For Pre-1912 Wooden Posts

Council assigned the task of new business motion #7, carried at the 89th Annual General Meeting in April 1998, to the RPR Task Force and the Standards Committee. These committees subsequently struck a sub-committee consisting of the following members: Clayton Bruce, A.L.S.; Larry Pals, A.L.S.; Mike Michaud, A.L.S. and Don George, A.L.S.

Motion #7 was carried as follows: It was MOVED by Mr. Gudim, seconded by Mr. Pals, that WHEREAS, it is impractical to dig for wooden posts at every lot corner while carrying out a survey for a Real Property Report on a lot which was surveyed prior to February 16, 1912, BE IT RESOLVED that the Discipline Committee, the Practice Review Board, the Standards Committee and Council, in concert, be directed to review the requirements to dig for wooden posts at all lot corners surveyed prior to February 16, 1912 during the performance of Real Property Reports and that some practical situations, recommendations or new clauses for inclusion in the Manual of Standard Practice are brought back to the 1999 Annual General Meeting.

The sub-committee met on two occasions and concluded that when performing Real Property Reports or other surveys, land surveyors must - consider all evidence including pre-1912 wooden posts.

The following article, prepared by Clayton Bruce, A.L.S., and approved by Council, on the recommendation of the Standards Committee and the RPR Task Force, is submitted for information and the benefit of all land surveyors.

SUBDIVISION SURVEYS BEFORE FEBRUARY 16, 1912
Wooden Posts Placed At Lot Corners Prior To February 16, 1912
Are Monuments Governing Lot Corners
Excerpt
1911-12 Surveys Act February 16, 1912

Re-establishment of Lost Corners of Subdivision
Surveys Made Under This Act

Section 20. When a surveyor is employed to make a survey in any subdivision of which a plan has been registered after the passing of this Act and is unable to find the original iron post planted at the corner of any block (or lot on a curvilinear block boundary) of which he is required to re-establish the boundaries, he shall obtain the best evidence possible of the original position of such post, and, if satisfied in regard to such evidence re-establish the said boundaries accordingly by planting a new iron post in lieu of the lost post; but if in his opinion such evidence is inconclusive or untrustworthy he shall proceed as follows:

(a) If such post is for a block corner at the intersection of two of the external boundaries of the original subdivision, or at the intersection of the inner limits of the streets adjoining such external boundaries, he shall join by a straight line the two nearest undisputed points which are block corners on each of said boundaries, or limits, and produce the two straight lines thus determined to an intersection and shall plant an iron post in re-establishment of the lost corner at said intersection;

(b) If such post is for a block corner on one of the external boundaries of the subdivision, or for a block corner adjacent thereto in cases where no block corners were established on such external boundary, as the same is shown on the registered plan thereof, he shall connect by a straight line the nearest undisputed points which are block corners on, or adjacent to, such boundary which are on opposite sides of the lost corner, and shall plant an iron post in re-establishment of the lost corner on the said line in such manner as to make the distances between it and the two undisputed points proportionate to one another in the same ratio as those shown therefor on the registered plan;

(c) In all other cases of lost block corners, he shall join by straight lines the two nearest undisputed points which are block corners, which are on opposite sides of the lost corner on each of the street lines which intersect at said corner, and shall plant an iron
Monuments to Govern

Section 21. In subdivision surveys of which plans have been registered prior to the passing of this Act any original monument or post marking a corner of a block, lot, street, lane, park or other point of the survey, the original position of which can be in any way satisfactorily established, shall determine the true and unalterable position of such corner, whether upon admeasurement on the ground it is shown to agree with the measurements marked on the plan or not.

Re-establishment of Lost Corners of Subdivision Surveys Made Prior to This Act

Section 22. When a surveyor is employed to make a survey in a subdivision of which a plan has been registered prior to the passing of this Act, and is unable to find the original post planted at the corner of any block or lot of which he is required to re-establish the boundaries, or if its original position cannot be satisfactorily established he shall proceed as follows:

(a) If such post is for a block corner he shall proceed in the manner prescribed in section 20 hereof;
(b) If such post is for a lot corner he shall join by a straight line the two nearest undisputed points, if any, on the block boundary on which such corner occurs on opposite sides of the lost corner, and shall subdivide the distance found by admeasurement on the ground between said points, in such a way as to give each lot or lane a frontage measurement proportionate to said distance in the same ratio as the frontage measurement shown on the registered plan of such lot or lane bears to the said distance as shown on the plan: if there is no undisputed point on the block boundary on either or both sides of the lost corner, the surveyor shall first re-establish the block corner or corners and then proceed in the manner above set forth.

Section 23. Notwithstanding anything in this Act contained, in all cases where the provisions in regard to re-establishing lost corners are clearly inapplicable every surveyor shall proceed in such manner as to carry out the evident intention of the original survey as shown on the registered plan of the same.

A surveyor may remove a monument shown in a registered plan of subdivision survey when it is intended to excavate or build to the boundary line of the lot of which the post is a corner having first planted suitable permanent reference marks to establish the position of the original monument; and shall file evidence in regard to such removal in the Land Titles Office where the said plan is of record showing clearly the position of such reference marks and the location of the original monument in regard thereto.

COMMENTARY

The Act has changed little if any over the years. Under the 1911-12 Act, Re-establishment of Lost Corners, Section 20 states the principal of best evidence and later goes on to say “but if in his opinion such evidence is inconclusive or untrustworthy he shall proceed as follows…” Also in Section 23: first paragraph partial quote: “...Every surveyor shall proceed in such a manner as to carry out the evident intention of the original survey.” Thus outlined in the 1911/1912 Surveys Act is the use of the surveyor’s best judgement and opinion as to the best and most likely location of the monument. Today, a surveyor must exercise his best professional judgement as to the location of governing monuments. A good starting point is the block corners. If original monuments are found, they may well give a very good indication as to where the subject lot corners may be located. The surveyor would then exercise his professional judgment as to the location giving due consideration to secondary evidence and other conditions which come into play. In 1911, the wooden post was to be 30 inches in length and driven 15 inches into the ground. If there is a chance that a portion of this post could have survived, the surveyor should dig and search for such evidence. Other factors that could come into play would be grading and landscaping. By observation of the surrounding countryside, the surveyor may be able to discover if the grade has been lowered or raised or left about the same. It may be obvious that serious landscaping has taken place and that it would be of little use to dig; on the other hand it could be undisturbed prairie terrain where one would expect to find remnants of all wooden posts planted. Chances are it would be somewhere in between and here is where a surveyor must exercise his best professional judgement, dig and search carefully where he believes there is a chance of finding the wooden post.

The surveyor can tie in fence lines along the block lines and may establish a pattern as to how they fit the measurements shown on the plan. He may find that seven out of ten fence corners fit almost exactly the lot corners as shown on the plan. In fact they could be so close that it would be of little use to dig because the fence corner posthole would have destroyed the wooden post. He might decide to dig carefully at the other two corners and find the original
wooden post. Even if he did not find the posts, the fence corners would be strong evidence as to the lot corner location.

Another scenario is the case where the plan shows 500 feet between block survey corners, but the measured distance is 499 feet. Now he faces a serious problem, as the 1 foot could be anywhere. He would again tie in whatever fences or improvements that were visible, dig for wooden posts where, in his judgement, there is a chance of finding them, then having tied in what evidence he has, exercise his professional judgement as to where the subject lot corners are located.

This procedure is no easy task for if a surveyor's professional judgement is not to dig, he must be prepared to suffer the consequences of not doing so, i.e.: the possibility of having to change his plan and getting permission from property owners to do so; being sued for damages by those who relied on his work; being charged with unprofessional workmanship by his Association. On the other hand, should he decide to dig at all corners he may face the wrath of homeowners for digging up lawns, tearing down fences, destroying hedges and flowerbeds. Should he be fortunate enough to find a wooden post he would feel obligated to plant an iron post marking the position and register a monument plan showing this. Should he not do this, the wooden post may not be found on a later digging and his good work could be overturned.

Working with plans registered prior to February 16, 1912, one may easily find that a half-day job turns into a three-day job and one should be prepared to set aside adequate time and allow for adequate expenses to cover the situation.

Other types of plans were marked with wooden posts in the early years as well. Irrigation plans in some cases show hollow circles at corners. These would be wooden posts placed. Sometimes iron posts were placed at line crossings. The symbol was the same, although sometimes a double circle [a smaller circle inside a larger one] was shown for an Iron Post Placed. Wooden posts can often be found along irrigation canals in rural areas.

RECOMMENDATION-----

The working group, Mike Michaud and Don George from the Standards Committee, and Clayton Bruce and Larry Pals from the RPR Task Force, recommend to their respective committees the following:

That the Standards Committee and the RPR Task Force recommend to Council that the attached report/article be published in the next edition of ALS News for the benefit of the membership.