PLAN CORRECTIONS WHERE A MONUMENT NEEDS TO BE PLACED, MOVED OR REMOVED ON A PLAN REGISTERED AT ALBERTA LAND TITLES

10-2017 PRACTICE REVIEW BOARD (PRB) INTERPRETIVE BULLETIN

PURPOSE:
The purpose of this bulletin is to provide guidance to Alberta Land Surveyors on acceptable practice and appropriate methodology when submitting a plan correction to Alberta Land Titles where the placement, movement or removal of a survey monument is deemed necessary subsequent to plan registration.

It is the opinion of the Board that, subsequent to plan registration, any time a monument must be removed, moved or placed an analysis must be conducted to determine if the correction will result in altering a boundary. If no boundary is being altered, then the plan correction can be done in accordance with Section 92 of the Land Titles Act, R.S.A. 2000, c.L-4. If a boundary is being altered, then the plan correction must be done via a Court Order under Section 91 of the Land Titles Act, R.S.A. 2000, c.L-4 or by order under Section 9 of the Surveys Act, R.S.A. 2000, c.S-26 giving the monument(s) governing status.

COMMENTARY:
Plan corrections submitted to Alberta Land Titles must comply with the requirements of the Alberta Land Titles Procedures Manual SUR-8 Surveys – Plan Corrections and be to the satisfaction of the Alberta Land Titles Registrar.

Where there is an omission, clerical error or other defect in a plan (e.g. drafting error), the Registrar of Alberta Land Titles may correct the plan in accordance with Section 92 of the Land Titles Act, R.S.A. 2000, c.L-4. The Alberta Land Titles Procedures Manual SUR-8 Surveys – Plan Corrections is clear that a survey error cannot be considered an omission or a clerical error.

The Manual of Standard Practice defines a boundary as a line, plane or curved surface that defines the limit or extent of a parcel or an interest in land, a sub-surface region or airspace. The only boundaries that can be altered by a plan correction are those created by that plan.

When adding, moving or removing a monument alters a boundary, a Court Order under Section 91 of the Land Titles Act, R.S.A. 2000, c.L-4 or an order under Section 9 of the Surveys Act, R.S.A. 2000, c.S-26 is required. The magnitude of the move is irrelevant. When either order is used, permission for the removal of a monument from the Director of Surveys is not necessary as the presiding Judge/Section 9 Board can authorize its removal along with the plan correction at the Land Titles Office. The plan correction submitted to Land Titles will indicate the date the monument was removed as well as the relationship (bearing and distance) between the removed monument and the accepted monument. If you are aware of other survey plans that have observed the removed monument, you should discuss the situation with the affected surveyors and determine all necessary corrections before obtaining the Court Order. It is possible to correct multiple plans with one order.

Placing a monument subsequent to plan registration is considered to be a survey error. This applies whether the monument was originally shown as placed on the plan but was not placed in the field or if the monument was both not shown on the plan and not placed in the field. Because monuments govern the boundary of a parcel or interest, placing an additional monument may have the effect of altering the
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boundary. The plan correction submitted to Land Titles will clearly indicate which monuments were placed subsequent to plan registration and the date the additional monuments were placed. This correction must be done via a Court Order under Section 91 of the *Land Titles Act*, R.S.A. 2000, c.L-4.

It is the opinion of the Board that no consents are required for a surveyor to move or remove their own monument *prior* to plan registration. This is true whether the monument is a new established position or a re-established location. The requirements of Section 44 and 46 of the *Surveys Act*, R.S.A. 2000, c.S-26 and the Manual of Standard Practice regarding plan registration times must be adhered to. Should a surveyor discover new monuments of no known origin, it is expected that they shall recognize a new monument, check the permit number on the monument and contact the surveyor who placed this monument for further information before using it.

The Director of Surveys may give permission to remove a monument under Section 50 (3) of the *Surveys Act*, R.S.A. 2000, c.S-26 when the removal of that monument is in the public’s interest and will not alter any boundary, no improvements have been built relying upon it and no other registered plans of survey have used it to create new boundaries. In certain cases where a monument is to be removed (e.g. to resolve a double posting due to an inappropriate re-establishment or restoration) and no boundaries are being altered, a plan correction under Section 92 of the *Land Titles Act*, R.S.A. 2000, c.L-4 in conjunction with written permission from the Director of Surveys for the removal of a monument under Section 50 (3) of the *Surveys Act*, R.S.A. 2000, c.S-26 can occur. The Director of Surveys may give permission to remove or move: double postings, incorrect re-establishments, incorrect intersection monuments and monuments of no known origin that are shown on a registered plan. The written permission from the Director of Surveys must be attached to the plan correction when it is submitted to the Land Titles Office.

The plan correction submitted to Land Titles will show the monument that is removed or moved, the date the monument was removed or moved and the relationship (bearing and distance) between the removed monument and the accepted monument. If you are aware of other survey plans that have observed the removed monument, you should contact the affected surveyors and notify Land Titles of other action that will be taken in the letter requesting the correction.

It is important to note that if there is ambiguity or confusion regarding the correction process, a detailed description of the situation should be submitted to the Registrar of Alberta Land Titles and/or the Director of Surveys Office for a review. They can then provide appropriate advice regarding what actions will be necessary to correct the plan.

The foregoing interpretation was approved by the Practice Review Board of the Alberta Land Surveyors' Association. Feedback from the membership is invited and should be addressed to the Chair, Practice Review Board, at the ALSA, #1000, 10020 – 101A Avenue, Edmonton, AB T5J 3G2 or info@alsa.ab.ca.