

Use of Surveyor's Documents

©2009 Ontario Association of Architects (OAA). OAA members in good standing may reproduce or distribute this Practice Tip provided this copyright notice is affixed to any reproduced or distributed copy. No rights are granted to any other person, except with express prior written consent from the OAA. The OAA reserves all other rights.

Summary

In Ontario, surveys must be done by an Ontario Land Surveyor (OLS). The terms “survey” and “plan of survey” are not interchangeable. Use of information prepared by OLS's must be respectful of their copyright.

Background

The Association of Ontario Land Surveyors (AOLS) has tight definitions relating to survey work. The Performance Standards regulation under the *Surveyors Act*, together with the *Interpretive Guide and Supplement* to the regulation include precise definitions.

A **SURVEY** is more than a drawing, and consists of four basic components:

1. **Research** of the surveyor's own and other surveyors' records, the Land Registry Office, Municipal and Government offices, for whatever relevant survey evidence in documentary form that may be found;
2. **Measurement** of distance and direction dimensions between monuments found and set during the course of the field portion of the survey;
3. **Monumentation** set or found to mark the boundaries and corners of the parcels of land, and other interests;
4. A **Plan** and/or **Report** that summarizes the results of the survey, and advises the client of any potential problems or contentious issues noted with regard to the property under survey. The Plan and Report represent the professional opinion of the surveyor as to the boundaries and corners.

A **PLAN OF SURVEY** is an integral part of the survey, but is not a survey in and of itself. Plans of survey registered or deposited in the land registry system are, by definition, complete records of the **results** of surveys performed under the statutes and regulations pertaining to surveys. In addition, plans registered or deposited since April 1996, have been prepared in accordance with the Performance Standards Regulation under the *Surveyors Act* and its *Interpretive Guide*, which, together with the *Monumentation Regulation*, and further Guidelines, are administered under the authority delegated to the AOLS. Information contained in registered or deposited plans may, generally, be considered to be reliable if the plan was prepared recently.

Dimension information can be copied from such plans if the description of the parcel is all of the unit of land shown on the plan. It must, however, be recognized that any changes to the title, such as easements or other encumbrances, created subsequent to the date of the plan, or severances from or additions to the unit of land will not appear on such existing drawings.

Surveyors prepare drawings for many different uses. Of these, only a plan of survey as described above, a Surveyor's Real Property Report bearing the embossed seal of the issuing surveyor, and topographic surveys to which the boundaries have been certified, may be relied upon as providing complete information regarding the parcel of land as of the date of the represented survey.

To protect the public from the risk of misrepresentation or of reliance on outdated plans as a result of the circulation and use of photocopies, or partial copies, of plans of survey that may have been altered in some way or that may not show all the information, legends, or notes that form part of the plan, surveyors began, in March, 1995, to append to each plan of survey, other than those used in the Land Registry Offices, a uniquely numbered Plan Submission Form, bearing the words: “This plan is not valid unless it is an embossed original

copy issued by the surveyor.” The wording is to alert all persons who use and rely upon plans of survey that only those plans which are impressed with the seal of the issuing surveyor should be considered as original copies.

All other documents are prepared for limited use and must not be used for other purposes. These other drawings include, but are not limited to:

- sketches prepared for mortgage certificates
- sketches to illustrate written descriptions
- site plans (attached to subdivision or development agreements)
- zone change plans
- site plans or building permit plans
- lot grading plans
- topographical plans (boundaries not certified.)

Copyright

It must be understood that AOLS members have a copyright in their work, similar to that of an architect, and this copyright must be respected by persons using the information. Surveyors are concerned about both the intentional or unintentional violation of their copyright that might leave them, and the person using the information, exposed to liability. To deal with this concern over misuse, the AOLS has instructed its members to be sure that use of their documentation is controlled, and have requested that architects be advised of the proper procedures and use of such information.

Suggested Procedure

- Confirm that the drawings and information related to the site, that you have been provided, have been done by an OLS and are not simply grading or engineering drawings prepared for other than “survey” purposes;
- Where the surveyor’s certified drawing(s) will be incorporated into a set of documents, include the certified drawing without any amendment, so that the certification will properly relate to the information on that drawing;
- Do **not** affix an architect’s seal to this drawing;
- Where the survey information, or some of it, must be combined with architectural or engineering layout and details, (perhaps by using the surveyor’s drawing as a base), prepare a separate drawing with the surveyor’s certification removed, but with acknowledgment of the source of information given;
- Discuss the proposed use of any surveyor’s information in detail with the surveyor preparing the information; and
- Advise the client that a check should be made to ensure that the site information is up to date, and is based upon a current survey. It is reasonable that a surveyor will expect to be paid for checking the currency of information, and this would be a legitimate cost for which a client should expect to pay under the terms of the client/architect contract. Checking that information is current, and that it is not being misused or misrepresented, is good professional practice and should be followed by every practice.

The OAA does not provide legal, insurance or accounting advice. Readers are advised to consult their own legal, accounting or insurance representatives to obtain suitable professional advice in those regards.
