



BEST AVAILABLE EVIDENCE

A REVIEW

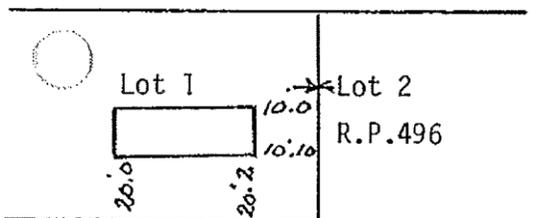
What are the rules of evidence that must be considered by the surveyor before he re-establishes a corner, limit, or boundary of a parcel, and defines this limit either by monumenting the same or by ties from the limit to an existing structure.

The rules of evidence as they have been upheld in court are in the following order:

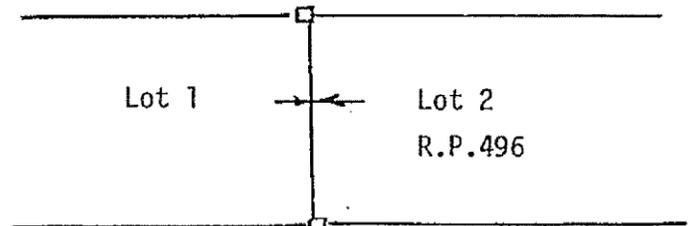
- a) Natural boundaries
- b) Original monuments or evidence as to the location of the original monuments
- c) Fences or possession which can reasonably be related back to the time of the original survey
- d) Measurements as contained in the deed or on the plan

You can readily see from the above that one cannot re-establish a limit between properties either for a mortgage sketch, building location survey or reference plan, without first obtaining the best available evidence in the above priority list. One must therefore research to obtain the best available evidence as to (b) and (c) above prior to using the deed or plan measurements and bearings.

Building Location Survey
(Mortgage Sketch)



Reference Plan or Plan of Survey



The evidence to be gathered and assessed before the surveyor establishes the limit between Lots 1 and 2 above, must be identical in both instances. The limit as defined by ties to the building, or the limit as monumented, must be the same limit.

SUMMARY: The Ontario Land Surveyor in the re-establishing of lots, corners, limits, etc. of previously described or surveyed parcel of land, must carry out the research to obtain the best available evidence, whether he intends to define the line by monuments or by ties to existing structures.

Consider the following extract from a court case:

In order to prove the proper location of a boundary line between adjoining property, one must first prove the original boundary, for example by a monument, such as a post planted thereon; but in the absence of such evidence, possession may be proved, and in the absence of both of these, one may resort to measurements. *Wolverton vs Clarke N.B.R.*

The above review of evidence is being distributed at this time, as many groups of surveyors are having meetings to discuss the type of surveys undertaken and the amount of work and therefore cost involved in each type of survey. The above bulletin and the bulletin re: Duties of a Surveyor to his Client should be reviewed in regard to preparing such lists.