

BOUNDARIES

VOLUME 5, ISSUE 4 JULY 2010

Noisy Quads on Public or Private Lands

When the weekend warriors saw the sign that said, 'no trespassing' on the sandbar they drove their quads right past it. This land was public land and no one had the right to keep them out. They moved the obstacles placed over the access trails and enjoyed a wild time on the sandbar.

The land in question was a sandbar that had over many years developed along the bank of a major Alberta river. The landowner with land adjacent to the sandbar claimed the sandbar as an extension of his own land and erected the 'no trespassing' signs. As far as he was concerned, the people with quads were trespassing. He kept putting up more barricades to keep visitors out.

Who was right—the quaders or the landowner?

The quaders contacted Alberta Sustainable Resources and complained that the landowner was illegally denying them access to the sandbar. Coincidentally a gravel extraction company wanted access to the same sandbar. The eventual resolution to the ownership dispute came from an investigation by an Alberta Land Surveyor (ALS) retained to conduct a boundary survey to determine actual boundaries and the true ownership of the land. Determining natural boundaries is one of the

many activities of a professional land surveyor.



Source: <http://www.flickr.com/photos/chr1sp/4082760593>

The land surveyor considered various factors—

- ❖ Was the intent of the original survey to have the property boundary defined by the water body (a natural boundary)?
- ❖ Had the boundary gradually changed due to long-term natural actions of the water?
- ❖ Was the vegetation on the sandbar aquatic or upland?
- ❖ What was the nature of the original Land Title?
- ❖ What was the survey history of the area?
- ❖ What did historical aerial photos of the site show?



He first determined that the sandbar could potentially be within the landowner's titled area. The land title read: "All that portion of said quarter section which lies to the north of the left bank of the river." A landowner can gain or lose lands if the boundaries described in the title are affected by water gradually receding or rising. Land can be added (accreted) or lost (eroded) if the changes are gradual and not manmade. The added land cannot increase the amount of land beyond the boundaries described on the property title but they can add to lands within the titled area.

The land surveyor noted that the sandbar had become permanently dry except for annual spring flooding. Over the years upland vegetation had slowly crept out onto this

sandbar and currently formed a distinct line against the aquatic vegetation on the shoreline. The land surveyor determined that this vegetation line marked the bank of the river and was thus the natural boundary of the property. Nearly all of the sandbar was within the natural boundary and within the area described on the landowner's land title. The result was that the areas of the sandbar under dispute belonged to the landowner and neither the quaders nor the gravel company had any right to access.

This article is distributed as a public service by the Alberta Land Surveyors' Association. It is a true story. Names have been omitted to respect privacy.

Lot Grading

Lot grading is an important component of new home construction. The purpose of lot grading is to provide good drainage away from buildings and adjacent properties for the benefit of property owners. Many municipalities require a [Lot Grading Certificate](#) to ensure grading is done properly and in compliance with municipal requirements. Actual requirements vary from municipality to municipality.

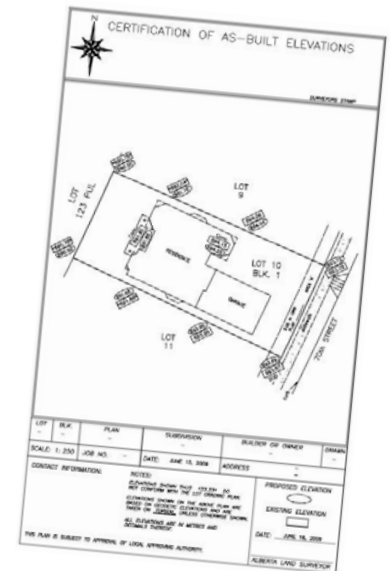
A Lot Grading Certificate is a document that can be prepared by an Alberta Land Surveyor. It shows several current elevations of a lot in comparison with design grades that were previously approved by the municipality. It is intended to show where water will drain on a property.

The Lot Grading Certificate needs to be submitted to a municipality for rough and final grade approvals. Approval is based on the requirements of a municipality and is subject to their inspection.

If you require a Lot Grading Certificate, it may be more convenient to contact the Alberta Land Surveyor, if you know who it is, who prepared the subdivision plan or real property report.

The Alberta Land Surveyors' Association has compiled a list of survey companies that provide lot grading services that can be contacted directly. Go to <http://www.alsa.ab.ca/lot-grading>

For more information on lot grading, contact your municipality or an Alberta Land Surveyor.



This newsletter is published by the Alberta Land Surveyors' Association as a public service. If you would like to receive a copy of *Boundaries*, please contact us at info@alsa.ab.ca or 1-800-665-ALSA.

Readers may reprint an ALSA original article as long as credit is given to the *Boundaries* newsletter and the Alberta Land Surveyors' Association. *Boundaries* is also online at www.alsa.ab.ca/boundaries-news

Making Their Mark in Medicine Hat

"Making Their Mark: The land surveyor's role in the peaceful and orderly development of Alberta" will continue to be on display at the Medicine Hat Esplanade Museum & Archives until September 25, 2010.



At the same time, the Esplanade will also showcase "Marking the 49th with Iron." This is an exhibition of photos taken by George Esmonde-White, a member of a 1912 crew who surveyed and placed permanent iron monuments along the border from Lake of the Woods through to the Rocky Mountains.

In 1818, the 49th parallel was agreed upon as the border between the United States and what would become Canada. In 1872, the International Boundary Commission set forth to survey and mark this very important line. By 1912, significant maintenance was required, including the repair and replacement of the cast-iron monuments along our border.

For more information, visit www.esplanade.ca

Establish What You Own with a Land Survey

by PJ Wade

The spotlight is usually on *improvements* when shopping for and buying real estate. That's "improvements" in the legal sense which refers to buildings, garages, trees and anything added on or under the land itself. With the emphasis on the structure and interior of buildings, the land may only receive cursory "what I see, is what I get" attention. This is where problems arise.

"Just by looking at the land, you don't really know anything," says Brian Munday, Edmonton-based Executive Director of the [Alberta Land Surveyors' Association](http://www.alberta.ca/land-surveyors-association). "We tend to make a lot of assumptions. Yes, that fence is on the property line and that brush is cleared to the property line ... What is very common is for an easement to run across the property."

Easements are restrictions on title that dictate what the property owner can and cannot do with the land. For instance, municipal and utility easements run across the front and/or rear of most properties limiting the use of these areas. A large fenced backyard may seem like an ideal setting for an inground pool, but only a survey can ensure that is true.

The only way to accurately and legally establish property boundaries and use restrictions is through a land survey by an accredited land surveyor.

Munday reports that the City of Edmonton is [cracking down](http://www.edmonton.ca/city_government/index.cfm?id=31683) on property owners with land along the North Saskatchewan River who have extended their fences to corral city-owned shore land. Some have added swimming pools and out buildings to property that may have looked like an extension of their land, but isn't. Possession and use of land that you don't own will not lead to ownership in spite of all you

This newsletter is published by the Alberta Land Surveyors' Association as a public service. If you would like to receive a copy of *Boundaries*, please contact us at info@alsa.ab.ca or 1-800-665-ALSA.

Readers may reprint an ALSA original article as long as credit is given to the *Boundaries* newsletter and the Alberta Land Surveyors' Association. *Boundaries* is also online at www.alsa.ab.ca/boundaries-news

hear about squatters' rights or adverse possession.

Boundary issues, as well as right of way limitations, often lead to neighbour disputes and to hitches in real estate development. The more complex the land use, particularly in industrial and commercial development, the more complex the ownership issues. Land surveyors are hired by land owners to establish what can and can't be done with the property, so problems do not arise later.

"Land surveyors hold a special kind of role as a professional," said Munday. "In other professions, the doctor advocates for the patient, the lawyer advocates for the client. A land surveyor holds a different kind of perspective. Yes, they have a client, but land surveyors are there to be sure the boundaries are established, without any partiality, to protect the public."

This means, instead of having to settle for what you get, you should get what you pay for. The property should be valued and purchased based on how it can be used. Restrictions on use may lower value. Accurately established boundaries may increase or decrease value.

Munday tells the story of a property owner who called ALSA, frantic because the next-door neighbour had just thanked this homeowner for the C\$11,000 in landscaping that had been added to *the neighbour's* real estate. Existing fences had led the caller to believe a large expanse of the neighbour's property was owned

by the caller. This false impression was not corrected because the homeowner said that with C\$11,000 going into landscaping there was no money for a survey.

"The average person comes in contact with a land surveyor when they buy or sell a house," said Munday, who explained that a land survey is not required by law when real estate changes hands. "The important thing is when spending all that money, you want to make sure all of that shed, house, garage...is on your property." Munday cautions there are some people armed with a GPS who think they can stand-in for a surveyor. Measuring distances is the "easy" part. University-educated surveyors consider GPS another useful tool, but they know where to measure *from* and where to measure *to*—that's the skill and knowledge that matter. The goal is not merely to measure, but to recreate what the original surveyor did, perhaps a 100 years ago, and reveal true boundaries.

Cost will be related to factors including the size of the property, complexity of survey detail required and how quickly the survey is needed. Verifying the location of one corner of a residential lot would be less expensive than surveying a rural house with acreage. Contact two or three land surveyors before you hire. If a survey exists, locating that surveyor may cut costs for an updated version.

"[Land surveying] is a little bit like playing Sherlock Holmes to solve a mystery, not of *who done it*, but *where was it*," explained Munday.

© Copyright 2010. Reprinted from "Decisions & Communities"

(<http://realtytimes.com/rtpages/pjwade>) posted at Realtytimes.com, with permission from PJ Wade (www.TheCatalyst.com). All rights reserved.

This newsletter is published by the Alberta Land Surveyors' Association as a public service. If you would like to receive a copy of *Boundaries*, please contact us at info@alsa.ab.ca or 1-800-665-ALSA.

Readers may reprint an ALSA original article as long as credit is given to the *Boundaries* newsletter and the Alberta Land Surveyors' Association. *Boundaries* is also online at www.alsa.ab.ca/boundaries-news