

LOCATION CERTIFICATES: PITFALLS & PROBLEMS

The Location Certificate prepared by Nova Scotia Land Surveyors within the Province of Nova Scotia are known by many names, Mortgage Certificate, Plot Plan, Certified Plot Plan or a Mortgage Ticket. However, these documents are all prepared for the same purpose.

The Location Certificate generally has two uses :

To satisfy the building inspector of a Municipality that a building under construction lies within the boundaries of an approved lot and that the building is positioned in such a way so that it meets the front, side and in some cases, the rear set back requirements from the boundaries.

To certify to a lawyer and lender that the building and certain other features either lie wholly within the boundaries of the subject lot or are shown in such a manner to indicate any substantial encroachments either onto or out of the subject lot. In this case the document may be used to warn the potential buyers, lawyers and lenders of any problems which may exist which can affect the title or the extent of ownership of the lot.

In general it can be said that lawyers and lenders require enough information shown on a Location Certificate to identify any potential problem with respect to the property. According to requests received by Land Surveyors from lawyers and lenders, each Location Certificate shows the following:

1. Lot Number, Civic Number or Document References.
2. Dimensions of buildings or structures within the boundaries of the subject lot and the distances of the buildings or structures from the boundaries.
3. Location of all improvements which may effect the boundaries (driveways, fences, rock walls, decks, out buildings).
4. Any encroachments onto or from adjacent properties including underground and overhead services if any.
5. The location and extent of all Easements or Rights of Way with appropriate document references.
6. Dimensions of the boundaries of the subject property, identifying any discrepancies between the legal description and the actual land.

In order to satisfy all the above requirements it is necessary to carry out a complete boundary retracement survey. The additional research, field location of data and analysis of all relevant boundary evidence will enable the surveyor to identify any discrepancies between the legal description and the actual land, locate and identify all Easements or Rights of Way and determine the precise relativity of all structures and improvements to the actual boundaries of the parcel.

It is safe to say that many of the low cost, quickly prepared Location Certificates used today do not meet the above requirements.

Examples of Location Certificates.(See Attached)

Example one: A standard Location Certificate on a single family dwelling which appears to meet the previously referred to requirements such as:

1. Actual boundary dimensions.
2. Document references.
3. Structures with their dimensions.
4. Distances from the structure to the boundaries.

Example two: This Location Certificate shows the dimensions of the dwelling and distances to the lot boundaries, but does not give any document references used for the survey. Plus or minus distances around a portion of the lot boundaries do not reflect any discrepancies between documents and actual boundaries of the lot. Improvements on the lot such as driveways, fences, hedges or outbuildings are not reflected and therefore, any possible encroachments or problems may not be identified.

Example three: This Location Certificate identifies precise boundary dimensions along the common line between lot 33 and 32 with an appropriate plan reference. The remainder of the lot boundaries are shown by deed dimensions which do not reveal any discrepancies between the document and actual lot boundaries. Dimensions from the existing structure to these boundaries are shown as plus or minus distances. Any improvements which may exist near the lot boundaries are not shown and the adjoining lot owners along the northeastern and southeastern boundaries of the subject lot are not identified. The note which indicates all distances are approximate and that the lot is subject to a full boundary survey should alert the lawyer or lender that what is shown on this document may or may not be accurate.

Example four: This Survey Certificate does not show all building dimensions or distances from the boundaries to the buildings. There appears to be little or no effort made to identify the boundaries of this lot as confirmed by the note, which indicate that the boundaries on this Survey Certificate are scaled from L.R.I.S. Property Mapping. Statements on this document which indicate that the boundaries in the deed do not correspond with the boundaries on this certificate should alert the lawyer and lender that this certificate may not supply satisfactory information to confirm discrepancies between the deed dimensions and actual lot dimensions. Distances from the buildings to the boundary lines are not shown and references to deeds or plans are missing.

There are no references for the ownership or lot identifiers along the southern or western boundaries of the property. It should be noted that this particular document is used to prepare a legal description of the parcel for transfer of title.

In summary it is clear that not all Location Certificates show the same amount of information and not all Location Certificates meet the general requirements which are expected by lawyers and lenders. It is strongly recommended that the lawyer review each Location Certificate to insure that it meets their requirements and has sufficient information to identify any potential problems and that the information shown appears to be accurate and complete.

The Association of Nova Scotia Land Surveyors is endeavoring to pass regulations with respect to the preparation of Location Certificates. Regulations will identify the document as "Surveyors Real Property Report" and will contain requirements which will standardize the document being prepared throughout the province. These regulations will also be compatible with similar regulations in the other provinces across Canada. The proposed Surveyors Real Property Report shall include, consist of, contain or show, as the case may be :

- (a) the title "Surveyors Real Property Report";
- (b) on every part a notation in the form "Certified to
.....";

- (c) the copyright symbol, the name of the member or firm holding the copyright and the year;
- (d) the scale of the plan;
- (e) a north symbol;
- (f) the designation of the parcel including lot number, subdivision name, plan reference and current document reference;
- (g) the name of the owner(s) or the identifier(s) of all adjoining properties;
- (h) the location and dimensions of easements and rights-of-way, with document references, which affect the parcel;
- (i) the civic address of the parcel, if indicated;
- (j) the accurately plotted boundaries of the parcel;
- (k) the bearings and distances of the parcel as determined by the survey or in the place of bearings the angular relationship of intersecting boundaries;
- (l) any monuments found and placed which indicate the boundaries of the parcel;
- (m) all buildings within the parcel and minimum distances from the boundaries of the parcel;
- (n) an indication of the part and surface of the building from which measurements were made and, in the case of an incomplete building, the stage of construction;

- (o) all encroachments by any improvement deemed to be associated with the parcel and the magnitude of the encroachment;
- (p) all encroachments, by any improvement into the parcel and the magnitude of the encroachment;
- (q) all improvements situated on the parcel which in the opinion of the surveyor have a significant impact on the value, use or enjoyment of the parcel.