

## THE SURVEY

When purchasing or refinancing a home a survey prepared by a qualified land surveyor is generally required to satisfy the lender. The instructions from the lender vary greatly in what they require from the survey. In general, the lender is seeking a guarantee that their money will be protected in the case of a foreclosure. They do not wish to acquire any problems.

The solicitor not only needs to satisfy the lender but also protect their client. They want assurance that the dwelling is on the lot they are certifying and that the other improvements to the property are within the bounds of the description. These improvements include garages, sheds, driveways, gardens, etc. The survey will also be used to confirm adherence to municipal by-laws. Is the dwelling far enough back from the road boundary and the lot lines?

The survey should show if the land is incumbered by any easements or rights-of-way which may impact on the use and improvement of the land.

Currently, in Nova Scotia, there are no specific regulations pertaining to what is commonly referred to as the "Location Certificate". The product prepared by one surveyor may differ significantly from that of another, in both appearance and content. Therefore it is very important that the instructions to the surveyor be as explicit as possible. This is particularly true when the client has a certain concern regarding the property, such as the ownership of common driveways or if they wish to replace a fence.

Location Certificates are not boundary surveys. The surveyor is not certifying the exact position of the boundary and markers are not being set. Sufficient measurements are made in the field to determine an acceptable location of the boundaries. Distances shown on boundary lines are generally taken from the current title

document or plan of subdivision. They are not being confirmed. Ties from the dwelling to the lot boundaries will be approximate and cannot be used to define the boundary on the ground. Many surveyors show only the easements or rights-of-way found in the current title document. The adjoining deeds should be reviewed. The client should have a clear understanding what it is they are receiving. A Location Certificate will identify problems, a complete boundary survey may be required to fully detail the situation.

The location certificate is a document prepared for a specific purpose and should be issued to a specific client. Unless the document is current it may not show recent improvements or changes which impact on the use and enjoyment of the land. The issue of a location certificate in the clients name creates a contract with the surveyor.

In general, when requesting the services of a land surveyor, be as specific as possible as to your requirements and provide as much information as possible; current title documents, date required, clients names, etc. It is always best to provide the surveyor with sufficient time to prepare the document, in the event a problem is uncovered.