

ATTORNEYS & SURVEYORS

Practice Pointers for Working Together

Real Property Law Section – Minnesota State Bar Association

Tip #1

Though land surveyors are known to be unbiased in the determination of boundaries and tracing information from legal descriptions, it's very important for attorneys to share the purpose of surveys with their consultant.

Understanding the goals and concerns before conducting research and performing survey fieldwork will help to ensure thorough coverage for whatever issue is at hand. Surveyors may also provide useful suggestions and creative solutions for many boundary, development and construction related matters.

Tip #2

Limit your liability and ask a land surveyor to help prepare legal descriptions for easements, vacations and transactions.

Simple sketch and description exhibits are an inexpensive way to provide accurate legal descriptions with the added benefit of a graphic component to help everyone understand the limit and extent of an intended real estate action.



Tip #3

Deadlines set by attorneys are often set pursuant to the terms of a settlement agreement, purchase agreement, or otherwise dictated by some other contractual obligation. For example, the M.S.B.A. Real Property Form No. 17 is the Addendum to Purchase Agreement: Contingencies for Survey, Appraisal, Development Evaluation, and Archeological / Historical Survey. The Addendum obligates a buyer to promptly retain a surveyor and provide a copy of the surveyor's contract to the seller within 20 days of the date of the Purchase Agreement. The buyer has 10 days from the date of receiving the survey in which to state title objections. If the buyer does not timely deliver a copy of the survey to the seller with objections, the survey contingency is waived.

Tip #4

Communications between an attorney and a surveyor on behalf of the attorney's client can be deemed privileged or protected attorney work product.

Surveyor should always assume that anything he or she writes might one day be seen by an opposing party and even used in court.

Tip #5

In connection with a Torrens Registration under Minnesota Statute Chapter 508, an applicant may wish to have their boundary lines adjudicated and marked with judicial landmarks (“JLMs”). To register the boundaries, the applicant must file a survey, together with the initial registration application, with the Examiner of Titles. The survey should contain the legal description and a certification by a licensed surveyor that the survey is made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys and includes Items 1 (monuments placed at major corners) and 8 (substantial features observed during fieldwork).

Tip #6

Attorney should be well aware of any litigation or closing deadlines and communicate his or her expectations regarding the completion of the survey work to the surveyor. Attorneys should ask surveyors for an acknowledgment of the expected completion date and ask for frequent, detailed updates so as to be sure deadlines can be met.

Tip #7

When searching for easements, vacations or opening orders for existing roads or drainage ways, don't forget to inquire at municipalities when documents you expect to find are not filed in the Recorder/Registrar's office. Sometimes unrecorded city/town council actions may be found in the form of a resolution. County clerks and engineering departments are a great place to start inquiries.

Tip #8

Surveyors can direct attorneys to resources that may be valuable, depending on the client's objectives in obtaining a survey. There are a variety of resources available that can prove useful when reviewed in conjunction with the survey. For example, when an attorney is investigating a particular property that is the subject of a lawsuit, there may be a critical need for the attorney to obtain aerial images of the property, historical or otherwise (county surveyor; university archives or local/national aerial photography companies).

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