

Contractors be careful— machinery easily destroys survey evidence

Contouring, grading, fencing, road building and other works with heavy equipment is a common cause of destroyed survey evidence. Grading along the boundaries of a lot, road, subdivision, hydro line or pipeline right-of-way can result in hundreds of survey bars being moved or destroyed.

An Ontario Land surveyor has to be retained to re-measure and re-establish the destroyed markers. It adds to the cost of construction and, in the end, to the amount the consumer must pay.

The easiest way to avoid the problem is to ensure that the iron bars are clearly identified prior to any earth moving activity so that machinery can avoid them. Check with the Ontario Land Surveyor working on the site and ask for bars to be “referenced” so they can be easily replaced after construction.

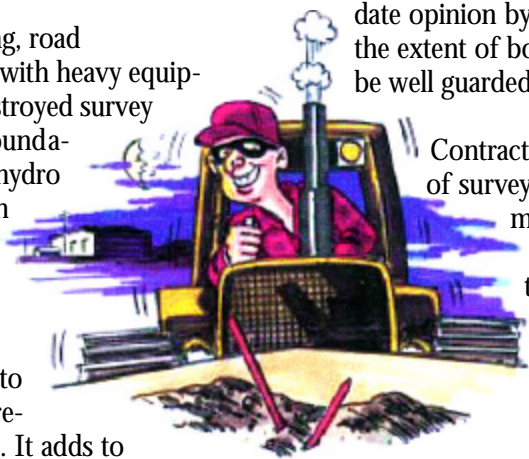
Repairing the damage

When survey evidence is destroyed, it is often quite costly to re-establish—costs range from hundreds to thousands of dollars. An Ontario Land Surveyor must re-determine boundaries by measuring from the closest survey evidence that can be located. In some areas, the nearest evidence may be blocks away or, in rural areas, miles away. Once the measuring has been completed, a new bar can be set into the ground. Also, a new “Surveyor’s Opinion” and plan of survey must be prepared and filed at Land Titles.

Homeowners should be aware of the location

and appearance of the survey monuments on their property, remembering they also mark mutual corners with neighbours. When purchasing land, the purchaser should insist upon an up-to-date opinion by an Ontario Land Surveyor as to the extent of boundary. Any monuments should be well guarded by the landowner.

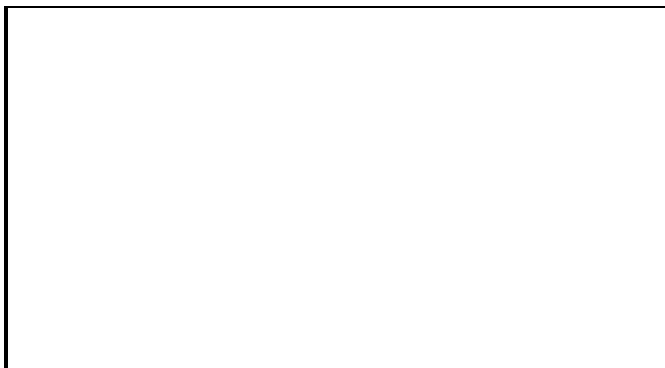
Contractors should find out the location of survey stakes on a project before commencing work, as they would do for buried utilities, and educate their employees and subcontractors to respect them.



Association of Ontario Land Surveyors

1043 McNicoll Avenue
Toronto, Ontario
M1W 3W6
Phone: 416.491.9020
Fax: 416.491.2576
admin@aols.org
www.aols.org

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Survey evidence is serious business

Setting the extent of real property boundaries is the exclusive responsibility of Ontario Land Surveyors. Cadastral, or boundary surveying, is a very complex and highly specialized activity. It is critical that boundaries be determined and marked accurately so that it is clear where properties begin and end.

Landowners need to know where property boundaries are. Without owners knowing boundary locations, buildings could be on property lines. It could be difficult to meet set back requirements of zoning by-laws, neighbours could build on the wrong side of the line, and safety problems could occur with construction over gas lines and other buried infrastructure located in utility rights-of-way.

The Land registry system in Ontario involves the recording of legal land descriptions based upon precise location of boundary markers provided by legal surveys. Thanks to this registration system and the recording of boundary information, development occurs easily and the transfer of property is simplified as few problems occur when ownership of land changes.

What is survey evidence?

A new boundary is created every time land is divided to form a lot, roadway or utility right-of-way. The new boundary must be precisely determined. When a boundary is determined, an Ontario Land Surveyor typically sets a one metre-long iron bar at the exact intersection of property lines. The location of these bars is marked in field notes and on survey plans registered in Land Titles. These bars or markers are included in what is called survey evidence.

In historic times, other means were used instead of iron bars such as wooden posts, piles of rock, or mounds of earth. Over time, many of these markings have disappeared. When these boundaries have to be re-established, extensive research must be undertaken including measurements from the nearest locatable survey marker.

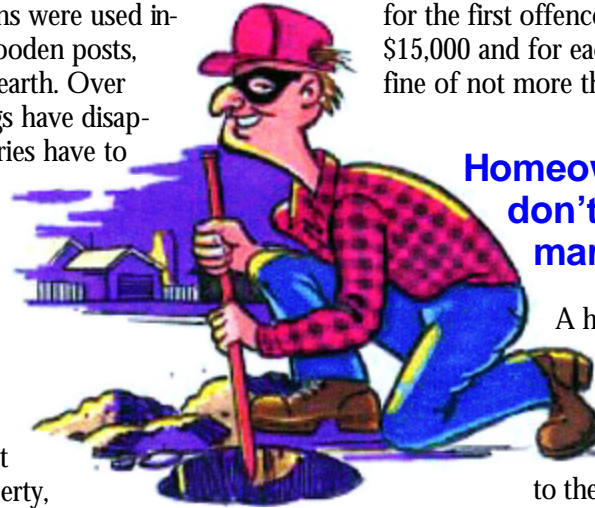
Accurately placed boundary markers are essential. Landowners can be confident that the boundaries of their property, roadways, utilities and other public improvements are precisely located and marked. Also, persons such as contractors needing to know where boundaries are, can find accurate reference points.

Protected by the law

Because of their significance, the Ontario Surveys act carefully regulates boundary markers. The law not only provides for the establishment of survey markers, but also the consequences of removal or tampering with them.

Under the Criminal code of Canada, R.S. 1985, c. C-34, s. 398, it is illegal to remove or tamper with an official boundary marker. "Every one who willfully pulls down, defaces, alters or removes anything planted or set up as the boundary line or part of the boundary line of land is guilty of an offence punishable on summary conviction." A British Columbia man was sentenced to one year in jail for tampering with survey evidence.

Under Section 39, Subsection (1) of the Surveyors Act, R.S.O. 1990, Chapter S.29, "Every person who contravenes section 11 (licensing) is guilty of an offence and on conviction is liable



for the first offence to a fine of not more than \$15,000 and for each subsequent offence to a fine of not more than \$30,000.

Homeowners Beware—don't throw away the marker

A homeowner may wish to find exact boundary locations to build a fence or construct an out-building, deck, pool, carport, or shed. In addition to the difficulty of finding bars, there is often more than one in an area, or none at all. Some bars may not relate to the homeowner's property boundary at all, but to roads, rights-of-way, or another land-related measurements. It is recommended that homeowners ask an Ontario Land Surveyor to identify the correct boundaries and zoning By-Law setbacks so that mistakes are not made.

Unsuspecting landowners may find an iron bar or pipe, and thinking it just a piece of metal left over from construction—dig it out and throw it away. They do not recognize their mistake until they are charged, or have to pay the cost of re-measuring boundaries and setting a new iron bar.

Handymen and landscapers beware—if the iron bar is in the way—don't move it!

If the survey bar is just where the fence post should be—build around it. The cost of replacing a survey marker could be as much as the cost of the fence, driveway or landscaping in the first place.