



By Joel Leininger, LS

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Waypoint Descriptions

It was only a matter of time, and we shouldn't be surprised, really. A couple of years ago in Monroe County, Wisconsin, someone transferred a tract of land described in the main using "waypoints" of latitude and longitude coordinates. Some have surmised that a handheld GPS receiver was the instrument of offense, but that is not provable on the face of the document. (The use of the term "waypoint," however, given its wide use in the sport of geo-caching, lends credence to the supposition.) A comparison of the geometry specified by those lat/long coordinates and the more-or-less distances also noted in the description reveals differences of up to 80 feet. The tax map, which purports to reflect the transaction, only approximates the shape specified in the grant. The actual intent of the deed is a matter of conjecture.

The serious errors in the description, I suppose, should not come as a shock given the likely participants in the drama. It has been apparent almost since the dawn of written conveyances and legal descriptions that the general public has only a smattering of understanding about how we go about establishing property lines. That manifests itself most frequently when Joe Average first learns how much that boundary survey he wanted will cost.

After picking himself off the floor, his first comment is likely to be, "Just to have it *surveyed*?" I had someone hang up on me just yesterday after reciting that script. What a guy!

The root cause of both the astonishment at our prices, and the folly of assuming a hand-held GPS unit can

obviate the need for our services, is that the public has no idea of the complexities inherent in our land tenure system. Our profession is to blame for some of that complexity—or, at least, our predecessors are to blame, because their failure to render consistently reliable measurements spawned the court responses to surveying uncertainty.

But that is only part of the story. The other part is that the parcel fabric

piece and the temerity of the magazine publisher in running it. He was right, of course, but at the same time it should have come as no surprise. We are a nation of do-it-yourselfers. We hate paying for something we can dispatch ourselves. The waypoint description is merely a high-tech version of that old article, and likely a dumbed-down one at that, given the general erosion of mathematical understanding in our soci-

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itself, and conveyancing doctrine in general, requires that new parcels have a known relationship to elder parcels. It is the *knowing* of the elder parcels that commands all the time and money.

We, of course, take all of that in stride, because those elements are facts of our life. But there is little about our written products that would alert laymen to those facts. And so, when presented with the opportunity, they forge ahead—blissfully ignorant of the minefield they traverse.

Don't Try This at Home

I recall many years ago reading a "whole earth"-type magazine article entitled "How to Survey Your Own Land." One of my colleagues at the time was incensed at the shallowness of the

ety. The real damage is that its results have been entered into the stream of commerce; instead of merely clouding the physical evidence by having unsubstantiated pipes banged into the ground, this survey will end up clouding the title of the tract for future owners and other stakeholders to inherit. Both "surveys" produce collateral damage. The waypoint description creates damage with a longer shelf life.

We surveyors have had a love affair with technology, but it is an unfaithful sweetheart. Others have embraced it too, and will continue to do so. Perhaps the most damaging response we can have about the home-written waypoint description is to assume that it is as bad as things will get. This is most certainly

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untrue. The march of technology will not end with PCs or GPS or with the Internet or wireless, or... whatever. Inexorably we (and society at large) are on a treadmill of progress, creating and using innovations that make our lives easier and more productive, while at the same time empowering laymen and enticing them to “do for themselves” what they used to delegate to experts. In part, the machine control controversy is another skirmish in this same conflict. But only in part. Where machine control owes no duty to history or to evidence considerations, boundary surveys, by their very nature, require close attention to the previous actions of parties-in-interest. (That requires, of course, an understanding of which parties were actually in-interest and which were not.) And, since those parties depended on and embraced imperfect surveys (which are the only ones yet available), the boundary surveyor must recognize and sort through the mounds of conflicting evidence the average retracement generates.

Transactions

It seems to me, then, that our call to arms over waypoint descriptions must be on the education front, and the primary audience is conveyancing attorneys' and lenders' counsel. We do not operate in a vacuum; our products get repackaged and infused into other transaction documents, the efficacy of which presume a “correct” description. (We'll set aside, for this discussion, the various meanings “correct” can have.) Those who have purchased property and obtained a mortgage generally recall two things about the event: 1) signing dozens of papers, and 2) not remembering what most of them were. Those papers constituted “the deal” for most of the other participants in the transaction, and most of those documents depended upon the legal description. It should be obvious that serious deficiencies in the survey underpinning that description would concern those other parties. It is the advisors to those parties, then, who are the best situated to insist on reliable work. They must understand why surveys have been conducted as they have been, and the ramifications to the property fabric resulting from ignoring it.

Seminars are in order. Organize them. *A*