

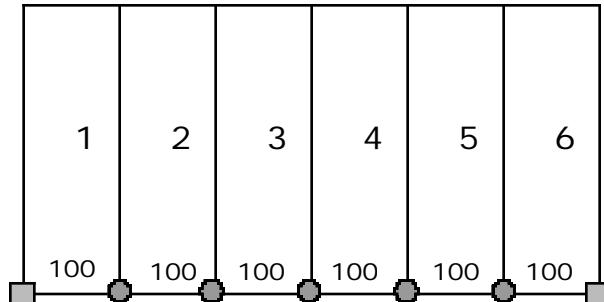
WHAT DID YOU DO?
APPORTIONMENT DOCUMENTATION
by
Knud E. Hermansen†

Introduction

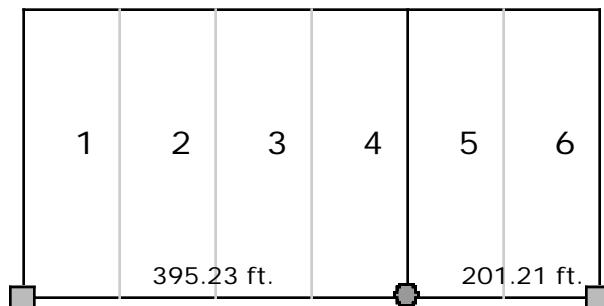
Apportionment is often employed for those subdivisions (simultaneous conveyances) where there is no better evidence to the position of the original monuments and there is excess and deficiency in the distances within the block. †† There are many excellent texts that go into detail explaining the applicable rules and procedures for apportionment of excess and deficiency in distances within subdivisions. As a general rule, surveyors know the rules and procedures and apply them properly. Unfortunately, many surveyors fail to properly document and record what they've done causing subsequent surveyors to question or reject their monumentation.

Problem

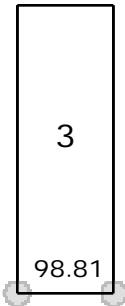
Consider the example illustrated by the following series of diagrams. A 1950 subdivision created six lots, each 100 feet wide. Each lot corner was monumented with a cedar stake. Block corners were monumented by concrete monuments.



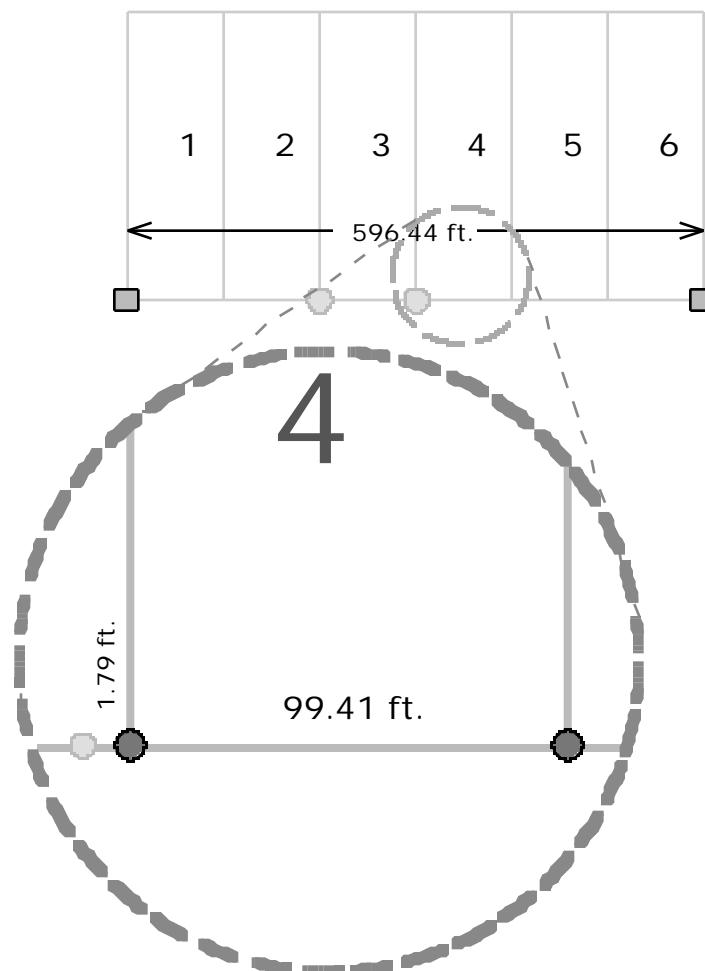
In 1970, a retracement survey of lot 3 failed to discover an original monument or the former position of an original monument. A search of the block revealed one original cedar stake remaining at the corner of lot 4/5 and the two original concrete monuments at the ends of the block.



The 1970 surveyor apportioned the deficiency between the found original monuments and monumented the corners of lot three according to accepted practice. The surveyor used metal rods to mark the corners of lot 3. A plat of Lot 3 was prepared for the client showing the corners of lot 3 and the courses along the boundaries of lot 3. The surveyor complied with all applicable surveying and platting standards current at that time.



In 2001, a surveyor is retained to survey lot 4. The 2001 surveyor discovers the two concrete end monuments and the two metal rods marking the corners of lot 3. The remains of the cedar stake have disappeared. The stake's former position is unknown along with its discovery by the 1970 surveyor. The 2001 surveyor notes that the metal rods are not original monuments. Furthermore, the surveyor notes that an apportionment between the two concrete block monuments (original monuments) does not result in corner positions that conform to the existing metal rods. There is a difference of 1.79 feet between the 1970 and 2001 surveys. Without knowledge of the original cedar stake discovered by the 1970 surveyor and the failure to factor the position of the cedar stake into the apportionment, the surveyor rejects the metal rods and sets the corners to lot 4 based on an apportionment between the concrete block corners.



The example illustrates a common problem that results when a surveyor fails to properly document the monuments and other evidence found by the surveyor beyond the boundaries of the lot being surveyed. Had the earlier surveyor properly documented and recorded the identity and the position of the cedar stake existing in 1970, the 2001 survey would likely have agreed with the monumentation set during the 1970 survey.

Documentation & Recording

Unfortunately, the underlying problem illustrated by the example is repeated many times over each day by surveyors across the United States. This problem could be prevented by proper documentation and recording of all evidence. The states that do require recording of survey information do not always require the document include information beyond the lot being surveyed. It is critical in the situation of apportionment to not only document the information within and along the lot being surveyed but all other evidence used to re-establish the boundaries. The documentation is usually done using a plat, report, or affidavit. The documentation must give enough information to evaluate the credibility of evidence, the location of the evidence, and how the evidence was used. Because of recording costs, the plat or affidavit is usually preferred over a report. Where the plat contains information the client wishes to keep confidential (e.g., encroachments), an affidavit would be best for recording.

Consider the following affidavit form:

Affidavit to Supplement the Record								
I, ___, a licensed surveyor in the State of ___, license number ___, currently doing business at ___ [address] state the following:								
<ol style="list-style-type: none">1. On __ 200__, I performed a retracement survey of lot ___, block ___, in the subdivision known as ___ and recorded in plat book ___, page ___. 2. The lots in the subdivision (Block ___) are currently owned by the following persons according to the existing tax records : <table><thead><tr><th>Name</th><th>Deed Book</th><th>Page</th></tr></thead><tbody><tr><td> </td><td> </td><td> </td></tr></tbody></table>3. Reasonable services required apportionment of __ [excess/deficiency] distance between the common corner of lot __ - lot __ and lot __ - lot ___. 4. The common corner of lot __ and lot __ was marked by __, that was			Name	Deed Book	Page			
Name	Deed Book	Page						

determined to be _ [the original monument or in the position of the original corner].

5. The common corner of lot _ and lot _ was marked by _ that was determined to be _ [the original monument or in the position of the original corner.]
6. As a result of the surveying services performed, _ [monument description] were set as corners by apportionment determined to be the following:

Lot Number	Original Distance	Apportioned Distance
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Dated this _ day of _ 200_

Signature: _____

Printed Name: _____

State of _
_ County, ss

Personally appeared the above named _ and made oath to the truth of the foregoing statements and also acknowledged this instrument to be _ her/his free act and deed.

Notary Public

Documentation that is not available to the next surveyor may as well not exist, so recording is also necessary. Recording may be done at the county surveyor's office, recorder of deeds, or town office, depending on the standard practice in the area.

When recording the plan or affidavit, attempt to have a "margin cite" placed on the original subdivision plan giving the book and page number of the retracement plat or affidavit that was recorded. A margin cite can sometimes be placed on the lot owner's recorded deed as well. (A margin cite is often placed on a recorded mortgage or deed of trust to direct the researcher to the recorded assignment or release of the mortgage.) The margin citation on the lot owner's deed or the original subdivision plan directs the researcher to the survey information found on the retracement survey or affidavit that was recorded.

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If a margin cite is not allowed or in addition to the margin cite, the retracement plat or affidavit should be indexed under the current lot owner's names. Many registrars will not index a document under a name unless the name appears on the face of the document. Accordingly, the plat or affidavit should include the names of all the lot owners affected by the apportionment. Margin citations and indexing is necessary to insure that constructive notice is provided to any surveyor or abstractor subsequently researching any of these lots within the subdivision block.

It should also be noted that expanding the record in this manner will let title researchers and property owners know that surveying services were performed in a subdivision by a certain firm. Consequently, if the title company or a property owner requires surveying services in the same area, the firm that has provided constructive notice of their earlier services will be in a good position to get other survey work in the area.

Conclusion

When a surveyor has to apportion distances within a subdivision, the surveyor has had to analyze and use evidence beyond the borders of the client's lot. If the surveyor takes steps to document the evidence used in the apportionment, subsequent surveyors will have access to historical information and conditions on the site at the time of the earlier survey. This will help prevent disagreements between subsequent surveyors and avoid multiple monumentation in the field.

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†† Note: Some states such as Pennsylvania do not recognize simultaneous conveyances.