

Notice of the Survey

by

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Notice of the survey is simply an announcement sent to the neighbor (adjoiner) or other parties (e.g., utilities) of the pending surveying services. Notice can be accomplished by visiting, calling, or writing. This article will focus on written notice to the neighbor.

Written notice has two advantages over other forms of notice. First, the written form stands as a historical record of the message contents and evidence of its communication. Second, it provides a more reliable method of communicating with the recipient that is not always possible with phone calls or on-site visits since many landowners are at work during the time period when the surveyor will likely call or visit.

Providing notice of pending surveying services has several benefits. Most importantly, ordinary and reasonable courtesy suggests the surveyor notify landowners of possible entry upon their property. Second, notice could prevent the crew from being idle while the party chief is talking to the neighbor explaining the crew's presence in the neighborhood and on the neighbor's property. Third, it is not uncommon for the response to a letter to reveal there is a heated dispute between the client and neighbor that the client has failed to mention to the surveyor. (It is far more beneficial to hear a neighbor vent their displeasure with the surveyor's client over the phone than at the site where there is expensive equipment within reach.) Fourth, notice could cause the neighbor to services from the surveyor while they are nearby. Fifth, aid from the neighbor in the form of unrecorded documents, historical information, and monument locations are often encouraged with a friendly written notice. Sixth and finally, notice provides a means to educate the neighbor about the surveying services (traverse markings, need to enter property to survey, etc.)

Some states require notice to a landowner before a surveyor can enter property without fear of prosecution for trespass. Civil and criminal law will ordinarily hold the surveyor liable for trespass when there is intrusion on property without the permission of the landowner. For example, recent passage of the surveyor's right of entry law in Maine permits surveyors, for the performance of surveying services, to enter upon property without permission of the landowner so long as the surveyor made a good faith effort to notify the landowner.

Consider the following example letter that is meant to be sent to a neighboring landowner.

June 3, 2004

On or after __ [date], our firm will be surveying the property of __ [client's name], which is located _ [nearby road, stream, physical feature], __ [municipality], _ [county]. Tax assessment records indicate that you share a common boundary with __ [client's name].

To insure a complete and accurate survey, our firm would appreciate a copy of any unrecorded documents such as plats, old deeds, survey notes, reports, and similar documents that are in your possession and would help re-establish the common boundary you share with __ [client's name]. This firm will reimburse you for any reasonable costs. A meeting at a date and time convenient to

you can be arranged, if you would like to show us any boundary markers or other objects that may be hidden from view or are not easily identified as a corner or boundary marker.

During the survey, wooden stakes and nails will be used to mark temporary survey points. These should not be confused with the actual corner or line monuments we will eventually use to mark the common boundary you share with ___ [client's name]. Any survey points and ribbon our firm uses will more than likely not be placed on the boundary or represent a common corner. All corners will eventually be monumented by capped 5/8th inch diameter reinforcing rods inscribed with the name and license number of the surveyor (if not already monumented).

From time to time, employees from our firm may have to enter upon your property to gather information and measure from your corners and points on your property. Measuring on your side of the boundary is often necessary to insure that all information, from both sides of the boundary, is considered before marking the common boundary. Please do not hesitate to call this firm if you object to our employees entering your property and using information on your side of the boundary to help reestablish the common boundary you share with ___ [client's name].

Should you have any questions or information, please call or write using the address listed in the letterhead. Your help is appreciated.

The first part of the sample letter informs the landowner of the pending surveying services and identifies the location of the survey. A detailed location of the survey is important where the neighboring landowner has vast tracts of land (e.g., logging companies) and is unfamiliar with the name of neighboring owners. The next part seeks pertinent documents the landowner may have that will aid the surveyor. This part also extends a willingness to meet and identify corners where the landowner believes monuments reside. If the landowner provides some help (or believes they have), the landowner will more likely believe the surveyor's opinion is unbiased. The third part of the example letter educates the landowner on the surveyor's markings to prevent confusion between traverse stations or ribbons used to mark evidence and the actual corner or boundary location. The fourth part of the example letter informs the landowner of the surveyor's entry on their property. Tact and good public relations suggest the letter be sent and tacit permission be sought to enter the property. If entry is expressly mentioned as necessary to locate the common boundary using the adjoining landowner's corners, few adjoining landowners would likely object to the surveyor's entry on their property. Common sense suggests the adjoining landowner would want the surveyor to use their corners to reestablish the common boundary.

Some surveyors also include in the notice an offer to survey the neighbor's property for a favorable rate, at the same time.

Because your neighbor has requested our surveying services, we are in a position to offer surveying services for your property at a reduced rate. If you call our firm for surveying services in the future, please mention that we have previously surveyed your neighbor's property.

(Warning: Prudence strongly suggests that the fee for neighbor's services not be relatively less than the client's fee or you will have an irate former client demanding equity.)

The name and address of the adjoining landowner can be obtained from the tax records. Many jurisdictions now have tax information on line.

With the advent of computers and easy access to the information, it is relatively fast and easy to prepare a letter within ten minutes. If a surveyor isn't using a written notice of survey, it is worth a try.