

Common Research Mistakes Surveyors Make (Forward Search)

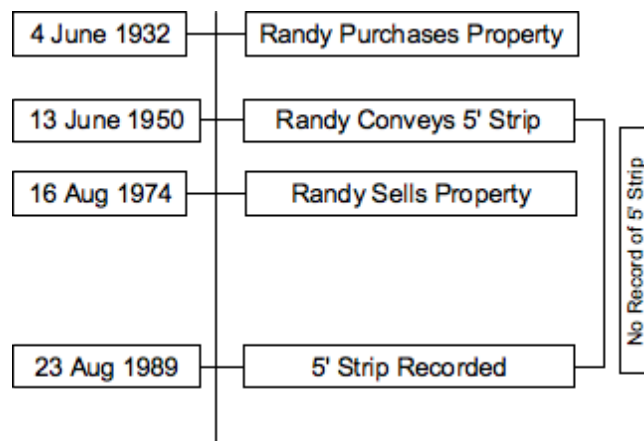
by
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In a previous article I stated that surveyors often make five common mistakes in researching the records. In the first article I discussed mistakes made in determining senior title. The second of five common mistakes often made by surveyors when researching the records is the failure to perform a forward search.

Many surveyors perform a record research back in time but fail to perform a search forward in time. As a consequence, the surveyor will often miss recorded out-conveyances from a parcel. The surveyor will also fail to find other recorded documents (e.g., boundary agreement) related to the boundary of the parcel being researched.

Assume a research of the records has disclosed that Randy owned a residential lot from 4 June 1932 to 16 August 1974. On 13 June 1950, Randy conveyed a five-foot strip of his residential property to his neighbor, by a properly executed deed. The neighbor built a fence along the new boundary on 2 May 1954 (thereby providing notice).

On 16 August 1974, Randy conveyed the residential lot to Bill. The deed from Randy to Bill used the original description and did not mention the five-foot strip conveyed to the neighbor twenty-four years previously.



On 23 August 1989 the executrix (personal representative) of the neighbor's estate discovered that the deed for the five-foot strip from Randy to the decedent had never been recorded. The executrix recorded the deed for the five-foot strip on 23 August 1989. Although the deed was executed in 1950, the deed was indexed in the indices covering the 1989 time period when the deed was finally recorded.

If a surveyor fails to perform a forward search, the surveyor will not discover the recorded deed conveying the five-foot strip of land to the neighbor. The surveyor, with Bill as a client, would believe the fence was encroaching on Bill's property

What this example illustrates is that a complete record search entails using the name of a previous owner and searching every grantor index from the time the property was conveyed to a predecessor in title up to the present time. This procedure is known as a forward search. Unless a forward search is performed, the surveyor will not discover some

conveyances that were made, properly indexed, and are effective against the title to real estate.

Bringing to light a surveyor's failure to perform a forward search will not necessarily convince surveyors to undertake the tedious and time consuming research necessary to overcome this limitation. Yet, the failure to perform this task could expose the surveyor to liability. At the very least, the surveyor should inform the client that these deficiencies in the research exist at the completion of services. Should the client want to compensate the surveyor for the time to perform a thorough search, these limitations can be overcome.

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