

TALES FROM THE TRENCHES

BY BARRY C. MCGUIRE

October, 2011

Who Needs a Real Property Report? Part 1

Let's do a quick review of this thing called the Real Property Report.

A Real Property Report or RPR is more commonly known as a Survey or Survey Certificate. It is a two-dimensional drawing of your property prepared by a professional land surveyor. This drawing precisely measures all of the improvements on your property including but not limited to house, garage, decks, hot tubs and fences. The size of each improvement is shown and how that improvement relates to your property lines. For example, how close is your house to the property line? What is the height of the deck and the deck railings, if any?

In Alberta, (but not Ontario or British Columbia), the standard Multiple Listing Service ([MLS](#)) or Alberta Real Estate Association ([AREA](#)) real estate purchase contract says that the seller must provide the buyer with a current real property report and written evidence of municipal compliance. Sellers often don't have Real Property Reports. If they do have them, they are often unreadable or do not show the improvements on the property the way they are today. I often get calls where clients ask me, "the seller doesn't have an RPR, do I really need one?" The answer is, "it depends" but, like lots of things in real estate, you have to analyze it further and do a little more diligence.

I was reminded of the importance of the Real Property Report when a small house in my neighbourhood was recently demolished and foundations poured for a new home. I love looking at new construction. So as soon as the foundation went in, I made sure my evening walk took me by the property. The first thing I noticed was that the foundation of the new home seemed to be awfully close to the neighbour's property. The next night, I took my tape measure with me and measured from the new foundation to the wall of the neighbouring home.

The distance was 5'2". City bylaws say that each home has to have a 4-foot side yard. In other words, there has to be 4 feet from the foundation wall to the property line. Therefore, the total between two homes should be 4 feet +4 feet equals 8 feet and we only had 5'2". Uh oh, something's not right. Surveyors had marked where the new foundation should be placed and I believe that the new foundation is properly placed with its 4-foot side yard.

The neighbour property is a revenue property and I'm sure the upstairs and downstairs tenants were shocked to come home one day and find that their sidewalk between the two houses had been torn up by the backhoe and deposited in the backyard. That's not surprising since if the total distance between the two properties is 5'2" and the new property is accurately located with its 4 foot side yard then the neighbouring property only has a 14 inch side yard. 14 inches! The eaves of the new property will actually overhang the neighbouring property. The eavestroughs of the neighbouring property currently empty into the side yard and will have to be rerouted and the sidewalk will have to be relocated on the opposite side of the property.

I talked to the investor who owns the neighbouring property and asked him if he ever had a Real Property Report. He said no because he didn't think he needed one. With a looming bill for new sidewalks, new eavestroughs, concern about a giant house very close to his property that takes away light and the ability to

TALES FROM THE TRENCHES

BY BARRY C. MCGUIRE

October, 2011

do further development on his existing property, he now understands why a real property report would have been of great assistance when he was purchasing this investment property. This Tale illustrates just one of the many aspects and issues surrounding RPR's and we haven't even touched on municipal compliance.

LESSONS LEARNED:

1. Take time to educate yourself about the importance of the RPR and municipal compliance. Ask your lawyer or check Alberta Land Surveyors Association ([ALSA](#)) website.
2. Current Real Property Reports and evidence of municipal compliance are part of the standard real estate purchase contract here in Alberta.
3. For any home purchase (not a condominium other than a bare land condominium) your first, basic and best position is, "I require a current Real Property Report and written evidence of municipal compliance."

[RMLO Law LLP](#)

We help homeowners and investors all over Canada buy and sell real estate in Alberta. But we do a lot of other stuff too, including Wills & Estates, Tax Planning and Corporate Law.

[Barry C. McGuire](#) - your ever-helpful consultant on all things real estate. Over 40 years experience with a huge interest in creative real estate strategies. Barry always gets back to you! Call or email anytime.

[Richard Bell & Sharon Aiston](#) - our 'closers.' They take your unconditional deals, analyze them and make sure they close with all the protection you can get. Call or email anytime about any deal detail.

[Lyndon Thiessen](#) - handles the business law end of things at RMLO. He can help you incorporate, buy commercial buildings, and negotiate leases. Perhaps most importantly, Lyndon has huge expertise in tax and tax planning, including family trusts. He has helped many of our clients save hundreds of thousands of dollars.

RMLO Law LLP

Phone: 780.431.1444 – Toll-Free: 1.888.333.8818 – Fax: 780.431.1499

101, 10301-109 Street NW

Edmonton, Alberta, Canada, T5J 1N4

<http://www.rmlo.com>