

TALES FROM THE TRENCHES

BY BARRY C. MCGUIRE

November, 2011

Do I Need a Real Property Report (RPR)?

A big part of my role as a real estate investor coach is to get the message out on diligence. Different kinds of diligence, how much diligence, and when should you perform diligence. Real Property Reports are a key diligence tool and deserve extra emphasis. This is the third Tale From The Trenches discussing many aspects of RPRs. To get the most from this Tale, please review the previous two parts.

Some of the questions clients always ask me are, "Do I need to get a Real Property Report and isn't Title Insurance the same as a Real Property Report." Let's look at the first question using some real life examples that people have brought to me.

1. A hotel in a small town had a neighbour who constantly complained about noise, parking problems, and litter. This was making life miserable for the mom and pop operators of the hotel. Try as they might they could not satisfy their unhappy neighbour. They were at their wits end and decided that maybe if they installed a sturdy, high fence all around their parking lot, that would eliminate the problems. They had a Real Property Report prepared to establish their boundaries and show them where to put the fence. Guess what? The unhappy neighbour's house was three quarters onto their parking lot! They have the right to tell the neighbour to move the house. Once they showed the neighbour the Real Property Report, gave him a copy, and asked politely how difficult he thought it would be for him to move his house... "just asking"... all complaints ceased.
2. There was a once beautiful row of trees separating two residential properties. The trees were roughly on the property line. Unfortunately, the trees were old, badly kept, and dangerous. Our member consulted an arborist who recommended that six of eight trees be removed with the other two being substantially pruned back. Discussions with the elderly neighbour were frustrating. One moment she was all in favour of tree removal and pruning and the next she warned about doing anything to "her trees." She loved those trees and didn't think they were in such bad shape. Besides, they were on her property. Finally our member retained a surveyor who prepared a Real Property Report. The RPR showed six of the eight trees were located on our member's property. With that solid information in hand he was able to finally prune the six trees knowing that he could resist and deflect his neighbour's assertions that, "those are my trees and you better not touch them."
3. Our last example comes from a member whose strategy was 'fix & flip.' He likes to work in older, established neighbourhoods close to the downtown core. His favourite type of property is a small house on big lot with room to renovate. If you are going to add on to an existing property, you must meet municipal setback requirements. For one house, the plan was to put an addition on the rear of the existing property. The lot looked okay, lots of room. After closing, he applied to the municipality for permits. As it turned out the existing property was already located too far back in the lot and the backyard requirements were inadequate for the new addition. He sold the property at a small loss with a lot of hassle and stress. Now he always makes his purchase conditional on, "receiving an RPR satisfactory to buyer." The satisfactory part would be the RPR showing him he had enough room for his addition.

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Lessons Learned:

1. Modify your standard contract to amend the RPR requirements.
2. Turn the existing RPR clause from a term to a condition.
3. Insist that your realtor amend the existing RPR clause or add your own clause so that your contract reads:

"subject to seller providing buyer a current Real Property Report and written evidence of municipal compliance satisfactory to buyer within seven days of acceptance."

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