

Land purchaser faces additional \$10,000 bill

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“I would never buy another property without seeing a Real Property Report (RPR),” says Jim Smith of North-Central Alberta. “The property I bought is causing me a lot of problems.”

The new property purchaser is now facing surveying and legal fees that may exceed \$10,000, something that would not have occurred had he seen the RPR that had been prepared for the property. After buying the property, Smith learned that his garage extended five metres onto a road allowance and the house did not meet the set-back requirements as prescribed in the municipal land-use bylaws.

The real problem began in 1906 when the road allowance was created and a road was constructed. The road builders took the path of least resistance and built the road where it was easy to build—not on the road allowance but on the property north of the road allowance. Over the years, no one noticed and the house and garage were constructed on the property south of the road. Everyone assumed the road was properly located.

The Real Property Report, prepared by an Alberta Land Surveyor, clearly identified the location of the house, garage and road allowance. When the seller reviewed the RPR he saw the problems. He didn't want to show the RPR to the purchaser because the sale might not go through. Smith, the purchaser, was eager to buy and didn't insist on seeing the document.

How will it be fixed? Fortunately, the three parties affected by the situation are working together to resolve the problem. The county is talking about transferring a portion of the old road allowance to Smith and the land owner north of the road is talking about transferring land to the county so a new road plan can be created where the road actually exists.

“I still would have bought the property,” says Smith. “But, I would have insisted in paying a lower price to cover the increased costs I am now facing.”

An RPR is a document prepared by a professional land surveyor. The diagram clearly shows all boundaries, building locations, easements, utility rights-of-way, and encroachments on or from other properties relative to property boundaries. Once the RPR is completed it is shown to the municipal authority to determine whether it meets the land use bylaw requirements. If it does not, arrangements can be made to fix the problems before the sale, or price adjustments can be made to pay for fixing the problem after the sale.

The Alberta Land Surveyors' Association, established in 1910, is a self-governing professional association legislated under the Land Surveyors Act. The Association regulates the practice of land surveying in Alberta for the protection of the public and administration of the profession.

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