



Ontario

Ministry of
Consumer and
Commercial
Relations

Ministère de la
Consommation
et du
Commerce

Registration
Division

Division de
l'enregistrement

416-392-3111, Suite 402
393 University Avenue
Toronto, Ontario
M5G 1E6
XXXXXXX
416-392-3111
314-4886

November 1st, 1994

EM199405

MEMORANDUM TO: Land Registrars

FROM: D. R. Aron
Examiner of Surveys

RE: **Transfers and Abandonments of Railway Rights-of-Way**

Recently an inquiry was received in eastern region concerning the registration requirements for transferring or abandoning of railway rights-of-way and in particular the requirement for accompanying surveys.

Bob Meisner, Regional Surveyor, in a memorandum to the Land Registrars in eastern region set forth guidelines as to when a survey should be undertaken to facilitate a transaction of the nature contemplated. A copy of this memorandum is attached.

The guidelines as laid out in Bob's memorandum provide a simple and flexible mechanism while at the same time protect the integrity of the land registration system and the consumer who, in the future, could potentially be saddled with extensive survey costs if the guidelines were ignored.

By adopting these guidelines, this will ensure a measure of consistency across the province when dealing with this issue. In addition, I would strongly recommend undertaking, at the earliest possible opportunity, discussions with the respective parties to the transaction and include the Regional Surveyor.

If you have any questions or concerns please consult the Regional Surveyor in your area or me.

c.c. A. Sharp
K. Murray
Regional Managers
Regional Surveyors
H.O. Managers
Legal Services

Attach.



Ministry of
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memorandum

To: LAND REGISTRARS
EASTERN REGION

Date: SEPTEMBER 29, 1994.

From: ROBERT J. MEISNER
REGIONAL SURVEYOR

SUBJECT: ABANDONED RAILWAY RIGHTS-OF-WAY.

In past cases of railway abandonments, it has been the policy of this Ministry to accommodate the transfer of the abandoned right-of-way, at the least cost to the involved parties, where this can be accomplished without creating future problems.


SURVEYS WILL GENERALLY NOT BE REQUIRED where the title to the railway lands will be transferred from one railway company to another railway company and continue as an operational railway line, or, where the title to the railway lands will eventually merge with that of the adjoining owners and not create a new boundary. It is recommended, in these instances, wherever possible, the land registrar accept conveyances using the original descriptions contained in the conveyances to the railway companies, supplemented by a current sketch for illustration purposes.

SURVEYS WILL GENERALLY BE REQUIRED where the fee in the railway lands will eventually be transferred to:

- a) The adjoining owner on one side of the right-of-way only,
- b) Separate adjoining owners on either side, with the centre line of the right-of-way forming a new boundary, or
- c) Any other party who wishes to acquire the right-of-way for road, recreational, easement or similar purposes, where it becomes important to have the boundaries perpetuated before all the evidence has disappeared.

It is least costly to survey the railway right-of-way prior to the removal of the physical evidence, such as the tracks, ties, fences and viaducts, than it is once this physical evidence has long since disappeared. If no survey is done to perpetuate the evidence of the right-of-way, retracement will become increasingly difficult and costly with time. This cost will ultimately have to be borne by the adjoining owners when they dispose of part or all of their holdings, leading to possible claims for assistance under the Land Titles Survey Fund.

Although the ultimate responsibility and authority for accepting documents rests with the individual Land Registrars, because Railway abandonments generally affect more than one Registry Division, it is recommended that early discussions of the issues involved with the various agencies, the Regional Surveyors and the Land Registrars take place prior to any decisions being made regarding surveys.


Regional Surveyor.