



The Connecticut Surveyor

April 2010

Volume Fifteen: Issue Four



It's Spring...

and that means it's time for CALS Golf Outing!

Join us on Thursday, June 17th, at the Stanley Golf Course for a full day of food, fun and prizes. The total cost is \$100 per player. Send in your registration today.

CALS 2010 Golf Outing Registration Form

Player 1 Name & Handicap _____

Player 2 Name & Handicap _____

Player 3 Name & Handicap _____

Player 4 Name & Handicap _____

Company/Address _____

Phone/Email _____

Enclosed is \$ _____ for _____ players.

CALS also accepts MasterCard & Visa.





Watch Your Language

By Wendy Lathrop, L.S. CFM

If we as surveyors sometimes find the language of deeds murky, imagine the misunderstandings among lay people - many attorneys included. Recent clients had to defend themselves against new neighbors claiming a right to cross my client's property, based upon recycled language in my clients' deed and an erroneous tax map. By record title, my clients owned a landlocked parcel, physically abutting a right-of-way but conveyed by a deed stating their land was "subject to" it, along with a reference to another right-of-way that did not touch or benefit their land and had become part of a public record in 1935.

Skipping over the details of how such a situation occurred, we will pick up at a point when Mr. and Mrs. Client had been living in peace for 29 years, at which point Mr. and Mrs. Neighbor moved in next door. Within six months, the New Neighbors began stirring up the neighborhood and instituted a suit to cross the Clients' land. But the area they wanted to cross wasn't part of the Clients' land. The 1910 deed named as the basis of the New neighbors's suit also was not on the Clients' property, although it was clearly headed "Deed of Right of Way" as recorded in the County Hall of Records. The right-of-way was a determinable easement to serve a much larger landlocked tract of which the Clients' land was eventually the remainder, while all other portions fronted on public roads. But that named deed stated that it would terminate on the creation of other access to public roads, which occurred in 1925 when part of the same right-of-way was purchased in fee by the local government to form another public street that gave frontage to the original large landlocked tract.

Changing tact (but not amending their complaint), the New Neighbors moved on to a 1923 deed as the basis of their presumed rights. They hinged their arguments on one particular phrase: "excepting and reserving a right-of-way." And that is the phrase we will examine in this article.

Exceptions are interests that one owns and holds back from a transaction: "I will sell you all of my land EXCEPT one acre along the road." Reservations, however, create rights for the first time, and need not be exercised immediately. Think in terms of "I reserve the right to change my opinion upon the disclosure of additional facts."

Taken strictly, the words exception and reservation mean two completely different things. But they have unfortunately been used incorrectly and nearly interchangeably for decades or longer, and even used together as in the "excepting and reserving" clause that has instigated suites not only here but also across the country under many different circumstances. What can that phrase possibly mean?

Here is where we apply the Four Corners Doctrine to our work as professional surveyors. We must look at the entire document to discern the intent of the parties from the intrinsic evidence. We cannot pick and choose which pieces we like best just because they suit our (or our client's) purposes. And so the phrase "excepting and reserving a right-of-way" must be taken as a whole rather than zeroing in on the word excepting as retaining unmitigated fee rights in a particular strip of land (as the New Neighbors' so-called expert did).

Watch Your Language continued...

When there is a transfer of real property interests in fee, it must be presumed that the grantees are not restricted in their exercise of full use of that land other than respecting easements to which their new acquisition may be subject, zoning regulations, and similar use, or specifically the fee is to last only as long as the land is used for a public library, or convey a life estate that must be exercised in a manner that preserves the rights of the future owners when that life estate expires. But generally, acquisition of fee title allows the grantee to use the land in any manner desired that does not harm the public. Therefore, no words specifying a particular use appear in (non-determinable and non-defensible) fee conveyances.

In the phrase “excepting and reserving a right-of-way”, a very specific use and purpose is named. Therefore, the phrase indicates a reservation of easement rights, not exception for full fee title. Black’s Law Dictionary contains an entry for “except right-of-way”

“Recitals ‘less the right of way’ and ‘except right of way’ in granting clause of deed have well-defined accepted certain and unambiguous meaning by which grantor conveys entire interest in servient estate and at same time expressly recognizes and acknowledges dominant estate.” (Citation omitted)

The New Neighbors’ attorney listened to me read this definition from the stand after also explaining reservations and exceptions, and then stated, “But there is no entry for ‘excepting and reserving a right-of-way’, is there?” Parsing words in this manner before a judge who had a hard time understanding basic real property terminology made my job difficult, and we won’t know for some time whether or not I was successful in my endeavors. In part, the situation is complicated by the fact that this is Chancery Court, meaning a court of equity where the laws can sometimes be bent to come up with a “fair” outcome.

Here’s what we as surveyors can do to prevent such litigation:

- 1) We can be more careful in the words we choose in describing the various rights disclosed by the record when writing descriptions and adding notes to our plans and reports.
- 2) We can and should point out ambiguous or outdated language and references that should not automatically be recycled into the next recorded document. How many times do we see a citation for an easement or restriction that affected the original parent tract in a location far removed from the much smaller tract we are now surveying?
- 3) We can make it a point to educate our clients about the content, format, and meaning of the documents we provide. We update language and references for a reason: our clients (and also the ultimate users, who may not be our clients) must understand that reason so that (a) they are better informed about their real property rights, and (b) they better appreciate the value of what we do.
- 4) We must keep learning, reading, discussing, and doing whatever it takes to keep on top of the professionalism and expertise that our clients expect and rely upon and that our state boards of registration demand.



2010 ACSM/NSPS Scholarships and Awards

The American Congress on Surveying and Mapping (ACSM) and the National Society of Professional Surveyors (NSPS) are pleased to announce the following scholarships and awards, which were presented April 25, 2010, as part of the ACSM/NSPS Conference and Technology Exhibition in Phoenix, Arizona, April 24-28, 2010.

Scholarships

AAGS Joseph F. Dracup Scholarship - Provided by the American Association of Geodetic Surveying, this \$2,000 award is for an undergraduate student committed to a career in geodetic surveying.

Winner: Erielle Lamb, California State University - Fresno

American Association for Geodetic Surveying Graduate Fellowship - For this \$2,000 award preference is given to applicants having at least two years of employment experience in the surveying profession.

Winner: Lei Wang, Ohio State University

ACSM Fellows Scholarship - This \$2,000 scholarship is available to a student with a Junior or higher standing in any of the ACSM disciplines.

Winner: Christopher Schafer, Ferris State University

The Lowell H. & Dorothy Loving Undergraduate Scholarship - This \$2,500 scholarship is available to a student who has a junior or senior standing in a 4 year degree program at a university or college in the United States. In addition to a course in basic surveying, an applicant's program of study must include courses from at least two of the following areas: land surveying, geometric geodesy, photogrammetry/remote sensing, or analysis and design of spatial measurements systems. Additional course work is desirable but not required.

Winner: Patrick Vanhaverbeke, Alfred State College

Nettie Dracup Memorial Scholarship - These \$2,000 awards were established by a donation from Joseph Fracup in the name of his wife. These scholarships are awarded through AAGS and the NSPS Foundation.

Winners: Keith Ream, California State University - Fresno, and Michael Kral, university of Akron

Schonstedt Scholarship in Surveying - \$1,500 awarded to an undergraduate student who has completed at least 2 years of a 4 year program in surveying.

Winner: Brian Bellmore, Michigan Technological University

A. Frieze memorial Scholarship - \$1,500 awarded by the NSPS Foundation to an undergraduate student who has completed at least 2 years of a 4 year program in surveying.

Winner: Jacob Heck, Michigan Technological University

NSPS Scholarships - A \$1,000 award and certificate from NSPS is given to each of 2 undergraduate students to be used toward a 4 year degree program.

Winners: James Carr, Texas A&M University - Corpus Christi & Tyler Rigazio, University of Maine

NSPS Board of Governors Scholarship - This \$1,000 scholarship is awarded to a student enrolled in studies in surveying, engineering their junior year of study in a 4 year degree program of their choice. The applicant must have maintained a minimum 3.0 grade point average.

Winner: Clayton Yada, California State University - Fresno

2010 ACSM/NSPS Scholarships and Awards continued...

Berntsen International Scholarship in Surveying Technology - Funded by Bernsten International of Madison, WI, this award provides \$500 in financial assistance to a full-time undergraduate student pursuing a 2 year degree in surveying technology.

Winner: Patrick Unrein, Santiago Canyon College

Berntsen International Scholarship in Surveying - Funded by Bernsten International of Madison, WI, this award provides \$1,500 in financial assistance to a full-time undergraduate student pursuing a 2 year degree in surveying.

Winner: Lucas Hanson, Ferris State University

Cady McDonnell Memorial Scholarship - This \$1,000 scholarship recognizes a woman student enrolled in the field of surveying. The applicant must be a resident of one of the following Western states: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

Winner: Roberta Lujan, New Mexico State University

Tri-State Surveying & Photogrammetry Kris M. Kunze Memorial Scholarship - This \$1,000 scholarship is available to candidates throughout the US. First priority candidates are licensed Professional Land Surveyors of Certified Photogrammetrists pursuing college level courses in Business Administration or Business management. Second priority candidates are certified Land Survey Interns pursuing college level courses in Business Administration or Business management. Third priority candidates are full-time students enrolled in a 2 or 4-year degree program in Surveying & Mapping pursuing a course of study including Business Administration or Business management.

Winner: Daniel Surface, Michigan Technological University

ACSM Awards

Earle J. Fennell Award - This award was established to honor Earle J. Fennell, ACSM President 1966-1967, and ACSM Executive Director 1968-1971. The award is presented to an ACSM member in recognition of distinguished educational contributions to ACSM and the surveying & Mapping profession.

Winner: Thomas "Mike" Besch, University of Akron

NSPS Awards

ACSM Congress Chairman's Award

Winner: R. Lee Frank, II

Trig-Star Awards

Richard E. Lomax National Trig-Star Awards - Winners of the State Champion competition for the National Trig-Star title.

First Place: Tommy Scott, Patuxent High School, Lusby, MD

Second Place: Anthony Pabillano, Four Bluff High School, Corpus Christi, TX

Third Place: John Berman, John T. Hoggard High School, Wilmington, NC

2010 ACSM/NSPS Scholarships and Awards continued...

Richard E. Lomax National Teaching Excellence Awards - Teachers of the winners of the National Trig-Star title.

First Place: Mr. Blaine Mably, Patuxent High School, Lusby, MD

Second Place: Mrs. Ghada Salem, Four Bluff High School, Corpus Christi, TX

Third Place: Colleen St. Ledger, John T. Hoggard High School, Wilmington, NC

NSPS Excellence in Journalism Awards

Best Professional Newsletter: The Pennsylvania Surveyor (print and on-line) - The Pennsylvania Society of Land Surveyors

Honorable Mention: *The Cornerpost* - The Vermont Society of Land Surveyors

Honorable Mention: *L'Arpenteur Louisiana* - The Louisiana Society of Professional Surveyors

Best Printed Professional Publication

First Place: *The California Surveyor*, The California Land Surveyors Association

Shared Second Place: *The Missouri Surveyor*, The Missouri Society of Professional Surveyors

Shared Second Place: *Side Shots*, The Professional Land Surveyors of Colorado

Third Place: *The Florida Surveyor*, The Florida Surveying & Mapping Society

Honorable Mention: *Point of Intersection*, The Arkansas Society of Professional Surveyors

Best Website: The Professional Surveyors of Colorado

Honorable Mention: The Minnesota Society of Professional Surveyors

Honorable Mention: The California Land Surveyors Association

NSPS Map/Plat Design Competition

ALTA/ACSM Survey Map

First Place: ALTA/ACSM Land Title Survey of 6 Apartment Buildings & Associated Property - Larry Blatchford, WI

Second Place: ALTA McDonald's USA, LLC, L/C 010-1316 - Steve Mitchell, Georgia

Third Place: ALTA McDonald's USA, LLC, L/C 010-1288 - Brad King, Georgia

Boundary/Cadastral Map

First Place: Boundary Survey for Columbia International University - Joe E. Frick, Jr., South Carolina

Second Place: Joppatowne High School - James M. Shaw, Jr., Maryland

Third Place: Tatnall Hospital Company, Tracts I, III & IV, Tatnall Bank, Charlotte Hiney, Georgia

Miscellaneous

First Place: Ventilation Map Rocklick Coalburg Deep Mine - Marshall Robinson, West Virginia

Second Place: An Easement Plat for Charleston Water System - Aaron Todd Taylor, South Carolina

Third Place: Special Purpose Survey, Compass Rose Stakeout, Montgomery County Airpark - Douglass H. Riggs, III, Maryland



2010 ACSM/NSPS Scholarships and Awards continued...

Subdivision Plat

First Place: Subdivision Plat of Phase II Creekhaven at Prince Creek West - Sal J. Chaves, South Carolina

Second Place: Bel Air Academy - James H. Hunt, Maryland

Third Place: Phase 2, Rabun Estates Subdivision - Charlotte Hinely, Georgia

Topographic Map

First Place: HETF - Puu Waa Waa Unit Topographic Site Survey - Randy Schrank, Alaska

Second Place: Boundary & Topo for 4183 Berkford Circle - Zack Donnelly, Georgia

Third Place: Auke Lake Research Facility Site Survey - Randy Schrank, Alaska

CALS Memorial Scholarship Committee is currently accepting applications for 2010 awards.

These awards were established in honor of the following individuals:

Harry E. Cole
Oliver H. Paquette
William G. Berglund
William W. Seymour

To qualify an applicant must be a resident of Connecticut, be enrolled in a program leading to a degree in surveying or a related field such as engineering, sciences or geography, be accepted to attend the program, and show an interest or work history in being part of the surveying profession.

Applications should include a statement outlining qualifications, together with a transcript, resume and other pertinent information.

Please send to Jay Doody, Chair, CALS Scholarship Committee
49 Arlington Street
West Haven, CT 06516

Deadline for applications is June 1, 2010



Professional Development

Surveying Engineering Technology Program at the University of Maine

It has come to our attention that the University of Maine is considering the elimination of one faculty member in the surveying program that has been supported by the Surveying Education Foundation of New England (SEFNE). CALS, along with other organizations of SEFNE strongly opposes this drastic move. Not only would it jeopardize the ABET accreditation; it would be wholly inconsistent with the existing support and financial relationship that our profession across New England enjoys with the University of Maine.

Stay Out of Court: Mock Trial With Gary Kent

Friday, June 4, 2010
The Conference Center At Waltham Woods
860 Winter Street
Waltham, MA 02451

Presented by Massachusetts Association of Land Surveyors and Civil Engineers
(MALSCE)

MALSCE presents:
Stay Out of Court: Mock Trial
With Gary Kent
The Conference Center At Waltham Woods
860 Winter Street, Waltham, MA 02451
Full-Day Seminar, Friday, June 4, 2010
7:30 AM - 8:00 AM Registration, 8:00 AM - 4:00 PM Seminar

Register On-line at: http://www.engineers.org/index.cfm?pk=custom&ac=viewEventDetails&eventId=MAL MOCKTRIAL_0604

Registration deadline: Monday, May 31, 2010

Post Secondary Options Consortium 2010

Bolton High School, RHAM High School and Bacon Academy will hold a Career Fair Friday, September 24, 2010. As in past years, CALS would like to take a booth to educate students about a career as a Professional Land Surveyor. Second Vice President Dave Palmberg is looking for volunteers to donate a few hours of time to this endeavor. Please call Dave at 860-763-3300 or email him at davepalmberg@sbcglobal.net.



Classified

SEEKING POSITION:

1) Associate Member of CALS looking for full-time position. Hartford County. Eleven years experience. BS in Geography and AA in Mathematics. Skilled in AutoCAD Mapping, Eagle Point Coordinate Geometry, Trimble, Topcon, TDS, Sokkia total stations and data collectors; Leica and Trimble GPS. Excellent references. Contact the CALS office for resume #4091.

2) Professionally trained land surveyor with over 20 years experience. Diversified in all aspects of land surveying including but not limited to ALTA/ACSM Surveys, Property/Boundary Surveys, Zoning and Improvement Location Surveys, Topographic Surveys and Subdivision/Condominium maps. Proven leadership skills with a high level of organization and communication abilities. Able to consistently keep projects on target from a financial and time line perspective. I believe I would make a significant contribution to any firm. If your firm is looking for a dependable, results orientated professional with a solid performance track, I would be interested in speaking with you to discuss the value that my strengths and experience can bring to your search. Contact the CALS office for a full resume #102.

3) Licensed Land Surveyor seeking a management position with responsibilities for marketing services as an engineering/surveying firm, developing business with new and existing clients and project management. Twenty-five years in land surveying applications of business development for new and existing clients; project management; supervision of field and office personnel and experience in all facets of land surveying projects, large and small. Contact the CALS office for full resume and references #4094.

4) Licensed Land Surveyor seeking employment. Extensive experience with title research, boundary surveys, topographic surveys, hydrographic surveys, construction and as-built surveys an existing conditions surveys for redesign, improvements and new design. Willing to work part time. Middlesex County. Contact the CALS office for full resume and references #4094.

POSITIONS AVAILABLE:

Surveyor - Private Pilot - Land surveying and CAD experience required. State licensure not a requirement. Must possess minimum of 750 hours flight time (commercial license not required) - will fly Cessna 206 about 200 hours/ year - 80% in spring. Majority of work hours will be in support of aerial mapping. Excellent benefits; www.e-topo.com for details. Eastern Topographics, Wolfeboro, NH. Send resume with salary/wage requirements to mail@e-topo.com. No calls please EOE

Surveyor - Aerial Mapping - Prior land surveying and CAD experience required. State licensure not a requirement. Preference to individuals with GPS processing experience and/or interest in aviation. Company will provide training in aerial mapping (photogrammetry). Excellent benefits; www.e-topo.com for details. Eastern Topographics, Wolfeboro, NH. Send resume with salary/wage requirements to mail@e-topo.com. No calls please EOE

Fairfield County

Pereira Engineering, LLC is an established Civil/Environmental Engineering and Land Surveying firm located in Shelton, CT and we are looking to fill the following positions:

Survey Technician / CAD Operator:

We are seeking a candidate with 0-2 years experience in Land Surveying or Civil Engineering. The qualified candidate **MUST** be highly proficient with AutoCAD and Autodesk Survey software. Candidate must also be highly-motivated and detail-oriented. Responsibilities will include downloading field survey data, preparation of CAD survey maps, and other office/field work all under the direct supervision of Senior Surveyor.

Survey Crew:

We are also looking to bring on an additional survey crew. Qualified candidates must be experienced in boundary, ALTA/ACSM, topographic surveys, underground utility location, and construction stakeout. Experience with AutoCAD and Autodesk Survey software a real plus.

Pereira Engineering offers a very competitive salary and benefits package including Major Medical Insurance, Retirement Plan, Life Insurance including Short-Term Disability and AD&D coverage, paid Vacation, Holidays, Sick Days, and Direct Deposit for payroll.

Please email resume and salary requirements to: joe@pereiraeng.com or fax to: (203) 944-9945.

**Thank you to Rocco D'Andrea, Inc.,
AI Engineers, Camilleri & Clarke,
EngineerSupply, and Golden Aerial
Surveys for sponsoring tees!**

**The Bongiovanni Group will sponsor the
Continental Breakfast.**

**Superior Instrument will sponsor
the beverage cart!**

**You can be a sponsor too.
Call the CALS office today for details.**

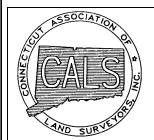
Congratulations!

**The following individuals have passed the Connecticut L.S. Exam
and will be presented with their certificates at
the General Membership Meeting May 6th.**

Joseph R. Link, Mahopac, NY

Mark A. Ochman, Norwalk, CT

William T. Whimple, Castleton, NY



THE CONNECTICUT SURVEYOR

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