

Solidifying the deal

Surveys remove property line doubts

By MONICA FINCH
For The Sunday Gazette

The Great Pyramid of Egypt, constructed almost 3000 B.C., is so nearly perfect its builders obviously had a sophisticated knowledge of surveying. For centuries, civilizations such as the Mayans and Aztecs used surveying to determine property lines, control construction and maintain agricultural areas.

The ancients kept records on clay tablets and used a method of knotted rope to measure off land boundaries. Over the centuries, the Romans improved on the Egyptian system and later the Europeans developed portable angle-measuring instruments, magnetic compasses and telescopic sights. Later, a series of chains and rods was used.

Today's state-of-the-art equipment includes the gyroscopic compass and laser distance measuring devices. Throughout the generations, however, the basic principles have remained remarkably constant.

Backbone of the deal

In today's real estate transactions, the survey can be the backbone of the deal. Banks don't always require a survey for closing or transfer of title, but a savvy buyer should have one done for enforceable documentation that the house he is buying is indeed on the lot.

"Surveyors act as the eyes of the attorney and title companies," said Carole Koch of the Raymond A. Koch surveying firm in Schenectady. "They tell them where the property is actually located and what it looks like."

One out of seven deeds is unenforceable, Koch said. That means the deed may not be good because the property isn't properly described; the math doesn't work; or the description is archaic — for example, "... the property with the big oak tree ... the hill where Farmer Smith pastures his cows ..."

The surveyor's job is to resurrect the origi-

nal intention of what was being conveyed — what the owner was trying to describe on paper for the new owner. The owner's mathematical approximations of the plot may have been inaccurate, but his intent was to sell the buyer a specific tract of land. The numbers may not be precise, especially because of the common phrase, "more or less." It is the surveyor who must dig back into old records and re-discover the essence of the transaction.

Koch said people should not rely on the tax maps that are readily accessible as public records. Such maps are not surveyed, but are an aerial representation of the plotted deeds. They are guesses, calculations or scaled distances. A person who relies on a tax map to save money may end up paying much more in the long run, she said. No other documentation than a certified survey bearing a surveyor's raised seal will provide information that can be admitted into a court of law.

In one in about 400 cases, Koch said the survey reveals that the deed does not describe the property. She told of a house which was not on the lot described in the deed. Evidently there were originally two deeds involved, one for the lot with the house and the other for a vacant lot. Only the deed for the vacant lot had been transferred. Fortunately, the original owner was traced and the other deed which had the house on it was signed over to the new owner.

In another case, a house was only 75 percent on the lot. The builder used the wrong survey pins when he set the lot line and didn't consult a surveyor when he laid out the house. The new homeowner had to buy the additional property.

Typically, Koch said, many of these debacles can be settled out of court as long as the parties act in good faith. The survey reflects the actual conditions of the property. The respective attorneys work out a settlement based on the information presented in the survey.

Common survey disputes

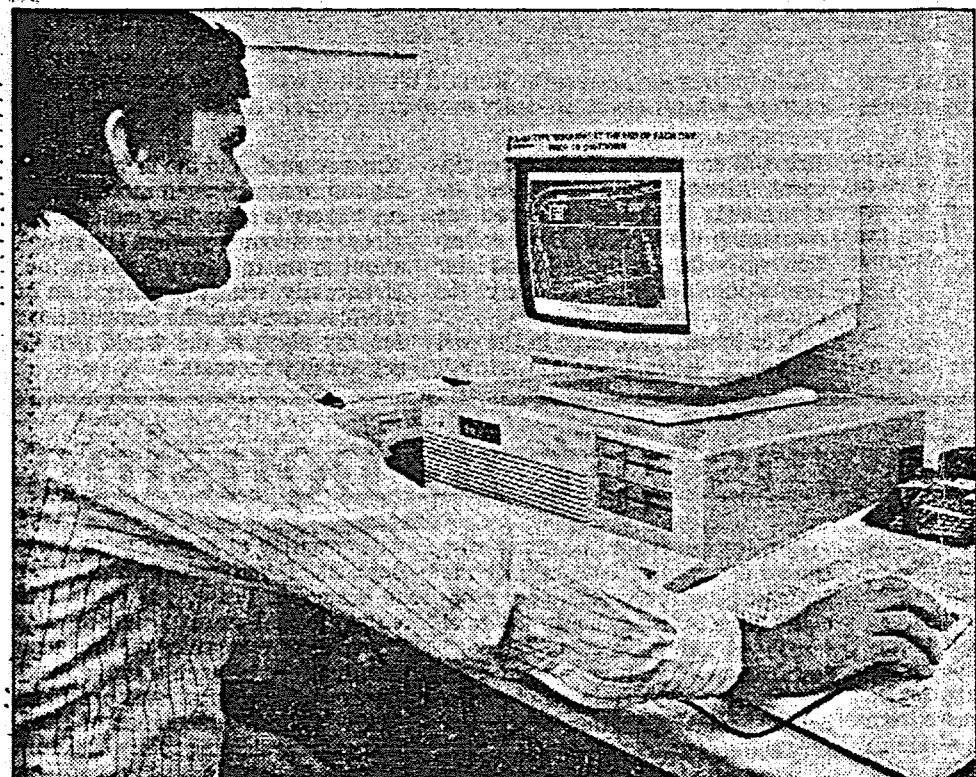
The most common disputes involve fences, garages or additions. Koch receives calls from property owners who need to be assured of their boundaries when they undertake such projects.

Surveys that are only seven years old can be out of date and unenforceable, she said. Due to recent technological advances, sur-



By SID BROWN Gazette Photographer

Peter Frank at the Raymond A. Koch land survey firm in Schenectady makes the exacting calculations on a survey.



By JIM CASSIN Gazette Photographer

Randy Paquin at ABD Engineers and Surveyors, Schenectady, uses a computer to make a lot computation from a 182 lot subdivision.

New technology advances surveying

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veys are more precise with the advent of computers that produce the mathematic computations and drawings and laser equipment that measures distances, elevation and angles.

The average cost for a residential survey is from \$300 to \$500, according to Mike Davis at ABD Engineers and Surveyors in Schenectady.

The fees for such work vary greatly depending on many factors, including: if the deed has a good description; if a subdivision, is it new or old; if the area had previous surveying work; if the terrain has many trees and markers such as old iron pipes, rock walls, fence lines, concrete monuments and other objects of demarcation mentioned in the deed; how quickly the work needs to be done; and what kind of information can be provided to help the surveyor.

"It turns into a treasure hunt," Koch said. The surveyor must compare the deeds of record with the newly discovered field information. Hundreds of hours of work can be put into the field work alone on some jobs.

Two surveyors can produce different results, but they should be close with their final reports," Koch said.

Chris Momrow, owner of C.P. Momrow, a Sand Lake surveyor, concurs with Koch. "A deed is no guarantee there is a house on that property."

The deed may describe a certain piece of land but not a house. Rarely does the word "house" or "dwelling" read as part of a description on a deed. The survey shows what the deed describes.

What if the house is half off the lot? In such a case, the construction was done before the survey. Or what if an addition is over the property line and

not where the owner "thought" it actually is?

Typically, banks have affirmative title insurance which requires the seller to sign a survey affidavit that says the survey has not changed.

The glitches can show up when the seller really doesn't know something's wrong. A title insurance company can go back to the seller with a lawsuit. Most sellers don't realize the potential liability on their parts.

At a closing, everyone is protected but the homebuyer. The bank is covered by the title company's insurance. All the work is done from the offices of the bankers, title companies, abstract companies, attorneys and the other players.

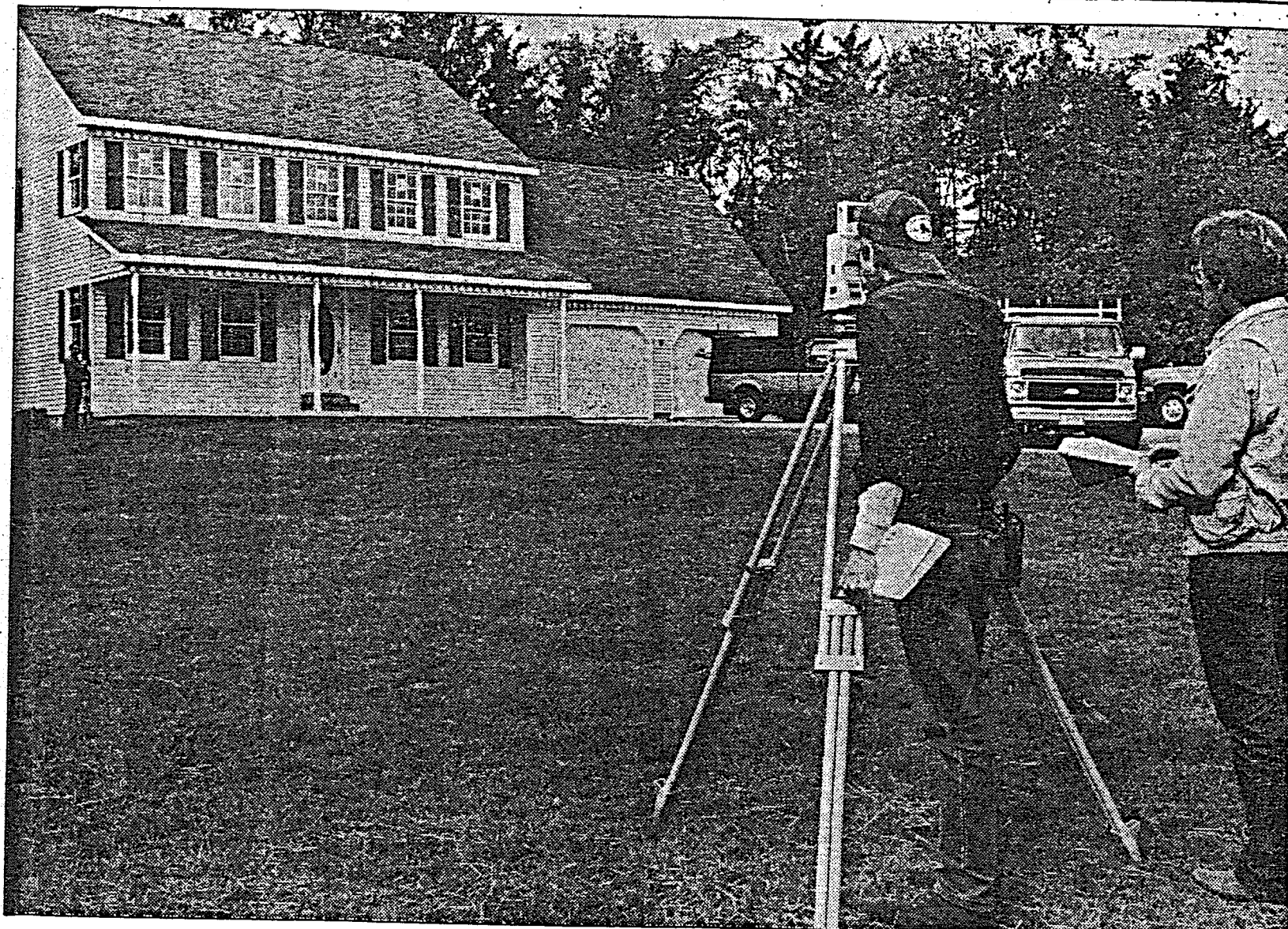
The surveyor, however, is the only one who actually visits the property site and can determine the facts.

Many times, the title insurance company or the buyer's attorney will order a survey for an updated description. The surveyor who did the old survey is the only one who can update it. If the original surveyor is dead or no longer in the area, a new one will have to be done.

The surveyor also has liabilities on his part, Momrow said. Contractual limitations expire after six years. The survey done for the seller is liable only to him or the names on the survey; the potential new owner cannot have the certification of the old survey transferred to him.

To aid in identifying boundaries, Momrow recommends an additional step.

"Surveyors do not set iron pins at property corners," Momrow said. He recommends that new buyers have this done by the surveyor. When the time comes for the new homeowner to put up a fence or build an addition, the iron pins will take the guesswork



A team from C.P. Momrow Surveyors works on a survey for a new home. Daniel Spence, at rear, moves the rods used in measurements

while instrument operator Donald Wagoner works the geodetic total station, which electronically measures angles and distances.

By RAY SUMMERS Gazette Photographer

out of where the property lines are. "It costs a little extra, maybe 10 to 15 percent of the survey fee, but it's future protection for the new owner," Momrow said.

The worst scenario can be when the buyer discovers after the sale that the house, septic system, well or whatever is actually on his neighbor's

property. He then is in a vulnerable position. Suddenly the value of his neighbor's land he needs to purchase may skyrocket. "Then the seller has all the control," Momrow cautioned.

Latest equipment

Like all state-of-the-art survey

firms, Momrow uses the latest equipment. Along with laser-assisted instruments, there is infrared for measuring dimensions. Data collection can be done in the field and later loaded into a computer back in the office.

"The innovations, even in the past 20 years, have been amazing."

Momrow said. And the technology of the future sounds even more fantastic. "There is something called GPS, global positioning system. It's an offshoot from military navigation. Eventually, with the utilization of satellite receivers, the computations for any place in the world can be remarkably accurate."