

Contractors be careful—machinery easily destroys survey evidence

Contouring, grading, fencing, road building and other works with heavy equipment are common causes of destroyed survey evidence. Grading along the boundaries of a lot, road, subdivision, hydro line or pipeline right of way can result in hundreds of survey bars being moved or destroyed.

An Ontario Land Surveyor has to be retained to re-measure and re-establish the destroyed markers. It adds to the cost of construction and, in the end, to the amount the consumer must pay.



The easiest way to avoid the problem is to ensure that the iron bars are clearly identified prior to any earth moving activity so that machinery can avoid them. Check with the Ontario Land Surveyor working on the site and ask for bars to be “referenced” so they can be easily replaced after construction.

Repairing the damage

When survey evidence is destroyed, it is often quite costly to re-establish—costs range from hundreds to thousands of dollars. An Ontario Land Surveyor must re-determine boundaries by measuring from the closest survey evidence. In some areas the nearest survey evidence could be blocks away, or in rural areas kilometres away. Once the measuring has been completed, and all the survey evidence assessed, a new bar can be set into the ground. This may result in a new Plan of Survey being drawn and filed in the Land Registry Office.

Homeowners should be aware of the location and appearance of the survey monuments on their property, remembering that they also mark mutual corners with neighbours. When purchasing land, the purchaser should insist upon an up-to-date opinion (known as a Surveyor’s Real Property Report) by an Ontario Land Surveyor as to the extent of boundary. Any monuments should be well guarded by the landowner.

Contractors should find out the location of survey stakes on a project before commencing work, as they would do for buried utilities, and educate their employees and subcontractors to respect survey evidence.



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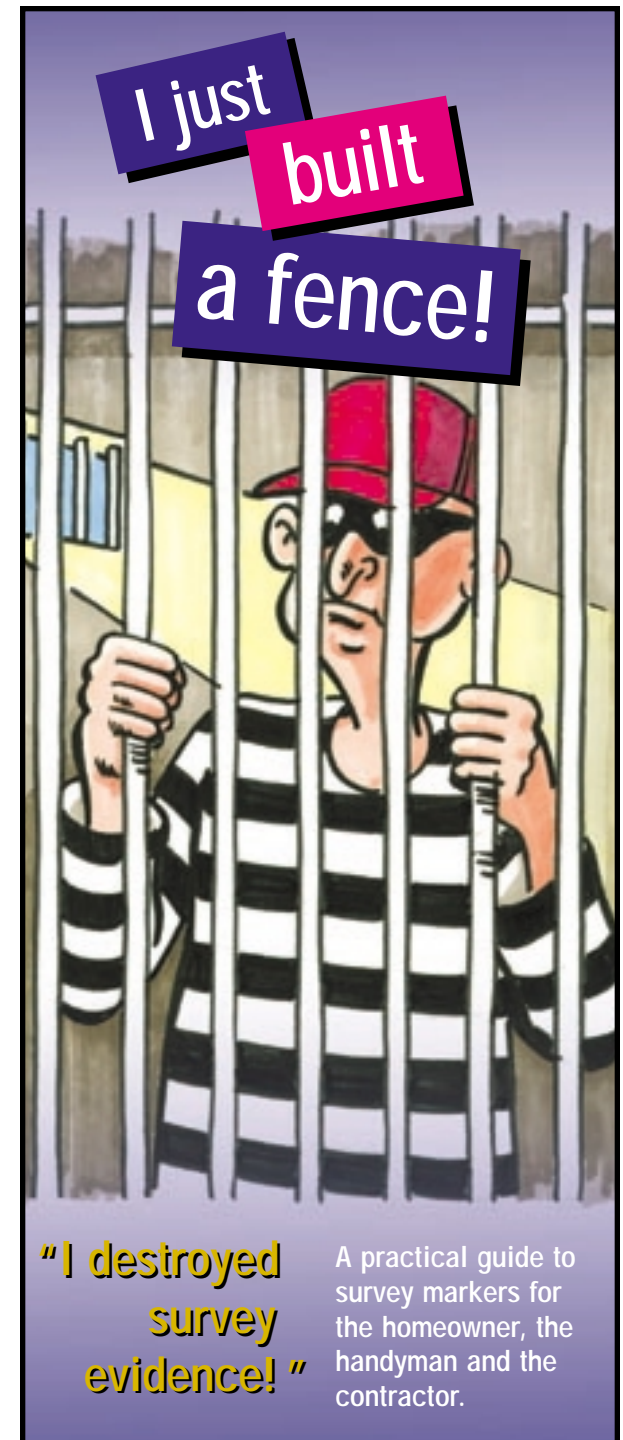
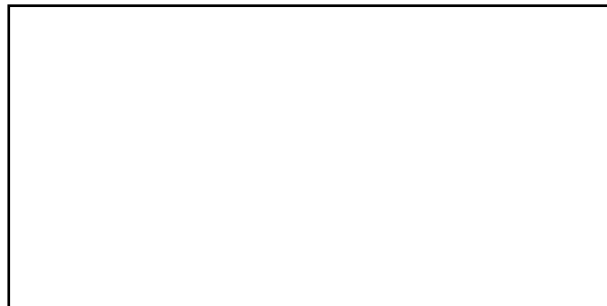
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**“I destroyed
survey
evidence!”**

A practical guide to survey markers for the homeowner, the handyman and the contractor.

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Survey evidence is serious business

The location and marking of property boundaries (the exclusive responsibility of licensed Ontario Land Surveyors), is a very complex and highly specialized activity. It is critical that boundaries be determined and marked accurately so that it is clear where properties begin and end.

Without landowners knowing boundary locations, buildings could be on property lines, fences could be in the wrong place, compliance with zoning setbacks could become a problem, neighbours could build on the wrong side of the property line, safety problems could occur with construction over gas lines or other utility rights of way, and arguments and/or costly lawsuits may result from this action.

Land ownership is documented by a deed registered in the Land Registry Office. The deed contains or refers to a legal description of the land. The description is dependant upon the location on the ground of bars, posts, pins, and other markers collectively called survey monuments. The orderly development and transfer of land is made possible by the continuous replacement of destroyed survey monuments and setting of new ones by Ontario Land Surveyors.

What is survey evidence?

A new boundary is created every time land is divided to form a lot, roadway or utility right of way. The new boundary must be precisely determined. When a boundary is determined, an Ontario Land Surveyor typically sets a survey monument to mark or reference the exact intersection of property lines. The location of these monuments is recorded in survey notes and plans of survey. These monuments form the new survey evidence.

Evidence from past surveys may include iron pipes, wood posts, cut stones, rock mounds,

or building corners. Over time, much of this evidence can disappear because of continuing development. Re-establishment of these boundaries requires extensive research of survey evidence both on the ground and from historical survey records. Exact relocation becomes more difficult and costly, as more survey evidence is lost.

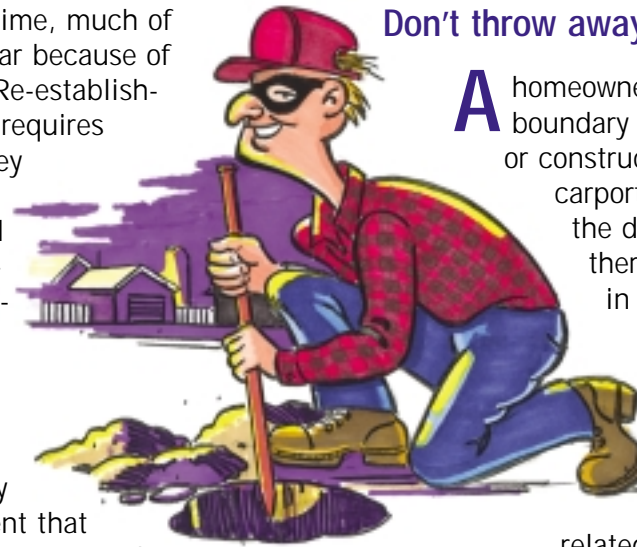
The preservation of survey evidence is essential so that landowners and utility companies can be confident that the boundaries of their property, road, or right of way are precisely marked. Destroyed or disturbed monuments lead to costly errors in construction, if not replaced with precision.

Protected by the law

Because of their significance, survey monuments are protected by both federal and provincial law.

The Criminal Code of Canada states that "Every one who willfully pulls down, defaces, alters or removes anything planted or set up as the boundary line is guilty of an offence punishable on summary conviction." Furthermore, the Surveys Act, R.S.O. 1990, c. S.30, restricts the setting of survey bars to Ontario Land Surveyors who are licensed by virtue of their having met strict academic and experience requirements.

Section 39(1) of the Surveyors Act, R.S.O. 1990, c. S.29, states "Every person who contravenes section 11 [unlicensed surveying] is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$15,000 and for each subsequent offence to a fine of not more than \$30,000".



Don't throw away the marker

A homeowner may wish to find exact boundary locations to build a fence or construct a building, deck, pool, carport, or shed. In addition to the difficulty of finding bars, there may be more than one in an area, or none at all. Some bars may not relate to the homeowner's property boundary at all, but to roads, rights of way, or other land-related measurements. It is

recommended that homeowners ask an Ontario Land Surveyor to identify the correct boundaries and zoning By-Law setbacks so that costly mistakes are not made. The unique number of the Ontario Land Surveyor who sets a bar must be stamped near the top of each bar. This information allows other Ontario Land Surveyors to identify who has completed surveys in the area.

Unsuspecting landowners may find an iron bar or pipe, and thinking it just a piece of metal left over from construction—dig it out and throw it away. They do not recognize their mistake until they are charged, or have to pay the cost of re-establishing boundaries, and setting new survey monuments.

Handymen and landscapers beware— if the iron bar is in the way— don't move it!

If the survey bar is just where the fence post should be—build around it. The cost of replacing a survey marker could be as much as the cost of the fence, driveway or landscaping in the first place.