

CHAPTER 1

INTRODUCTION TO LAND RECORDS

It is common experience that descriptions of property in rural communities are somewhat indefinite, and even inaccurate, and courts deal leniently with such cases in seeking to ascertain the intention of the parties.

The antiquated doctrine that a document must be construed solely within its four corners, no matter how puzzling the problem, is no longer the law of this state.

—*People v. Call* (1927)

129 Misc. 862, 223 N.Y. Supp. 257

The term “land records” means different things to different people. Strictly defined, it means *records* dealing with, or relating to, *land*. In its narrow sense, people immediately think of deeds. But in its broadest form, it encompasses what I like to think of as anything, in any form of record, that tells something about the land. Land itself includes the space above it and the soil below it, and records include anything and everything that preserves part of the story—wherever found and in whatever form.

With that definition in place, this book deals with the interpretation thereof—reading and understanding the story told by the record. Again, depending on who is asked, and whether they are laypeople or professionals such as surveyors, lawyers, or title examiners, a host of definitions comes to one’s attention. Land records tell something of the boundaries, of the ownership, of what the property used to look like, or what improvements existed at some point in time. But interpretation goes much further than that. There are more court decisions relating to real property—boundaries and ownership—than almost anything else. And interpretation extends beyond mere reading and understanding. What if the record is lost? What if it is of such poor condition that it cannot be read? What do certain words and symbols signify? And, ultimately, what is the author or creator trying to tell us, in his or her way, that is entirely different from your approach or mine?

Each record is somewhat of a work of art. Some are originals and some are copies. Some copies are good copies, while others are poor or incorrect. Some are legitimate, whereas others are fakes or forgeries. Some are readily available, but others are lost forever. And some are humorous, interesting, and pleasant to look at, while others lead to discouragement and despair. Some are simple, but some are intricate, complex, or confusing. Nonetheless, they all have meaning and demand consideration.

The average person, particularly one not well trained in research, when confronted with the term “land record,” will immediately think of a deed. And some will think only in terms of current deeds, while others will think strictly in terms of the *public* record. These approaches are superficial and often lead to incomplete, or worse, incorrect, conclusions and resolutions of problems and conflicts. It will readily be seen that many of the standards for researching land records go much further than that. And the supreme guidance—the law—has clearly stated for ages that just the deed, or merely the public record, is rarely sufficient.

However, like many things, more research and more information sometimes lead to more confusion and additional problems. Interpretation then requires more expertise, but frequently the answer lies therein, often clearly reciting an explanation or offering a solution not available with limited information.

Perhaps Brian Clarke stated it best:¹

The critical difference between the expert at anything, and the non-expert, is not information, but understanding.

The non-expert fails most of the time because his success depends upon meeting conditions which coincide with a fixed, and usually limited, range of mentally-catalogued techniques; whereas the expert, because of his fundamental understanding of what he is trying to achieve, thinks more in terms of how and why, than of what; and thus is able to devise specific techniques in response to the demands of specific conditions. Through understanding, he achieves a kind of infinite flexibility.

The truth is that all books really can do is act as a catalyst, by providing enough basic information to fire the interest. They cannot, on behalf of the reader, translate this fireside knowledge into better returns. We can learn only so much by proxy, at second hand; and really to improve one’s performance requires *commitment* on the part of each individual, and *effort*. No one else can do the work for us; and if we rely on books and the written word, the task will be over and gone before, book in hand, tools in the other, we have gotten half way down the index in an effort to identify the cause of all the interest. It is essential, therefore, that anyone who hopes to improve his performance on a basis of more thought, is willing to put in the other work without which his aspirations will never be fulfilled.

That is what this book is about: It is an aid for the interpretation of the record relating to some aspect of the land, whether the boundary, the title, its access, its size, its location, or some other characteristic. Hopefully, proper interpretation of the available record will lead to correct understanding of what it says.

¹ Clarke, Brian, *The Pursuit of Stillwater Trout*, London: Adam and Charles Black, 1975.