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The Parcel Map with No Monuments

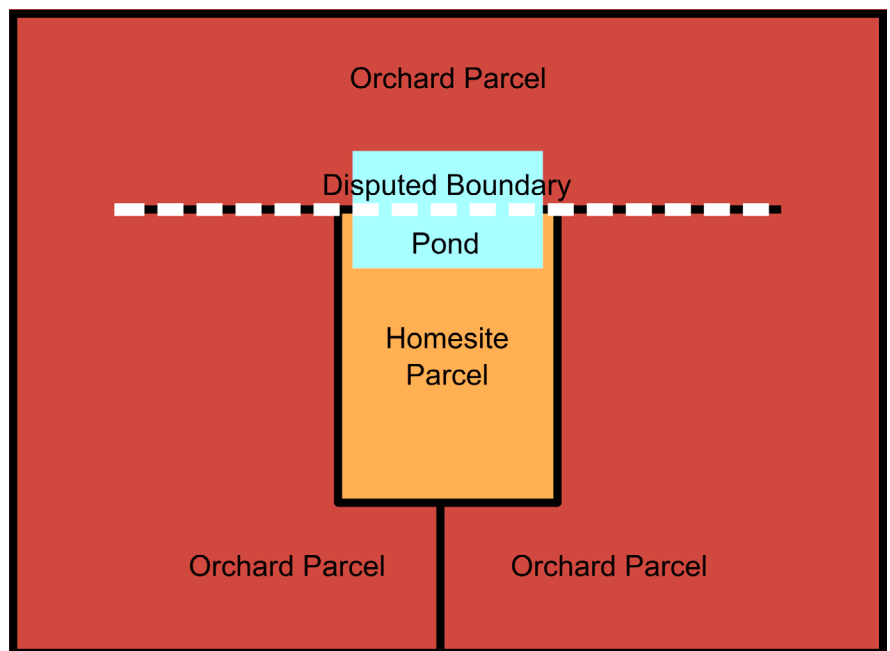
In this installment of *Footsteps* I'm going to share a story with you from my own practice. I've changed the names in this story as well as some of the minor details. However, the major details important to the lessons we will try to extract from the story in this article will remain intact.

A couple of years ago, Ted, a family friend, approached me about a boundary survey. Ted's nephew Charles had just been hired by a new client to manage several hundred acres of orchard trees west of Stockton in the San Joaquin/Sacramento Delta. His client had just purchased the farmland. Shortly after the purchase, a boundary dispute had arisen with Antonio, one of the neighbors who owned a small parcel with a home in the center of the orchards being managed by Charles. The boundary dispute was about the location of a property line in the vicinity of a pond near Antonio's home. Charles wanted a survey to resolve the dispute with Antonio and to mark all the other boundaries of the orchard to avoid future problems with other neighbors.

The Details

After doing a little bit of research, I discovered the following:

- The orchard property managed by Charles was actually made up of several large agricultural parcels created by the same subdivision map. The subdivision map had also created Antonio's home site parcel.
- Antonio had once owned the whole orchard now being managed by Charles for the new owner. Antonio subdivided the orchard property



and sold all of the parcels except for his home site parcel to a single owner, Charles' client.

- The surveyor that created and filed the subdivision map didn't set ANY interior property corner monuments. Only the outside boundary of the parcel was marked.
- The dispute over the pond was based on a parcel boundary common to two interior parcels of the subdivision that had not ever been marked or monumented. The boundary had only been defined on paper, by the subdivision map.
- Because all of the subdivision parcels (except for the home site parcel) had transferred to a single owner, and remained in the same agricultural use, the interior parcel

lines were not marked by any physical occupation like fences.

It is obvious to most of my readers that this dispute was caused in part by the lack of physical monuments on the ground. Why did this happen? Why was this not prevented by the land subdivision and other surveying regulations of my state?

Law Regarding Monument Placement

Before we consider why situations like this happen, let's talk about the legal requirements for monument placement during land subdivision in California. State law is not very specific about where (and how many) monuments need to be set to mark parcels in a land

subdivision. The law leaves a great deal up to the professional discretion of the land surveyor creating the parcels through the subdivision process. County ordinances can specify requirements for monumentation, but usually don't do this for large agricultural parcels. (This may be a result of the lower value for land in an agricultural setting, a more relaxed attitude about property boundaries among farmers, or the power of the farming lobby/large land owners in local politics.) In the example under discussion, neither state law nor county regulation required:

- A specific number of monuments to be set.
- That interior parcel boundaries need be monumented.
- A maximum distance between monuments.
- A requirement to monument "major" property corners.

This makes some sense. It would be difficult to develop comprehensive regulations related to monument placement

Important Questions

- If a client refuses to pay for monument placement because it isn't required by law, is it still the right decision to take the job?
- If land is subdivided without the placement of monuments, is the public protected?
- Do the problems caused by a subdivision without monuments expose the subdividing surveyor to additional liability and risk?

1. This allows the subdivider to save money by not having to bear the cost of monument placement during the subdivision process.
2. If the surveyor uses record data for the parent parcel boundary, a "paper subdivision" can be created, eliminating the cost of a field survey altogether.

I'm not sure how the decision to skip monument placement was made in this particular case. Did Antonio want to complete the subdivision process for as cheaply as possible, without a concern for future problems? Did he pressure the subdividing surveyor to skip the monument placement?

Or, did the subdividing surveyor not discuss the monument placement issue honestly with his client? Did he leave this out of his scope of services for the project so he could provide a cheaper price than his competition?

If Antonio insisted, against the surveyor's advice, that interior property corner monuments not be set, did the surveyor provide a letter or other written document to the client explaining the risks of this decision?

These are interesting questions.

The Lessons


What are the lessons this story has for boundary surveyors? What would you have done in this situation? If Antonio had told you he wasn't going to pay for monument placement if it wasn't required by law, would you have still taken the job, or would you have walked away? This is a difficult question. It is hard to turn down work today.

Did the subdividing surveyor in this story really live up to his obligation as a licensed surveyor to protect the public? Did he have a duty to go beyond the absolute minimum required by the law in this case? Did he expose himself to additional liability and open the door to future litigation with his subdivision map?

No Survey

In the end, Charles client, the new owner of the vineyard decided my parcel survey was too expensive. This was a shame, as there was an excellent opportunity to clean up the problems with the interior parcel boundaries while just two owners were involved. As the parcels in the subdivision transfer to multiple owners, and more encroachments occur, this will get a lot more difficult (and more expensive) to clean up.

In a future article, I'd like to examine how we might have established the interior parcel boundaries in a subdivision like this.

Note: You can visit the *Footsteps Boundary Surveying* blog to read a short discussion on the merits of fixing the problem discussed in this article with more regulation. 

"This dispute was caused in part by the lack of physical monuments on the ground."

that could drill down to a great level of detail while still providing the needed flexibility. In most cases, it is better to leave these decisions to the professionals and not the law makers.

In our example, the surveyor creating the subdivision map for Antonio had a choice. He could determine how many interior property corner monuments to set. He chose not to set any.

Why does this happen?

Why does this happen? It certainly looks foolish looking backwards, especially because the lack of monuments caused a problem for the very land owners that subdivided. (In this case the subdivider wasn't long absent from the neighborhood, which is often the case.)

The monuments weren't placed on interior property corners for two main reasons:

Why is this a very bad idea?

Why was the decision by the subdivider, and his land surveyor, to not set the interior property corner monuments a bad idea?

I can think of a couple important reasons:

1. It postpones the inevitable work to establish and monument the interior parcel boundaries. (This work will eventually be done, and the cost will be born by a future parcel owner. We are just delaying the work.)
2. It allows time for encroachments and other problems (like a boundary dispute) to develop.
3. It misses a great opportunity to set original monuments, which can definitively establish property boundaries on the ground, where they really matter and can benefit the property owners.