

— SOCIÉTÉ SAINT-JEAN-BAPTISTE DU CENTRE-DU-QUÉBEC INC.

— SOCIÉTÉ SAINT-JEAN-BAPTISTE DU DIOCÈSE DE SHERBROOKE

— SOCIÉTÉ ST-JEAN BAPTISTE DE LA MAURICIE

— LA SOCIÉTÉ SAINT-JEAN BAPTISTE DU DIOCÈSE D'AMOS, SECTION LOCALE DE VAL D'OR

5288

Gouvernement du Québec

O.C. 1057-2002, 11 September 2002

Land Surveyors Act
(R.S.Q., c. A-23)

Staking and layout — Standards of practice

Regulation respecting standards of practice for staking and layout

WHEREAS, under section 49 of the Land Surveyors Act (R.S.Q., c. A-23), a land surveyor, in the practice of his profession, shall follow standards of practice established by the regulations of the Bureau;

WHEREAS, under that section, the Bureau of the Ordre des arpenteurs-géomètres du Québec made the Regulation respecting standards of practice for staking and layout;

WHEREAS, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that draft Regulation was published in Part 2 of the *Gazette officielle du Québec* of 20 February 2002, with a notice that it could be submitted to the Government, who could approve it with or without amendment, upon the expiry of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professionnal Code (R.S.Q., c. C-26), the Office des professions du Québec made its recommendations;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, upon the recommendation of the Minister responsible for the administration of legislation respecting the professions:

THAT the Regulation respecting standards of practice for staking and layout, attached to this Order in Council, be approved.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation respecting standards of practice for staking and layout

Land Surveyors Act
(R.S.Q., c. A-23, s. 49)

DIVISION I GENERAL

1. In this Regulation, unless otherwise indicated by the context,

(1) “immovable property” means an immovable such as a parcel of land with or without a building, an immovable held in divided co-ownership or a private portion of an immovable held in divided co-ownership;

(2) “layout” means all the survey operations performed by land surveyors by using marks to position and identify the exact location of a structure or structural features to be erected or modified in relation to the boundaries of the property, another existing structure or other reference lines;

(3) “staking” means all the survey operations performed by land surveyors by using bench-marks to indicate the boundaries they establish for existing or prospective immovable property or for a dismembered right on such property.

2. Staking and layout are valid for the sole benefit of the client or mandatary.

3. Bench-marks placed during staking are those defined in Division II of the Regulation respecting bench-marks and boundary markers (R.R.Q., 1981, c. A-23, r.13).

DIVISION II STAKING

4. For any staking, a land surveyor shall, in particular,

(1) make the required searches at the registry office;

(2) take all measurements and make all the calculations necessary to determine the marks of occupation and situate them in relation to one another;

(3) compare the geometry of the occupations with that of the ownership titles and of the cadastre and, when required, of the original survey;

(4) compile the data to determine the position of the boundaries on the land and on the plan;

(5) place bench-marks, except in the cases provided for in section 8;

(6) record the survey operations; and

(7) issue the staking certificate.

5. In order to establish the boundaries of the immovable property, land surveyors shall ensure that sufficient territory is covered to support their opinion.

All survey operations carried out for staking purposes shall be recorded in clearly written notes that faithfully show the state of the premises and their location, in particular any mark of occupation or encroachment sign, as well as the starting points or lines and the course followed to place the bench-marks.

6. The result of the survey operations shall be confirmed by an additional source of information duly identified and recorded in the notes, in particular by using any of the following methods: measurement by repetition, data cross-checking, different ties to fixed positions, searches or a previous or concomitant survey plan.

7. Where a land surveyor finds bench-marks along the same boundary and agrees with that position the land surveyors shall adopt that bench-mark, without moving it or planting another one. That fact shall be mentioned in the staking certificate.

If the land surveyors does not agree with the position of the existing bench-mark the matter shall be discussed with the previous land surveyor so as to reach an agreement.

Where the previous land surveyor no longer has those staking records, the land surveyor shall find and consult those records so as to check the content of the staking certificate in question or of any relevant survey document.

On the basis of that information, the land surveyor shall resume the staking operation as deemed appropriate and indicate the bench-mark's position in the staking certificate.

8. A land surveyor who discovers that the location of the bench-marks would likely create a problem of ownership for the client or the client's neighbour shall first inquire of the person for whom the problem of ownership would arise so as to validate the signs of occupation observed.

If the inquiry confirms that placing bench-marks would create an ownership problem, the land surveyor shall stop the staking operations and prepare a plan and a written report for the client or mandatary. The plan and report shall contain all explanations necessary for adequate understanding of the situation, as well as the land surveyor's recommendations. The land surveyor is then deemed to have completed staking and the report stands in lieu of a certificate.

If the land surveyor's inquiry proves that placing bench-marks would not create an ownership problem, the land surveyor shall complete the staking by placing bench-marks and by preparing the staking certificate, which must include all significant elements and the conclusions of the inquiry.

9. The staking certificate is written confirmation that staking has been carried out, in the form of a plan that may be accompanied by a report, issued by the land surveyor to the client or mandatary. The certificate shall indicate, in particular,

- (1) the name of the client or mandatary;
- (2) the date of the operations;
- (3) the purpose of the staking; and
- (4) the number of bench-marks placed.

10. The staking certificate is a document *en minute* which is dated, signed and kept in the records of the land surveyor; it shall be printed on legal-size paper or larger.

DIVISION III LAYOUT

11. For any layout, a land surveyor shall, in particular,

(1) make the required searches at the registry office on any active or passive servitude entered in the index of immovables or in the land register, or other restrictions likely to restrict the erection or alteration of the structure;

(2) make the required searches to on the structure's position complying with municipal subdivision and zoning by-laws;

(3) take all measurements and make all calculations necessary to determine the marks of occupation and situate them in relation to one another;

(4) compare the geometry of the occupations with that of the ownership titles and of the cadastre and, when required, of the original survey;

(5) compile the data to determine the position of the boundaries on the land and on the plan;

(6) identify the layout, except in the cases provided for in section 14;

(7) record the survey operations; and

(8) issue the layout certificate.

12. Land surveyors shall ensure that sufficient territory is covered to support their opinion in order to establish the location of the structure or structural features to be erected or modified, in relation to the boundaries of the immovable property, another existing structure or other reference lines.

All survey operations carried out for layout purposes shall be recorded in clearly written notes that faithfully show the state of the premises and their location, in particular any mark of occupation or encroachment sign, as well as the starting points or lines and the course followed to carry out the layout.

13. The result of the survey operations shall be confirmed by an additional source of information duly identified and recorded in the notes, in particular by using any of the following methods: measurement by repetition, data cross-checking or different ties to fixed positions.

14. If the land surveyor finds that it is impossible to carry out the layout by reason of, in particular, the physical state of the premises, the existence of a servitude or data provided by the client or mandatary that are incompatible with one another or with the state of the premises, he or she shall stop the layout operations and immediately inform the client or mandatary that his or her mandate must be redefined, or terminate it by preparing and giving him or her a plan of the situation, together with a written report. The plan and the report shall contain all explanations necessary for the good understanding of the situation, as well as the land surveyor's recommendations.

15. The layout certificate is written confirmation that layout has been carried out, in the form of a plan that may be accompanied by a report, issued by the land surveyor to the client or mandatary. The certificate shall indicate, in particular,

(1) the name of the client or mandatary;

(2) the date of the operations;

(3) the purpose of the layout;

(4) where applicable, the staking certificate or the minutes of boundary determination on which the layout is based;

(5) the clearance between the structure to be erected or altered and, as the case may be, the boundaries of the immovable property, the existing structure or the reference lines;

(6) the type of markers placed;

(7) the relative position between the markers placed and the boundaries of the immovable property and the structure or structural features to be erected or altered; and

(8) where applicable, any active or passive servitude entered as such in the index of immovables or in the land register.

16. The layout certificate is a document *en minute* which is dated, signed and kept in the records of the land surveyor; it shall be printed on legal-size paper or larger.

DIVISION IV TRANSITIONAL

17. This Regulation replaces the Regulation respecting standards of practice relative to staking and layout, approved by Order in Council 1233-83 dated 15 June 1983.

18. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

5287

Gouvernement du Québec

O.C. 1058-2002, 11 September 2002

Land Surveyors Act
(R.S.Q., c. A-23)

Location certificates — Standards of practice

Regulation respecting standards of practice for location certificates

WHEREAS, under section 49 of the Land Surveyors Act (R.S.Q., c. A-23), a land surveyor, in the practice of his profession, shall follow standards of practice established by the regulations of the Bureau;