



KEVIN A. HALL, L.S.
ADIRONDACK LAND SURVEYOR

PROBLEMS WITH DEEDS

The average person buying property assumes that there is some kind of government system protecting them. If they retain an attorney who certifies that the deed they are getting conveys ownership, why do they also need a survey?

There simply is no government system that accurately relates recorded deed ownership with actual location and area. The assessment maps are a first small step in the right direction but you will find no one in or out of government willing to say, let alone certify, that they are correct.

Will your attorney certify that the house you are buying is on the property described in the deed you are getting? Will he certify that you are getting all the area called for by the deed and that there are no encroachments or takings by adverse possession? Will he show you where your property corners are?

How could a house not be on the property? Here are two examples from our own files.

A man with a large tract of land agreed to sell a friend a small parcel out of one corner of his property so he could build a house. They marked the parcel out together, did their own measuring, and wrote their own deed description. The house was built within the limits of the marked out parcel and some years later the property was sold without a survey and using the original description. When this second owner decided to sell, the buyer had a survey done and it was discovered that the property described by the deed did not include the property the house was located on. A big error had been made by the men doing their own measuring and description writing, but someone else had to pay for it.

A man brought a parcel of 17 acres more or less by quit claim deed from the county and made his own determination of where this parcel was located on the ground. He then showed and sold this property by warranty deed to two men who were new to this area. They divided the property and built two houses. When the houses were just about complete it became necessary to have a survey done for mortgage purposes. The survey discovered that the deed from the county conveyed only about 9 acres of swampland and the new houses were built on a neighbor's property. The neighbor even helped them build. He never had a survey, didn't know what he owned and thought they knew what they were doing. They have a warranty deed and could probably sue to get back part of what they paid for the worthless swamp property but this is small consolation when you still have to try and buy the property your house is on.

We could go on for many pages describing surveys from our files that found buildings on the wrong property, deed lines running through buildings, areas that were only half what the deed called for, deed parcels that did not exist or belonged to someone else and many other problems. Just because you have a deed that says you own a certain amount of frontage and a certain amount of acreage does not automatically make it so. It should, but it doesn't.

Of course most deeds are without major problems and all the differences found between deed and fact will not be negative. Many times a survey will find more frontage or area than the deed called for.

Many of the deed descriptions currently in use in this area are for parcels that were originally set out more than one hundred years ago. Each time the property was sold the description was copied for a new deed. Down through the years many errors have been made in the copying Bearings, distances and other data have been left out or changed. In years past a parcel sold for unpaid taxes was simply described by the assessed adjoining even through a good metes and bounds descriptions existed in an earlier deed. These and other problems make it necessary for the surveyor to spend many hours searching in the county records for old deed descriptions of the property being surveyed and also of all the adjoining property.