



Thomson, Isaak & Osman
PROFESSIONAL LAND SURVEYORS

5722 GLOVER ROAD
LANGLEY, B.C., CANADA
V3A 4H8
TELEPHONE (604) 533-2411
TELEX 04-365565

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MINISTRY OF ATTORNEY GENERAL
ADJUDICATION REPORT
PLAN 521, OKANAGAN CENTRE, B.C.
FILE L - 170 - 7SF
FEBRUARY, 1983



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LANGLEY, B.C., CANADA
V3A 4H8
TELEPHONE (604) 533-2411
TELEX 04-365565
OUR FILE #10874
REF. KELOWNA #6342

FEBRUARY 10, 1983 to
FEBRUARY 23, 1983

Mr. J.P. Malcolm McAvity,
Director of Land Titles,
Ministry of the Attorney General,
Province of British Columbia,
Suite 201 - 1250 Quadra Street,
Victoria, B. C. V3W 2K7

Dear Mr. McAvity:

RE: Your File L170 - 7SF;
Lots 1 to 38, Plan 521, K.L.T.O.
Request to Report
Surveyors-General's Reference #274-29
Okanagan Centre Area, B.C.

In accordance with your authorization letter of January 24th, 1983, and our previous agreement with the Surveyor-General to accept an assignment to produce an occupation and title status report about the above part of Plan 521; we herewith submit the following information and accompanying indices for your perusal.

As your office is aware we have carried out preliminary site (according to DF H-61961) specific location surveys in order to determine the relative location of all existing improvements about the area, and as well, we have attempted to meet or call and explain what we were doing, to as many owner-occupiers as possible. Preliminary prints of our ground survey coverage were previously submitted to your and Mr. Mullin's office on February 3rd, 1983, however, we have since that time obtained further site records and have now achieved as much contact as appears feasible on this project to date.

We propose to address the problems and benchmark our report in the order of your and the Surveyor-General's concerns, as follows:-

A) LOCATION AND SITING RELATION OF IMPROVEMENTS (See Enclosure, Item 1)

As the original placement of these lots within Plan 521 is somewhat in doubt, we have for the purpose of illustrating the present siting - used Mr. Gehue's posting determination shown on Filing DF H-61961 as the basis for the present lot placement, and correspondingly thereto shown the various occupation, as well as other surveyed positions. It is interesting to note that if the original Plan 521 direction (90°) from Mr. Gehue's re-established rear line were followed to the lakeshore, both McDonald's (Lot 27) and Baird's (Lot 29) encroachments could be nearly eliminated, however, the other buildings further south would then be in jeopardy. It is this writers opinion that, even though the original Plan 521 is perhaps a poor representation of what was actually posted and field surveyed in 1908 by Charles Harvey, B.C.L.S., some limited evidence did remain. However it now, in hindsight, appears subsequent surveys have compounded the discrepancies instead of isolating or determining the nature of the plan versus field problem. The first legal re-establishment - and the source of a substantial portion of the present frontage mis-fit, - is the survey posting of Parcel "A" of Lot 32 as created by Reference Plan B-6466, ie. DD 51761. This survey in 1965 by G. Hirtle, B.C.L.S. attempted to re-determine parts of Plan 521 by following plan directions and distances from the upper hinterland to the theoretical limits of Lot 32, and then to the lake foreshore. Although no original Plan 521 posting - during the survey - was found, Mr. Hirtle shows a discrepancy in the placement of the lake HWM, ie. the Plan 521 dimension location is upland from his tie. In retrospect and now with an actual - positioned by old evidence - rear line as retraced by Mr. Gehue in 1973 (See DF H-61961) and further the title fixing of this easterly limit of Lots 1 through 37 by Plan B-13454 in 1978, there is a substantial shift towards the actual and true lake limit. In our opinion this natural boundary has not materially moved - eroded, flooded, derelicted or accreted - over the years. Mr. Hirtle - on his posting plan, as well indicated the Okanagan Centre Road as he found it during his survey, also materially upland from its noted position on Plan 521. In our opinion, this 'Highways' jurisdiction Road bears no direct correlation to its original intended R/W - it is well back from the lake edge, large mature timber stands between the road and the lake and we would suggest the road was probably built along a shore bench through the original Plan 521 frontage posting, ie. utilizing the course of least resistance and perhaps occupying what the original surveyor intended to be - in some cases - the only building sites on these lots.

Following Mr. Hirtle's survey of Parcel "A" Plan B-6466 in 1965, Mr. Gehue, B.C.L.S. was commissioned by 'Lakeside Properties Ltd.' in 1973 to re-establish and post, along with some upland properties, Lots 1 to 26 of Plan 521. Although Mr. Gehue did find some original evidence along the upland easterly limit of these lots, (see the noted discrepancy above re. Plan B-6466) and further a couple old posts to the north within the adjacent Plan 454; it is concerning to this writer that there is a bend of greater than 1 degree between Plan 521 and 454 at their theoretical join on the east line of the corresponding Lots 1 (Plan 521) and 228 (Plan 454), which - as there is no original scenery ties shown on the 1 year apart registered plans, but both plans show a right angle to the foreshore; may preclude any means of a direct or fixed survey relationship on the frontage - ie. between Block "Q" Plan 454 and Lot 1, Plan 521.

It is further interesting to note that the earlier Plan 454 is in feet, does not refer or tie to the Section 9 and 16 or 8 and 17 limit along its assumed position at the south boundary of Lot 228, but does indicate Lots 64 to 67 to the east, which were created by the later Plan 521. However, Plan 521 - 1 year later - is in chains, does show an intended alignment to the above section line and corner (which is not persued in subsequent surveys), and further makes no reference to the previous adjacent Plan 454. However, lacking any other evidence, Mr. Gehue did establish the north west corner of Lot 1, Plan 521 from the adjacent Block "Q" of Plan 454, and thereon to the south prorated along a balanced frontage of Lots 1 to 38; based on the Plan 521 distance production of his re-established block east limit to fix the south east corner of Lot 38. Even though there is a substantial mathematical mis-closure about the original dimensions of Lot 38 on Plan 521, it appears this balancing was done to theoretically place the east-west frontage alignment along Okanagan Road, with then a further adjustment to hold the rear prorated and front as posted (see DD-51761) south line of Plan B-6466 produced west to intersect at - (again - a theoretical) south-west corner of Lot 32. The front dimensions of the lots were then prorated to the north and Lots 1 to 26 accordingly posted. The directions of the sidelines - originally at 90° from the rear, now on DF H-61961. range between 3° and almost 4° off 90 and deviate substantially south, as well as short towards the lakeshore in comparison to the figures shown on Plan 521.



Further to Mr. Gehue's Posting Plan under DF H-61961, it appears there was obvious concern to fix and title assure - at least the upland properties of his client, (Lakeshore Properties Ltd.) and in 1978 a Reference Plan, now number B-13454, was prepared and accepted by the L.T.O., effectively re-establishing and physically positioning the boundaries of Lots 60 to 64, with fixed west limits which are intended to be common to the east limits of Lots 37 through part of 6 on Plan 521. Based on the original evidence found, there is probably no survey argument with this alignment or ground position, however, it is disturbing that Mr. Hirtle's survey representing his placement of the east limit of Plan B-6466 is still intact - as far as the occupiers of the V.L.A. lot are concerned - and although the physical posting is well within Lot 61, it does not appear that these adjoining owners were notified in regard to the deposit of an updated registration of this boundary by Plan B-13454.

In 1980, Mr. W. Douglas, B.C.L.S. carried out a reposting of part of Lot 28, entirely relying on the positions determined by Mr. Gehue's Filing DF-H-61961. This position of the frontage of Lot 28 - (filed under DF-R40803) appears to have come under dispute by the owner of Lot 29 and Mr. Bill Maddox, B.C.L.S. then became involved, carrying out a re-tracement of Lot 29 which substantially dis-agreed (75 feet or so further north and somewhat west on the frontage) with Messr's. Douglas and Gehue's adjacent surveys. The north-east and south-east corners of Lot 29 are not in dispute, however, the side lines are dramatically swung to the north and towards the shore, in fact to an angle $4\frac{1}{2}^{\circ}$ different than DF-H61961 and now $+1^{\circ}$ the other side of 90° off the said fixed easterly rear line. Mr. Maddox in late 1980 attempted to file his definition of Lot 29 as a Reference Plan under #B-15343, however, the Registrar in Kamloops, pending an adjoining owner agreement, has not to this date accepted this plan. Mr. Maddox had based his side placement on his comparison of the lakeshore sinuosities as shown on Plan 521 to the present, and a statement from the owner of Lot 29 as to his opinion of his boundaries, as well as, apparently, a somewhat general statement of acceptance by the owner of Lot 27 to the north. This matter is unresolved and accordingly, there is uncertainty as to uncontested and marketable title about these properties, compounded by the further fact that the new owner of a portion of Lot 33, south of these recent surveys, is unable to obtain any direct survey services. No other cadastral surveys, to our knowledge, excepting the present study, have been undertaken about or within these Lots 1 to 38.



The Ministry of Highways appear to have been involved in some fairly recent location and grading (uphill) improvements to the Okanagan Centre Road in the vicinity of Lot 38, and there is a new B.C. Hydro & Power Authority pole line running through Lots 27 to 33 without any known registered charge.

The Ministry of Environment have prepared Cadastral Layer Sheets at 1/5000 (82L-003, 2.4 & 2.2) covering this area in the vicinity of Okanagan Centre, on which they have shown a discrepancy between the physical HWM of Okanagan Lake and that shown on Plan 521! A copy - Item 2 - reduced to 1/10000 is herewith attached for your records, along with a reduced copy at approximately 1/10000 of a 1961 Ministry topographical (sheet M-121/2) about part of our concerned area, plotted from aerial photography as controlled by A. Barber, B.C.L.S. This information - as Item 3, (even though we have superimposed the approximate Plan 521 - Lots 29 and north - boundaries) is submitted only to indicate the nature of the terrain. We have also utilized Item 2 to show a possible Special Survey area extent.

We have assumed your direct site area records are complete as to the various plans referred to under our Benchmark A, however, a reduced copy for our report of the adjacent Plan B-13454 is attached as Item 4.

B) OWNER DETERMINATION AND CONTACT

Please see Item 5 attached as to a list of owners and/or occupiers contacted throughout our involvement to date about this project. All those spoken to were already aware of a general survey or location problem in their area, some much more distinctly than others. There are three of the fourteen approaches we made where we have been unable to achieve any contact, and two of these are in the thick of the problem, however, to commence from north to south, the following is a condensed tally of the comments received.

LOTS 1 to 26 - 'Lakeside' c/o Mr. Bill Gaddes, Realtor and an owner of Lakeside Properties Ltd., with Lakeland-Lennie Associates in Kelowna. His lots, as presently posted, and including Block "Q", are frontage inaccessible from the vicinity of Lot 20 northward. He would be willing to be involved within a special survey or replot area if any means were available to extend or adjust his limits towards the road and the lake, including addressing the same problem of inaccessibility for the 'Lakeside' owned properties in towards Okanagan Centre - ie. to include Lots 206 to 228, Plan 454 and Block "Q" with its surrounding dedicated road.

LOT 27 - Doug McDonald - has occupied site since mid-1940's and has seen old posts along rear lines but never on the front. He says previous owner pointed out his southwest corner to him in 1945 or so, near a stump, which he indicated to be within his neighbour's orchard towards the road and approximately 20 to 25 feet north-west of the O.I.P. (R-40803) now representing his corner. If necessary, he did state he has no major objection to moving his barn and the old shed in the vicinity of his north-west extremity of Lot 27 and provided his main curtilage is maintained, he would not argue against a special survey, however he would be very reluctant to have to pay any costs.

LOT 28 - Recently sold to a Mr. and Mrs. Fisher - to date unable to contact (no telephone listing in Calgary) and, also the previous owners, although aware of our attempts to contact them, have not returned to our request. We are concerned with no contact in this instance as Lot 28 was transferred in September of 1982 and there is or was a dispute between the previous realtor owners and Mr. Baird to the south. Is the new owner aware of the surrounding problem and we wonder what he feels he now physically owns? We will keep trying and will report our results if and when available.

LOT 29 - Gary Baird - very obviously wishes to resolve the whole matter as convenient and as quickly as possible. He reiterated what the previous owner (Bishops) had indicated to him-that they had built the cabin in question to be within Lot 29, helped with Mr. McDonald's support to plant the orchard in Lot 28 and he is now very disturbed over this matter. He did not indicate he would pay any compensation, although he is most anxious to get on with rectification.

LOT 30 - Mr. and Mrs. Rothert - no contact, however, Mr. Baird indicated they would consent to inclusion in any re-survey that fairly represents their Lot 30. This lot is unoccupied, but has good building potential anywhere across the entire frontage between Elgood's and Baird's, the only apparent problem would involve the road and perhaps any extended coverage dedication.

LOT 31 and the NORTH REMAINDER OF LOT 32 - George Elgood of Edmonton, and although we have tried both contact numbers, with messages, no return has yet been received. Mr. Elgood is apparently working out-of-town, however, his daughter has stated she will attempt to notify him of our contact.



Based on his occupation, we would suggest that Mr. Elgood is probably relatively happy and not too concerned with his side limits, providing they are similar to the DF H-61961 line as we have shown. A similar problem to the Rotherth's with the Okanagan Centre Road would, however, have to be handled.

PARCEL "A" OF LOT 32 - This is a V.L.A. lot, however, the all year dwelling on the property is occupied and being acquired by Mr. and Mrs. Sowden. The Sowdens are retired and seem to act as caretaker for various summer neighbours throughout the winter. Mr. Sowden is very familiar with all the various survey posts about this part of Plan 521 and is physically aware of the two lines affecting the rear of his property. A fair amount of discussion was had in their living room and after much explanation, it appears they have accepted the reason for the difference in their rear line and are cognizant of the whys and wheretofors. They fully agree that the whole matter of uncertainty has to be resolved and the property lines be fixed, however, they have occupied their limit between Mr. Hirtle's two front posts since 1965. They are not about to move any garden or other occupation, and they have also used some old round bars purporting to represent their side boundaries. It appears these bars may have been old traverse points and they are not on a particular straight line, but they are close to the side limits run by Mr. Hirtle in 1965. They would agree to be involved, - for the neighbour's sake - provided they are not billed or assessed any monetary cost. They have also indicated their slight displeasure with the neighbour to the south and his debris and access through what they consider to be their land. They have recently planted a hedge between the two properties and it appears relations somewhat improved with the hedge, however, the planted alignment follows Mr. Hirtle's old traverse line directions.

NORTH 99 FEET OF LOT 33 - Jacob Ooyevaar. Mr. Ooyevaar is very pleased something is happening. He is building a new house and has been unable to get any local Surveyor out to affirm or prepare a certificate about his unit. And although he has spoken to the Surveyor-General and has proceeded to build between two existing occupations, he is still concerned about his side yard. It appears he would share some costs to have his property defined.



REMAINDER LOT 33 - Bernie Gehrlein - is now back from holidays and we spoke to Mrs. Gehrlein who says that they have been talking to Sowdens. They have accepted and are using the old iron post in the vicinity of their south-west limit as definition of their south side. They do want to know where their boundaries are and are concerned that with the general knowledge of a survey problem in the area, any market value is weak. It is, however, doubtful that they would agree to any assessment of costs, particularly as it appears, from Mr. Hirtle's posting, that their depth is being shortened.

LOTS 34 and 35 - Henry and Mrs. Kanacs.

We have spoken at length to Mrs. Kanacs in Vancouver and as well we have contacted their son, who is a Lawyer with Calder, Jeffery and Company in Vancouver. They have no argument with their side limits, or rear for that matter; however, they are very concerned with the action of the Department (Ministry) of Highways. As Mrs. Kanacs says (continually, every spring) Highways are encroaching on sidehill maintenance into their property. Mrs. Kanacs stated that the road was further lakeward years ago and she would like to know whether there is an encroachment or not; and also she feels the B.C. Assessment Authority are substantially over-assessing the value of, in particular, Lot 35. We have informed her - diplomatically - that even if Highways (for maintenance and improvement of the hillside grade), have encroached beyond their Right-of-way, that with the expenditure of public monies, the Ministry has the right to do so without direct compensation for land. On speaking to her son, it appears they would be willing to join in a special survey area, if only to clarify their physical ownership and to ascertain their area for assessment and access purposes.

LOTS 36, 37 and 38 - 'Lakeside' Properties Ltd.

A similar road placement and area problem to the Kanacs, but direct accessibility regardless of placement is obviously going to be very difficult. The Okanagan Centre Road is following a major cut adjacent to these lots and some joint drive-way arrangement or transfer/exchange may be necessary with the Kanacs to provide any feasible connection to the Okanagan Centre Road. If building, or saleable lots were produced, we are sure Mr. Gaddes would agree to have these lots included within any re-survey or re-definition.

LOT 39 - An addition to your report request coverage, however, we have been unable to contact the owners - Messrs. D. and P. Large. As the property is being cleared and it appears the owners are accepting the present placement of the Okanagan Centre Road as their legal limit, we feel Lot 39 should be included

within any re-definition area. As well, the south boundary of Lot 39 is the limit boundary of Sections 8 and 9, which hopefully, may help to fix an uncontested perimeter to the problem area. This limit is suggested, assuming or providing the constructed Road comes back into its dedicated Right-of-way, south and east of Lot 39

OKANAGAN CENTRE ROAD - Ministry of Transportation and Highways.

We met with Mr. W. McDonald, District Manager in Kelowna and although he was aware of some location problems, he suggested we refer this matter to Mr. Frank Clapp in Victoria. Information as to the nature of the problem and a preliminary copy of our Plan 6342-'C' has been left with Mr. Clapp for his perusal. We do feel that Highways should be treated as an owner and, if the problem is going to be overall block approached, then the Road Right-of-way will have to be clarified.

B. C. Hydro and Power Authority, as well, in our opinion, should be treated as an affected owner. We have called their survey office in Surrey - Mr. John Bates at 596-9433, however, they suggested we officially contact their Legal Department at 663-2425, in Vancouver. This, we have not yet done as we feel we should achieve your advise before commencing any more contact to outside authorities, as well as the time involvement, which may further delay this report. Perhaps at this conjecture, it is just as well that 'Hydro' do not have any charge or survey on these properties, which could have caused even more confusion in placement of the intersecting property lines, ie., if the easy route of accepting the present underlying Posting Plan #DF-H-61961 were used to intersect the boundaries. However, on the other hand, with the obvious disputes now apparent, perhaps 'Hydro' could have been involved in an exhaustive and expensive re-tracement which may have provided more information, opinion or evidence on the frontage of these concerned lots. Their pole line runs from Okanagan Centre south and perhaps there are further possible encroachment problems north of Plan 521, which, if surveyed, may help to determine the true extent of the definition problem.

Other Charge or Authoritative Holders - not contacted.

Some Lots (1 to 26, 27 and 36 to 38) have Inter Alia Irrigation District R/W Funding Charges filed against titles, and in the case of Lots 1 to 26 a Statutory Building Scheme. Lot 28, a Royal Bank Mortgage; Lot 29 - B.C. Agricultural Land Commission - A.L.R. notice and Credit Union Mortgage; Lot 30 - A.L.R.; Lot 31 and Rem. 32 - clear; Parcel 'A' of 32, clear; Rem. 33 - Kinross Mortgage; North 99 feet of 33 - A.L.R. and Credit Union Mortgage; Lots 34 and 35 - clear.

As can be noted, some lots are stamped with the Registry's reference to an A.L.R. Plan M-11328 and others are not, thus the Land Commission may be involved as an approval authority; as, of course, will other charge holders be owners of an interest in the lands. We thank Mr. Mullin's office for copies of the C. of T.'s.

C) REPOSTING SURVEY COSTS ALREADY INCURRED

Based on qualified and somewhat guarded statements from the Surveyors contacted, the following information is reported.

- Mr. Gehue's Survey DF H-61961 - 1973;

As this survey was part of a large and on-going survey assignment about many properties in this area for Lakeside Properties, Mr. Gehue has estimated the portion posting Lots 1 to 26 at \$3,500.00

- Mr. Maddox's Survey of Lot 29 - 1980

Mr. Maddox states his actual account was \$1,963.04 to Mr. and Mrs. Baird, however, he reports that his full time and effort was not billed.

- Mr. Douglas's Survey of Lot 28 Frontage - 1980

Although we did not contact him, we would estimate this cost to be probably minimal in comparison to others, as a strictly prorata, per DF H-61961, posting of the frontage was carried out - say \$400.00 to \$500.00.

- Mr. Hirtle's Survey of Parcel "A", and Parts of Lots 34 and 35 - 1965

Again, we would have to guessimate, however, as there was 4 or 5000 feet of line run, with ties and posting, in 1965 dollars, we would estimate at \$1,000 to \$1,500.

And, further, although the cost is not applicable to a particular reposting, or one owner, the budget for this report is \$3,000.00.

BENCHMARK ITEM DRECOMMENDATIONS AND EXTENT (Options 1 to 4)

1) The immediate and particular area of concern is that of the Baird's side-limits and the unresolved dispute in placement of Lots 28 and 29. Although the Plan 521 re-definition problem is not limited to this area, it may be possible with the acceptance (status-quo) of Mr. Gehue's periphery limits to Lot 26 on the north and retaining the alignment of an adjusted (in depth) Lot 32 to the south, to, (if the owners were to agree, of course; with some assistance on costing), re-subdivide these lots in accordance with the interior occupation. A shift between Baird's and McDonald's probably is feasible retaining a width similar or compatible to that shown on Plan 521, however, a shortage in the present Lot 26, as well as an excess of width in Lots 30 or 31, would occur. Lakeside Properties obviously would hold the key to this solution; as well as compassionate, non-restrictive support would be necessary from 'Highways' as approval authorities, along with the Land Commission to expediate this isolated re-alignment. The matter of the apparent closeness of the present and travelled road fronting Lots 30 and 31 could perhaps also be addressed during this subdivision, and 'Hydro' could then be in a position of achieving a simple R/W - at least through the former Lots 26 to 31. Some adjudication by 'Highways' and the 'Crown' will be necessary, to determine the use and status of the lake frontage and its foreshore in regard to the pump houses (water supplies) and wharf on or next to the untitled land that was originally intended to be public road adjacent to the lake. This solution does not address the overall problem of a general survey or location uncertainty that appears to encompass the entire block of lots on Plan 521 within Sections 8 and part of 9, as well as parts of Plan 454 lying south of the Okanagan Centre Village Store within Section 17, Township 20.

2) As stated, the extent of the uncertainty, in our opinion, covers Lots 1 to 39, inclusive of Plan 521; Lots 206 to 228, Plan 454 and perhaps Blocks "O" to "Q" of Plan 454 as well. Upon visual inspection of the Okanagan Centre Road south of Lot 39, there are old I.P.'s and fences in the vicinity of Lots 56 and 57 which appear to match Plan 521 and its intended access fairly securely. Our only evidence of a problem beyond Block "Q" to the north is the concern of Lakeside



Properties, with the impractical or non-access to their holdings and various statements by both Messr's. Gehue and Maddox as to similar problems north of Lot 1, Plan 521 about the westward hillside frontage of Plan 454. A factual survey determination of any proposed Special Survey limit would yet be required, to prove uncontestability beyond that limit, however, for the purpose of this report we are recommending the extent of the known problem area to be Lots 1 to 39, Plan 521, and Lots 206 to 228 and Block "Q", Plan 454. If a Special Survey were authorized or proposed to be declared, much care and preparatory discussion with the titleholders as to the time, hearings, clearing house aspects, frozen registry dealings and matters of compensation, cost sharing, assessments and appraisals, should be undertaken. This writer feels that compensation adjustments based on area entitlement is going to be very difficult to judge, and if it were at all possible we would most certainly suggest that this matter be approached with the owners - stating that the value of re-definition, based on the number of existing lots, is in achieving fair and marketable title to those lots. Some exchange of assumed public lands may also be necessary, as will certain feasible access dedications, and perhaps some multi-lot holder may wish to consolidate to achieve viable building sites, but no greater number of parcels than presently exist, should be created. Nor is any other deemed or otherwise particularly advantageous situation to any one owner, to be allowed. If the present location concerns are to be resolved by means of declaring - under Part 24 of the Land Title Act - a Special Survey Area, then with fair and equitable occupation decisions as to boundaries, and if paid for or cost assisted by the Section 274 fund, can the aspect of land (supposedly lost or gained by area) compensation be waived? Obviously some problems of this nature may arise - as it presently appears both the 'Kancs' and the south 'Lakeside Properties' may be shorted to fit actual residual occupation, whereas there may be some excess in the vicinity of the north 'Lakeside Properties', Rothert/Baird areas and the 'Large' parcels, but again we suggest and emphasize the value is in the validity and accessibility of title, not the size.

A Block Outline Special Survey, in this case, and in our opinion, is not overly practical as there are no interlocking or directly related grid streets or blocks from which lots could be simply re-established with only perimeter monumentation. Detailed surveys in order to determine the most feasible and acceptable boundary placement, as well as a full - posted - road traverse, are obviously and

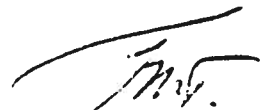
regardless necessary; thus, except for the material and perhaps some interior posting adjustment time, costs would not be substantially different from a full survey. As well, we do feel, not only should these owners be able to refer to a clear plan of their holdings, but also physically along their respective frontage. Any owner could, of course, call for his own survey once a Block Outline Plan was deposited and accordingly accepted (registered) for new title determination; however, as some of the owners (those mainly concerned and who would definitely wish complete posting) have already paid for surveys, we do not think it worth the hassle to promote only a Block Outline Special Survey. We therefore, recommend - if the entire area problem is to be addressed at this time - a complete Special Survey.

3) Excepting the apparent dispute of assumed ownership between Baird and his north neighbour, we do not - although we have not obtained legal advise - think there is any proviso under the Law and Equity Act towards solving this overall uncertainty of boundaries.

4) A replotting scheme would be possible and simpler than a Special Survey if the area were a Municipality, and we do understand that the Regional District could be granted interim or full Municipal powers under the Act for this purpose. However, funding or cost assistance from Section 274 of the Land Title Act then may not be available. The technical operation of replotting could quite easily apply, if at least 70% of the owners and the Crown were to agree to create, through a holding body (the Regional District), a common mass area and subsequent re-sub-division, without direct compensation between owners. However, legal fees, management or operating costs and the surveys - although perhaps not so heavily monumented as Special Survey stations - have to be paid from some source.

5) COSTS

As you are probably aware we have blown - in time - this report's preliminary budget if it were to be billed at actual figures, which in itself presents the difficulty in attempting to estimate future, particularly Special Survey, costs. However, the following is a very approximate guessimate of quantitative survey and B.C.L.S. costs which may be applicable to this problem area; without legal, conveyancing or any Governmental (hearings, etc.) matter account.



C-1	- Interior Subdivision - Lots 26 to 32 or 33 inclusive - with clear acceptance by Owners and <u>Highways pre-approval</u> and to prepare a <u>Registerable subdivision plan to Owners -</u> then, B.C. Hydro & Power Authority - R/W once lots posted - Lots 26 through 33, assuming boundaries of Lot 33 are agreed to, with above interior subdivision R/W Plan to B. C. Hydro	= \$3,000 to <u>\$4,000</u> <hr/> = \$1,000
C-2	- Special Survey <u>within area stipulated</u> - B.C.L.S. involvement with Owners, approval authorities, preparatory surveys (both perimeter and interior), posting, attendance at hearings, adjustments and plan preparation. Complete Special Survey Subdivision Plan and final report over possible one (1) year period.	= <u>±\$30,000</u>
C-3	Replotting - similar area - assuming a local agent or manager involved to handle common mass, conveyancing arrangements, etc. and to act as clearing house - probably six to eight months	= <u>±\$25,000</u>

These figures are very very rough and are suggested as a guide only at this time.

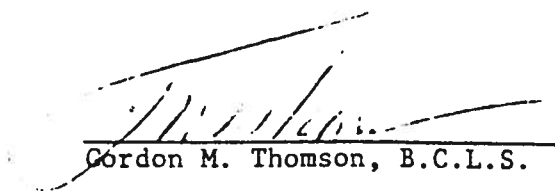
SUMMARY

We trust the above report is explanatory and clear as to its intended coverage in this matter.

As two or three of the affected owners could not - to date - be reached and some others were contacted by 'phone' only, we would very strongly recommend that, regardless of your office's decision or choice of attack in this matter, an on-site or near-by meeting be called early this summer in order to directly present the matters to be resolved and the plans of in-situ conditions, to all the owners as a group.

Please do not hesitate to call if you have any queries and we thank you for the opportunity to be of service on these matters.

Yours very truly,
THOMSON, ISAAC & OSMAN



Gordon M. Thomson, B.C.L.S.

GMT/ec

Encl. - Items 1 to 5 (Booklet)

Item 1 - 2 full size prints - separate

cc: The Surveyor-General,
Mr. G.T. Mullin, B.C.L.S.

cc: Mr. L. Schwendtmayer, B.C.L.S.,
Kelowna - Ref. 6342

P.S. - February 28th - As this report was being packaged for our late submission, we received a call from Mr. George Elgood. Mr. Elgood, although not as directly aware of the surrounding survey problems, was however, cognizant of the Baird's Lot 29/28 dispute. He states his father had a survey undertaken in 1957, at the time his parents were purchasing Lots 31 and 32, and that, when he returns home, he would forward a copy of the plan. He feels his northern boundary is very close to, but clear of, his shed on Lot 32 and he feels relatively secure about his property at this time. He does, however, wish to be kept fully informed and has indicated a cursory desire to be involved.



OUR FILE #10874
Director of Land
Titles File #L170-7SF
Surveyor-General's
File #274-29

February 21, 1983

ITEM #5

OKANAGAN CENTRE - LOTS 1 to 39,
PLAN 521, SECTIONS 8 AND 9, TOWNSHIP 20, O.D.Y.D.

OWNER (FROM ASSESSMENT) AND FIELD APPROACH CONTRACT LIST

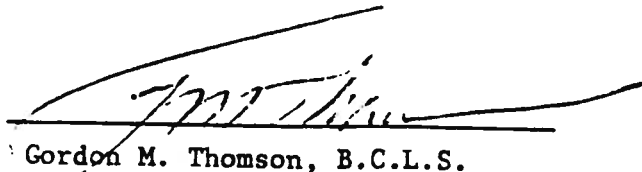
			CONTACT MADE - 1983		
			YES	NO	DATE
Lots 1 to 26	-	Lakeside Properties Ltd., 201 - 1890 Cooper Road, Kelowna, B.C. c/o Mr. Bill Gaddes Realtor - Lakeland, Lennie Associates 763-4343	X		Jan.14th
Lot 27	-	Douglas McDonald, Lakeshore Road, Winfield 766-2304	X		Jan.13th
Lot 28	-	G. & B. Elliot and W.(Bill) and B. Henderson, c/o Royal Trust, Kelowna, B. C. (In California til mid- late March, 1983) Property transferred September, 1982 to Peter and I. Fisher, 7811 Hunterslea Crescent, N.W. Calgary, Alberta (Overseas)		X	Message Left
Lot 29	-	Gary and P. Baird, Lakeshore Road, Winfield 766-4150	X		Jan.13th
Lot 30	-	Karl and E. Rothert, 411 Avenida Cordova, San Clemente, California		X	

			CONTACT MADE		
			YES	NO	DATE
Lots 31 and Rem. 32	-	George Elgood, Lakeshore Road, Winfield (In Edmonton til summer) 403 435-6975 & out of town		X	No return Feb.28/83
Parcel 'A' (Plan B-6466) of Lot 32	-	V.L.A. - Occupied by Mr. and Mrs. George Sowden, Okanagan Centre Road, Winfield 766-2484	X		Jan.14th & Feb.22nd
North 99 feet Lot 33	-	J. Ooyevaar, Bond Road, Winfield 766-4216	X		Feb.15th & Feb.22nd
Rem. Lot 33	-	B. Gehrlein, Box 174, Okanagan Centre Road, Winfield (In Palm Springs, California til early spring).- returned 766-3805	X		Feb.22nd
Lots 34 and 35	-	H. and A. Kancs, (Mrs.) 2091 Napier Street, Vancouver 253-2816	X		Feb.15th
	-	Son - Lawyer - L. Kancs with Calder, Jeffery & Co., Vancouver at 669-5534	X		Feb.22nd
Lots 36, 37 and 38	-	Lakeside Properties Ltd. See Lots 1 to 26 As well, 'Lakeside Properties' own to north, Block 'Q' and Lots 206 to 228, Plan 454	X		
Lot 39	-	Dave and Phil Large c/o. 763-0415 or 860-3374		X	No answer

The above location list is from assessment or field records, and although ownership has been determined through C. of T.'s supplied; occupiers, where possible,

February 21, 1983

were approached in accordance with the above tally; including Department of Highways - Mr. Wilf McDonald, District Manager, Kelowna, 762-2406. Contact also was made with Mr. Frank Clapp, Victoria - Land Survey Officer, Ministry of Transportation and Highways and information further solicited from Messrs. Bill Maddox and Chester Gehue, B.C.L.S.s in Vernon and Kelowna.



Gordon M. Thomson, B.C.L.S.

Updated to 02/28/83

GMT/ec