



The Corona Collection *By Rick Stuart, CAE, FIAAO*

As you look at this headline you may think of a collection of local art at your museum or for some of you, a six-pack of various Corona products fresh from a Mexico brewery. However, this is the lead into a collection of articles and references to our current situation: COVID-19, the coronavirus. I envision this will not be the last discussion about this topic and its impact on our profession. Therefore, any information or questions you have, send them my way at r17stuart@gmail.com or 785.259.1379. Be safe!

Fee appraisals and the Coronavirus

By Rick Stuart, CAE

The appraisal world is changing for everyone. I just found it interesting to see the effects of this virus on the fee appraisal of properties also. This is not intended to be a total look at the changes, but I found some of the changes worth reading about.

► April 14, 2020

Joint Press Release from: Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corp., Office of the Comptroller of the Currency, National Credit Union Administration, and the Consumer Financial Protection Bureau. See release at: <https://bit.ly/2XIUBTI>

Federal banking agencies to defer appraisals and evaluations for real estate transactions affected by COVID-19

The federal banking agencies today issued an interim final rule to temporarily defer real estate-related appraisals and evaluations under the agencies' interagency appraisal

regulations. The Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency are providing this temporary relief to allow regulated institutions to extend financing to creditworthy households and businesses quickly in the wake of the national emergency declared in connection with COVID-19.

The agencies are deferring certain appraisals and evaluations for up to 120 days after closing of residential or commercial real estate loan transactions. Transactions involving acquisition, development, and construction of real estate are excluded from this interim rule. These temporary provisions will expire on Dec. 31, 2020, unless extended by the federal banking agencies.

The National Credit Union Administration (NCUA) will consider a similar proposal on Thursday, April 16.

In addition, the federal banking agencies, together with NCUA and the Consumer Financial Protection Bureau, in consultation with the Conference of State Bank Supervisors, issued a joint statement to address challenges relating to

appraisals and evaluations for real estate-related financial transactions affected by COVID-19.

The interagency statement outlines other flexibilities in industry appraisal standards and in the agencies' appraisal regulations and describes temporary changes to Fannie Mae and Freddie Mac appraisal standards that can assist lenders during this challenging time. The agencies will continue to communicate with the industry, as appropriate, as this situation evolves."

► April 15, 2020

FDIC: No Appraisals Necessary for Refi Transactions of \$400K Or Less
By Navi Persaud, originatorconnect-network.com, <https://bit.ly/2VFHH6i>

"Federal banking agencies have issued a deferral on appraisals and evaluations for real estate properties. No appraisal is necessary for refinance transactions valued at \$400,000 or less. Appraisals and evaluations can also be made up to 120 days after the closing of a loan transaction."

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I spoke with one appraiser to see if this is having any effect on their business and the response was as follows:

“We’re staying busy. I don’t know how that will affect us. It really is like they don’t need to get the appraisal now, but they will have to get one later?”

“One local lender has gone to mostly exterior inspections, but we have to talk to the borrower and have them send us pictures if we think it’s necessary. I am charging an additional \$50 for interior inspections and generally get it, but some clients will downgrade it to an exterior only. Fannie & Freddie will both accept exterior only in some cases, but we have to ask. FHA/USDA still require interior inspections. We are doing a lot of work in the outer counties.

“I’m quoting more time than we need to complete reports and only looking at houses twice a week. It’s much easier to get into houses right now. I haven’t heard ‘we both work’ for a while.”

► The Greater Topeka Partnership was sending daily updates during the coronavirus outbreak. I found this one very enlightening.

How Vulnerable is My Region’s Economy to COVID-19?

The coronavirus outbreak is disrupting the U.S. economy and some regions will certainly be impacted more than others. The variation in impact will not only be due to a region’s exposure to the virus and the local government’s policies in reaction to the virus, but is also related to the mix of jobs in the local economy.

This latter aspect is captured in our COVID-19 Economic Vulnerability Index. The index gauges the negative impact the COVID-19 crisis can have on jobs in a region based

upon the industries present in the area and their expected job losses. Accommodation and food services, for example, are projected to lose more jobs as a result of the coronavirus compared to utilities and health-care.

“An average Vulnerability Index score is 100, which represents the average job loss expected in the United States. Higher scores indicate the degree to which job losses may be greater—an index of 200, for example, means the rate of job loss can be twice as large as the national average. Conversely, an index of 50 would mean a possible job loss of half the national average.” ❖

What the property owner will read

By Rick Stuart, CAE

All of us know property owners will be seeking reductions in their 2021 values due to the coronavirus. As appraisers we know the market determines any value change, not public perception or beliefs. The information below is from an article titled “Realtor.Com Now Predicts Rocky Housing Market” published on www.builderonline.com in May:

“Realtor.com was out Wednesday with a post-COVID-19 re-forecast for the 2020 housing market, and like the market it is attempting to fathom, the outlook is rocky. Driven by pent up buyer demand and low interest rates, home sales in the U.S. will rebound in late summer and early fall as fears of the coronavirus begin to wane. Then they will drop again. The updated forecast finds that despite an uptick in transactions during the third quarter largely driven by millennials, home sales will be down 15% year-over-year.”

Some property owners will bring in articles such as this and

tell you that the values are going down by 15%. That is not what the article says, and value is not even mentioned. What the article says is sales will be down 15% year-over-year. There is no direct correlation between values decreasing and volume decreasing. As the article states, there is pent up demand and if the number of sales are less, the values may indeed be increasing.

Read carefully anything the property owner brings to support a value reduction. ❖

Appeal concerns from a hearing officer

TEAM member Ken Voss, MAI, SRA, AI-GRS, CAE, made this comment in the IAAO online Open Forum. It gives us a perspective from the hearing officer’s point of view versus the jurisdiction’s.

“My comments are for next year’s appeals. 2020 values based on 2019 should not be problematic.

I see jurisdictions with less revenue, possibly cutting staff, reducing education and membership expenses, furloughs, and high volume of appeals, which will continue for a minimum of two years.

I am more concerned as a hearing officer/appraiser [about] the number of potential appeals that I believe will be filed. The value issue is similar to the 2009-2011 eras when we didn’t really know how to handle the foreclosure issue. We survived, but we are back again. The commercial real estate market is in disarray; with many workers out of a job, businesses closed, no income, what is the value of the property?

The problem is not going away, and we must have some plan to handle the appeals. The commercial market will not rebound as quickly as the residential market; therefore I see a two–three year problem where

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www.teamconsulting.cc

values will decrease, eventually increasing as we strive back to normal (?). As a hearing officer, I have been collecting data to better understand the complexity and problems that we will face.

So my question is, how is your jurisdiction going to handle 2021?

These people need to take IAAO 402 Tax Policy

By Rick Stuart, CAE

The number of articles about how public officials believe property values and taxes should be changed with the current virus situation is daunting. Some do understand and have made very good comments about what statutes state and that those setting tax rates can have an influence on the process. Unfortunately, those are the minority. I just wanted to relay what I think are some of the more unbelievable ac-

tions and comments.

Nebraska County:

I really cannot completely describe in a short writing what is said in this article from The Grand Island Independent. You really just need to read it at https://www.theindependent.com/news/local/commissioners-see-state-senators-help-holding-down-property-valuations/article_0fa39e36-9a56-11ea-9ca5-1b874a712bb1.html

Texas County:

Here's another article that you should read from the Houston Chronicle. It seems the mayor of one of the cities is suing the county. Here is the main point: "The suit, which names Montgomery County Chief Appraiser Tony Belinoski and Tax Assessor Collector Tammy McRae, was filed just hours before the deadline to protest property taxes May 15, asks the court to order the chief appraiser to either apply an across-

the-board reduction to the value of all properties or re-assess each property individually. The suit also asks the court to order McRae to halt tax collection efforts."

The responses by several officials are worth the read. See article at <https://www.chron.com/neighborhood/moco/news/article/Montgomery-County-officials-say-legislative-15281333.php>

Impact of COVID-19 on Commercial Real Estate

Jim Berry, head of the US real estate sector for Deloitte, offers a good overview of the past, present and future of the industry in "COVID-19 Implications for Commercial Real Estate." <https://www2.deloitte.com/us/en/insights/economy/covid-19/covid-19-implications-for-commercial-real-estate-cre.html#>

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Commercial Real Estate Industry Coronavirus Resource Center

By David Bodamer, National Real Estate Investor, March 23, 2020**

Submitted by Brad Eldridge, MAI, CAE:

This is a source centralizing commercial real estate association responses, guides and resources dealing with the ongoing coronavirus outbreak.

**** For the most current listings and links see:**

<https://www.nreionline.com/property-management/commercial-real-estate-industry-coronavirus-resource-center>

Many of the major North American commercial real estate industries have stepped up to deliver guidance and resources to the industry on how to handle the continuing coronavirus outbreak.

Here is a centralized list with links to the resource pages and statements provided by those groups.

Alternative and Direct Investment Securities Association

Statement on its upcoming 2020 Spring Conference, "The health and safety of our members and attendees is our top priority, and we are monitoring the COVID-19 (coronavirus) situation and guidelines set by the U.S. Centers for Disease Control and Prevention and the World Health Organization.

We are working closely with the Rosen Shingle Creek resort to ensure that all appropriate measures are being taken to safeguard the well-being of our attendees, including the aggressive use of disinfectant cleaning procedures throughout the hotel, including the exhibit hall and meeting rooms, and the addition of more hand sanitizing dispensers readily available to all attendees." (March 10)

American Hotel & Lodging Association

- The Facts About Coronavirus (frequently updated page with a number of links)
- AHLA Joins Business Leaders to Discuss Response to Coronavirus (Updated March 4)
- Hotel CEOs meet with President, Vice President on Urgent Assistance to Keep Hotels from Shuttering (Updated March 17)
- AHLA statement on the CARES ACT (Updated March 21)

American Seniors Housing Association

- Coronavirus Preparedness & Response for Senior Living Communities (Updated March 2)

Building Owners and Managers Association International

- BOMA International's Coronavirus Resource Center
- BOMA Coronavirus (COVID-19) Guide (Downloadable PDF)

CORENET Global

- CORENET GLOBAL'S COVID-19/ Coronavirus Resources (Updated March 16)
- Building Enterprise Resilience: Coronavirus (COVID-19) Roundtable

FHFA

- FHFA's Coronavirus Actions (Updated March 23)

International Council of Shopping Centers

- Coronavirus Information & Resources
- ICSC events through April 10 have been suspended. (Updated March 11)
- ICSC extends the suspension of all events, including RECon, through June 30, 2020. (Updated March 13)
- Retailer Updates Due to COVID-19 (Updated March 17)
- COVID-19 Updates for the Retail and Real Estate Industry (Updated March 17)

- ICSC Urges Congressional Support for Retail Real Estate (Updated March 17)

Institute of Real Estate Management

- COVID-19 resources and information for property managers
- REM statement and actions on Coronavirus disease (Updated March 5)

Internal Revenue Service

- Coronavirus Tax Relief (Updated March 17)

Moody's

- Moody's Corporation is now offering its research and views on the credit and economic impact of the coronavirus (COVID-19) via a dedicated website, available to the public. (Updated March 10)

National Apartment Association

- Guidance for Dealing with the Coronavirus (Updated March 17)

NAIOP (National Association of Industrial Parks)

- COVID-19 Industry Resources

NAIOP (Washington State Chapter)

- NAIOPWA Update on Novel Coronavirus (COVID-19) (Updated March 3)

National Association of Realtors

- Coronavirus: A Guide for Realtors (Updated March 4)
- NAR Announces Changes to Upcoming Conference Schedule (Updated March 5)

National Association of Real Estate Investment Management

- Member survey conducted March 3 sharing adjustments to travel plans (Updated March 3)

NAREIT (National Association of Real Estate Investment Trusts)

- The Coronavirus, Commercial

Real Estate and REITs (Updated March 5)

National Multifamily Housing Council

- Coronavirus Preparedness for Apartment Firms (Updated March 16)
- NMHC Emergency Preparedness Listserve Sign Up (Updated March 10)
- NMHC Event Update (Updated March 10)
- NMHC Calls on Lawmakers to Provide Direct Financial Assistance to Renters (Updated March 14)
- NMHC Advocacy During the Coronavirus Pandemic (Updated March 19)
- Apartment Industry Committed to Supporting Residents Impacted by COVID-19 (Updated March 22)

Real Estate Roundtable

- RER's coronavirus resource page (Updated March 23)
- "The Roundtable's Homeland Security Task Force (HSTF) and the Real Estate Information Sharing and Analysis Center (RE-ISAC) are in close contact with the Department of Health and Human Services (HHS) and the Centers for Disease Control and Prevention (CDC) to provide useful information to the real estate industry on the coronavirus threat as it continues to evolve." (Updated Feb. 28)
- Roundtable Urges Treasury and IRS to Provide Additional Emergency Relief (Updated March 20)

SIOR (Society of Industrial and Office Realtors)

- SIOR has developed the Community Assistance and Relief in Emergencies (CARE) Program to help facilitate support during times of need such as right now. (Updated March 19, 2020) ❖

Fallen Behind on Continuing Education?

Perhaps your perfectly coordinated calendar for continuing education was interrupted by the coronavirus. If so, TEAM can quickly get you back on schedule with our large number of workshops and qualified instructors.

TEAM believes a hot topic will be the valuation of commercial properties. Therefore, we have pulled off the shelf, removed the dust and updated an old workshop titled, "Valuation of Commercial Property in a Declining Market." This could be a very timely workshop for your next valuation cycle.

We understand that budgets may be slashed and education is often one of the first victims. You can still receive continuing education by using one of your local instructors. You provide the instructor and TEAM will provide the material and PowerPoint.

It could also be worth your time to see our ad on page 3 of this newsletter and on our website about presenting our workshops via Zoom.

Find all our workshops at <http://www.teamconsulting.cc/workshops/workshopoverview.html> and our instructors at <http://www.teamconsulting.cc/instructors.html>. Tell us how we can help you by contacting Brad Eldridge, MAI, CAE at eldridge.brad@gmail.com or at 785.550.0945. ❖

Attention AAS Candidates

The Arkansas Chapter of IAAO is offering the AAS Case Study Review developed by TEAM members Fred Chmura, AAS and Rick Stuart, CAE. This 2-½ day workshop provides a review of materials and an understanding of the composition of a case study to help prepare for the AAS Case Study Exam. This is not an IAAO workshop but one developed by TEAM Consulting, LLC.

Dates: Begins Wednesday, Sept. 9, 2020, and concludes at noon on Friday, September 11.

Location & Fee: Little Rock, Ark. and the fee is \$350.

Instructor: Rick Stuart, CAE

Contact person: Farrah Matthews Bailey, CAE, CMS. email: fmatthews@totalassessments.com Phone: 870.679.0693

Included are multiple problems associated with the assessment and valuation processes. The workshop concludes with a practice four-hour case study exam.

Since May 2010, approximately 85 candidates have successfully used this workshop material to obtain their AAS designation. This workshop is seldom offered to the general assessment profession, and may be the best opportunity you have to prep for the IAAO exam. This workshop can take months off the time it will take you to prepare on your own. Read testimonials from individuals that have used the material at <http://www.teamconsulting.cc/aasreview.html>. ❖

Great Educational Offerings

The Texas Association of Appraisal Districts (TAAD) is offering a number of workshops this fall. The workshops will be held in Austin, Texas, on Nov. 16 – 20, 2020, with all workshops to be taught by Rick Stuart, CAE. Contact Doris Koch for more info: dkoch@taad.org or 512.467.040. Scheduled workshops include:

- Valuation of Barndominiums
- Mass Appraisal Analysis & Benchmarks
- Development of Capitalization Rates
- Valuation of High-End & Difficult Homes
- Valuation of Low-End Residential Properties

Appraisal Epiphany

By Mr. Guilty

In the January newsletter was a fun article by Brad Eldridge titled “I got hired.” It was about the avenue in which Brad started in this profession. Well, that triggered thoughts on how I ventured into appraisal. My name is hidden to protect the guilty (me).

I started my career as a broker, and I still am, but there was a slight diversion. I became an appraiser when my mother fired me (I say that I quit!) from the family real estate company. There was a non-compete contract for brokerage, but all I knew was real estate. Back in the 1970s the only requirement for fee appraisal in my state was to hold a real estate broker or auctioneer (go figure!) license. So my wife and I started a company and I got to work.

I had been appraising about eight years and was struggling mightily. I took a “Communicating the Appraisal” seminar from a superb Appraisal Institute (AI) instructor. He started the seminar with a question to the 100-plus students in the class (it was a different era!): “How many of you are professional authors?”

One lady raised her hand replying she wrote “short, humorous stories for Reader’s Digest.” He con-

gratulated her and then proceeded to tell the rest of the students they were terribly wrong in not truly understanding their role.

“I don’t think you are Tom Wolfe, but you are all professional writers. You just write shorter “books” for somewhat less money, so you have to author a lot more “short stories about real estate.”

As one who had always earned A’s in any writings for English or other classes during grade, middle, and high schools and then college, this was a great epiphany for me. All of a sudden, I found my role and the rest is history. It took a few years, but the books started paying pretty well.

In fact, I was lucky enough to teach a few writing classes with that same instructor back when I was on the road. He is as smart and pleasant as anyone I have ever met.

So I know what that first mentor of Brad’s was seeking in a writing sample. In fact, one of my fellow MAIs actually seeks his trainee appraisers at the journalism school of local universities. He says these students have learned to focus their research, write well, and meet deadlines—all priceless skills for good appraisers! ❖



TEAM Educational Workshops

Zoom Workshop Evals

Rick Stuart, CAE conducted the workshop Valuation of Barndominiums via Zoom for the Washington Assessor’s Association in May. It was amazing how well the students adapted to this format, based upon their evaluations. Overall the workshop received a rating of 4.2 (with 4 being Very Good and Excellent).

Hybrid Zoom Classes

Dan Cypert, RES, instructed the Appraising After Disaster or Traumatic Events and the Valuation of Lodging Properties workshops via Zoom for the Arkansas Chapter of IAAO in June.

The second day was a hybrid presentation with some students in the actual classroom where Dan was instructing but with the majority participating remotely.

When surveyed, the students said they preferred having in-person workshops but understood the necessity of holding workshops this way due to the social-distancing issues during the pandemic. Dan said the students adapted very well to the Zoom format, but as an instructor he still prefers the personal interactions that go along with having in-person workshops.

The students responding to the workshop survey rated their overall experience (virtual format, materials and instructor) a 3.8 out of 5.

Learn more about TEAMworkshops at <http://www.teamconsulting.cc/workshops/workshopoverview.html>. Locate instructors at <http://www.teamconsulting.cc/instructors.html>.

Travel Squad

We’ve been NOWHERE, man

TEAM associates are normally in a large number of states. Well, we all know this is not normal times. In the April issue was a map showing the locations of our instructors. The map has not changed; it’s just that from California to Florida and up to Ontario, Canada, we have been home.

My last day of travel was February 12. I think it has been over 25 years since there has been this many days between hotel room stays, and I think since about 1975 since I went this long without a haircut.

So, when we get back to normal (I hope we are correct in saying “when we get back to normal”) and you are looking for a workshop, series of workshops or professional assistance for your location, contact TEAM. Can’t wait and need a workshop now via Zoom? See our ad on page 3 or visit our website at <http://www.teamconsulting.cc/>. Until we meet again, stay healthy!

Setting the Record Straight on a County Cadastre

By Richard Norejko, CMS

I. Intention

Within the last two decades, there has been a dilemma on how a county should maintain its cadastre. Specifically, should the assessor follow instruction from the county attorney or use accepted surveying principles to make a well-reasoned opinion on the location of property lines when the legal instrument description is ambiguous or incorrect.

This paper will address the issues regarding the terms *cadastre* and *legal cadastre*, the advice and protocols to follow when handling ambiguous, conflicting, and even erroneous legal descriptions. The intention is to provide as much information as possible, allowing the assessment administrator to decide on how their cadastre should be maintained. In the process, we will review the traditional definition of a cadastre and the new label, legal cadastre.

II. Introduction

Local assessors are responsible for creating and maintaining cadastral databases, the graphical and non-graphical representation of what is usually a taxpayer's most substantial single investment—their home and property. Property ownership has been a crucial part of the American

dream ever since our forefathers left England and Europe for a new life in the New World. That dream was to own their property, which would give them freedom and financial independence, something they would not be able to obtain in their former country.

A cadastre has been used by countries for thousands of years to inventory property ownership within its borders. Recently there has been ongoing controversy regarding the graphic representation of property boundaries on the assessment maps. As a result of this controversy, a new lexicon has been coined: the legal cadastre.

When interpreting legal description boundaries that are ambiguous or conflicting with boundaries of an adjacent property, some county attorneys advise the assessor to show the property lines as described in the deed, reasoning that the assessor's maps reflect the "legal cadastre of the county" and that assessment personnel "do not have the authority to make these kinds of judgments" [regarding the proper location of boundaries between parcels]. That decision "is for the court system to make."

One state department of revenue had issued a similar decree by advising:

when ownership mappers face a situation of two property owners claiming the same or overlapping parcels such situation should be handled with caution as the ownership mapper does not have the power or authority to establish legal ownership; only the courts have such authority and it is advisable to assess the conflicting area to both claimants until the courts decide the correct owner.

How did the assessor's cadastre become the legal cadastre representing legal ownership?

III. Definitions

Black's Law Dictionary, which is regarded as being the most comprehensive, scholarly, and authoritative law dictionary, defines a *cadastre* as "a survey and evaluation of real estate in a county or region compiled for tax purposes." Webster's Collegiate Dictionary has a similar definition: "an official register of the quantity, value, and ownership of real estate used in apportioning taxes."

Similarly, Webster defines *cadastral* as "1. of or relating to a cadastre 2. showing or recording property boundaries, subdivision lines, buildings, and related details."

A further definition that is recognized:

a cadastre is a methodically arranged public inventory of data concerning properties within a particular county or district, based on a survey of their boundaries. Such parcels are systematically identified, utilizing some separate designation (PIN). The outline of the property and the parcel identification number usually are shown on orthophotography base maps, which, together with reference to legal documents, illustrate the ownership, size, and assessed value associated with the parcel.

The International Federation of surveyors defines cadastre as follows:

a cadastre is normally a parcel based, and up to date land information system containing

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Rick Norejko, CMS, has over 40 years of experience in all aspects of cadastral mapping. He is a nationally recognized speaker, lecturer, author and teacher in the field of cadastral mapping. Learn

more about Rick and the classes he teaches on the TEAM website at <http://teamconsulting.cc/instructors.html>

a record of interest in land (e.g., rights, restrictions, and responsibilities). It usually includes a geometric description of land parcels linked to other records describing the nature of the interest, the ownership or control of those interests, and often the value of the parcel and its improvements. (The FIG statement on the Cadastre, Policy statement 1995)

An essential concept of all of these definitions is **“for tax purposes”** and **“in apportioning taxes.”**

There is even case law that defines a cadastre; cadastral data was compiled from recorded deeds, subdivisions and survey plats, and other property record data, whereas other data came from aerial photographs. (the *United States of America, v. Andrew Zukowski*, 1997).

IV. Etymology

The word cadastre came into the English language from the French. The French term is the translation from the original Greek word *“katakstikhon,”* meaning “down the line,” i.e., a list or register and the Italian word *“catastico.”* Translated into French, the term is *“cadaastro.”*

France’s Duke of Normandy, also known as William the Conqueror, instituted the first cadastre in England with the creation of the “Doomsday Book” in 1086. This book listed and registered all the landholdings in England along with their pre-Conquest and current property holders’ name and assessed value.

The Doomsday Book would reside in the English Exchequer—the auditing department of the treasury—which allowed the reigning king to keep track of revenue from property taxation. This department got its name when the sheriff from each county would

appear before a group of auditors and would mark the amount of tax revenue the sheriff contributed for his county on a “checkered cloth,” thus the name Exchequer.

V. History

The earliest cadastres were created by Roman emperors to recover state-owned lands in the various providences that had been adversely possessed by squatters who never paid property taxes. One such cadastre was built in 77 A.D. in the Italian region called Campania. Emperor Vespasian wanted to restore state lands that Emperor Augustus had given to soldiers of Gallica, that for several years had been occupied by squatters. He ordered a survey map to be created with a record on each parcel of the annual “rental.” In this way, Vespasian was able to reimpose property taxation formally uncollected on these lands.

With the fall of the Roman Empire, the use of cadastral maps effectively discontinued. In its place developed the medieval practice of using metes and bounds written descriptions to record the extent of property rather than using more precise surveys.

With the emergence of capitalism in Renaissance Europe, the need for cadastral maps reemerged as a tool to determine ownership and agricultural production rates. These maps would also be used to reconcile land disputes. Eventually, in the 17th and 18th centuries these maps would assume a role within local governments as a means of a more precise valuation assessment.

VI. Modern-Day Cadastres

In 1807 Emperor Napoleon Bonaparte, established a comprehensive cadastral system for France that is regarded as the forerunner of most modern versions:

The only way to sort out the confusion in land records is to

proceed with the surveying and evaluation of each land parcel in the Empire. A good Cadastre will constitute a complement of my code as far as land possession is concerned. The cadastral maps must be sufficiently accurate and complete so that they can determine the boundary between properties to prevent litigation.

Historically it had been French economists in the 10th and 11th centuries who advised the reigning king to tax real estate. Their advice was to rationalize the haphazard tax structure of France, so that property tax revenue not only becomes predictable but that you know when that revenue stream will come into the treasury.

Within European countries, legal systems have developed around the original administrative systems of using the cadastre to define the dimensions and location of land parcels described in legal documentation. They define a cadastral parcel as “a continuous area, or more appropriately volume, that is identified by a unique set of homogeneous property rights.” (Peter Dale and John Mclaughlin (2000) Land Administration).

In those European countries, the definition of cadastre does not include the phrase “related to in apportioning taxes.” A protocol to transfer property in these countries is to submit cadastral documentation and associated material to a cadastre or land administration office for review and approval before recording. This cadastral documentation is in paper or electronic form. Jurisdictional statutes specify the content and structure of this documentation, as well as the person(s) authorized to prepare and sign the documentation, including concerned parties (owner, etc.), license surveyors and legal advisors.

This governmental office re-

views the submitted information, and if the documentation does not comply with stated provisions, the cadastral office may set a deadline for the applicant to provide complete and accurate documentation. Transfer of ownership is not complete until the land administration office has approved the accuracy of the cadastral documents. This type of legal recording system does not exist in the United States.

In America, private attorneys and title companies submit legal documents for recordation with the county's recorder. The recorder's job is mostly ministerial. They accept instruments for filing by stamping the date and time of filing then placing a copy in an official record. The original document is returned to the person who presented it for filing. Then the recorder indexes the instrument by noting a description in an index maintained to facilitate the location of the instrument. Unlike these European countries, no review of the deed for accuracy, closure, or authenticity is performed.

VII. America's History of Local Cadastre

The first American cadastre appeared as a result of a Massachusetts ordinance dated April 1, 1634, that ordered the listing of property owners, the bounds of the parcel, and the quantity of land.

Puritans, who primarily settled in the New England region of America, had a strong desire to transform the wilderness into private ownership. The process of converting English crown claims, and subsequently United States federal land, into private property, seems straightforward: measure some lines, place monumentation on boundary corners, and prepare some documents. What could go wrong?

One problem was the method of describing the boundaries of a property. America would inherit the English "bounds" descriptions

system. A cadastre of bounds property description was simple in that it merely states that I own to you, and you possess to me, there are not any gaps or overlaps between us. If we do not agree on our common boundary, we will settle the dispute peacefully under the laws of the sovereignty.

VIII. American Property Law

There are occasions when a county map technician will put too much faith in land descriptions, particularly in the math delineating the boundaries of the parcel. Landowners frequently treat property descriptions as sacrosanct, believing, or at least wanting to believe, that they are complete and accurate in every way. Those of us who deal with deeds daily know that that is not true.

Most legal descriptions contain one or more problems or confusing elements. Courts of law have known this for well over 100 years. A Mississippi court stated that:

no conveyance of land was ever made, however minute and specific the description, that did not require extrinsic evidence to ascertain its location, and this is so whether the description be by metes and bounds, reference to other deeds, to adjoining owners, or other descriptions of whatever character. (*Preacher v. Strauss*, 1872).

Law reasons that the sole purpose of a description of land contained in a deed of conveyance is to identify the subject matter of the grant. If it does that, it is sufficient. Legal descriptions do not have to identify the land, but only furnish the means for identification.

A confusing element within our legal system involving land transfer is called "legal sufficiency." The confusion with legal sufficiency is that there is not a legal requirement that

the description in the deed matches the occupation on the ground. Title to property and the actual location of the boundaries on the ground are not necessarily the same. That may be a reason why county attorneys respond to a boundary dispute question from mapping staff to show property lines precisely as stated in the deed.

The title versus location dilemma requires one to understand that deeds do not necessarily describe the property, but only provide the means for identification. In many cases, extrinsic evidence must be considered and evaluated to identify the location of property boundaries.

An 1899 Washington court ruling stated:

it is not the office of a description to identify the premises but to furnish the means by which they can be identified. Parole evidence is, and must of necessity be, always admissible to identify the property described in and conveyed by a deed, to ascertain to what property the particulars of description in the deed apply.

An Indiana appellate court ruling in *Harlan v. Muncie* stated: "we reiterate: it is a familiar rule that it is not the office of a description to identify lands, but simply to furnish the means of identification."

The title of a property is the formal right of ownership. The title identifies "what" the property is and itself a legal question. Given "what" the property is, the next question becomes, where are the property boundaries located? The location of those boundaries on the county cadastre is not a legal question; it is a factual question. The duties of the county mapper are based on facts and proper business protocols. Mappers should follow the same principles a court would in adjudicating

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boundary limits. Summing this up is a Supreme Judicial Court of Maine (*Theriault v. Murray*, 1991):

We consistently have held that what boundaries a deed refers to is a question of law, while the location of those boundaries on the face of the earth is a question of fact. If facts extrinsic to the deed reveal a latent ambiguity, then we determine the intent from contemporaneous circumstances and from standard rules of construction. A basis rule is that boundaries are controlled, in descending priority, by possession, senior/junior rights, monuments, courses, distances, and quantity, unless this priority produces absurd results.

Delineating those property boundaries on the cadastre is the responsibility of the county assessor. The purpose is to be as fair and equitable for assessment purposes both to the property owner and the county's property tax revenue stream.

IX. Origination of the Term *Legal Cadastre*

New cadastral mapping programs in the United States began in the 1970s as a result of state-mandated reappraisal cycles, computerized record-keeping, and a reduction in the cost of an orthophotography database. These emerging technologies allowed county assessors to build their modern-day cadastrals relying on source material provided by the county recorder of deeds, and in some locations, augmented by private surveys. Computerization of the cadastre provided the powerful impact of a graphic display of both imageries with overlaying property boundaries and a tabular database that provided historical and attribute data for each

parcel within the county.

These cadastrals became even more impactful upon societies with the advent of geographic information system software. Combined with Internet accessibility, the county's assessment database became a reliable tool for not only the legal community and title companies, but home insurance companies, realtors, land developers, and the list goes on and on. There is a common theme with these data user groups: their acceptance of the technology and the term *legal cadastre*. That term has become so routine that if you hear it often enough, however confusing it may be, it becomes accepted as fact.

A county's cadastral database looks authentic; they appear-legal. Colored orthophotos that illustrate property lines; a non-graphic database that includes the historical property genealogy; and attribute data that provides for assessed value, school district, fire district—the list goes on. The cadastre could also offer a link to the register's office where the current deed, and any deed in the chain of title, can be viewed. As authentic as a cadastre appears, does it pass the litmus test for accuracy regarding the exact location of property boundaries?

X. Court Ruling on the Cadastre

In the previously mentioned case law of the *United States of America, v. Andrew Zukowski* (1997), the court ruled that the county's auditors (in the state of Ohio assessors are known as the county auditor) cadastral maps:

is not a model of clarity, nor is it clear for what purpose the map was prepared. A disclaimer at the bottom indicates that it was prepared in order to assist in the appraisal of real estate, which is one of the functions of the auditor's office. The court concludes, from the definition

of the noun "cadastre" found in Black's Law Dictionary, that it refers to a listing of property or property values for tax assessment purposes. The court does not believe that a possible interpretation of an otherwise unexplained auditors map is the same thing as proof beyond a reasonable doubt. The disclaimer on the map clearly states that "[u]sers of this map are notified that the primary information sources should be consulted for verification of the information contained on this map." This court is not convinced beyond a reasonable doubt, based solely upon the unexplained, difficult to interpret, and secondary nature of the information contained on the auditors map, that the United States holds such legal title. Thus the "legal title" branch of proof of this element is, in the court's view, not enough to base factual findings on beyond a reasonable doubt.

In other words, the court decision in this litigation was that a legal cadastre for the county does not establish legal ownership, title, or accuracy in the location of the property boundaries.

XI. The difference between the law and equity

Some legal counsels have rejected the idea that the assessor staff should be both judge and jury when it comes to rendering a *well-reasoned opinion* on the location of property boundaries. At the same time, there is no debate that the assessment staff can render a *well-reasoned opinion* on the assessed value of a parcel.

Two adjectives that are accepted nomenclature are *assessed* and *appraisal value*. These property valuation terms have been recognized terminology since the National

Tax Association outlined modern techniques and principles for valuing real property in 1910. These principles are in accepted methodology to calculate the assessed or the appraised value of a parcel.

Similarly, mapping technicians follow the American standard property law methodology known as the rules of construction, sometimes called the order of importance or priority of calls. These rules are guides for ascertaining the intent of the grantor. The legal basis for this collection of principles is well established. They are a tool to aid in the determination of ownership rights and boundaries when various elements of the legal description are ambiguous or conflicting.

As previously mentioned, during the last two decades, a new adjective was being used within the legal and surveying community to modify the historical use of the term *cadastre*—legal *cadastre*.

Black's Law Dictionary defines *legal* as "1. Of or relating to law; falling within the province of law 2. Established, required, or permitted by law; 3. Of or relating to law as opposed to equity."

Equity is defined as "1. Fairness, impartiality, evenhanded dealings. 2. The body of principles constituting what is fair and right; 3. The recourse to principles of justice to correct or supplement the law as applied to particular circumstances."

[It should be noted that the term "legal *cadastre*" is not found in Black's Law Dictionary; neither is the term "legal value."]

Referring to the dictionary's definition, we note that:

1. Cadastral does not fall within the providence of law
2. was not established by law, instead was created for listing of property for taxation
3. and "legal" is related to law

rather than equity.

4. Equity, on the other hand, is a noun associated with property assessment.

It is essential to understand these definitions. "Of or related to law as opposed to equity" refers to an assessor not deciding on ownership title but only the factual or "equity" question of where they believe the assessed boundaries of a parcel are located.

As a former English colony, America's justice system would come from England. The British recognize two courts: a law court and an equity court. Equity courts, referred to as the chancellery, was a court separate from the law court to handle rules of equity and good conscience. It would apply the principles of equity, as opposed to those of law. In other words, the law court ruled on the law, and the equity court dispensed opinions of fairness in good conscience. It was similar to the county board of equalization and review; members were part of the community well-versed in specific disciplines. They would rule on any writ as a Board of E & R rules on disputes of value.

There are two questions that every general warranty, special warranty, and quitclaim deed has to answer. One is a law question of title, and the other is an equity question of where the property boundaries are located. Law and equity do not provide the same answer. The equity answer is to ascertain the boundaries without reference to, or affecting any legal rights, that the grantor or the grantee may have in the property, while also not affecting the rights of adjoining properties.

Being equitable to both the county and the taxpayer is in the spirit, if not the literal meaning, of an assessor or deputy assessor's oath of office. A Minnesota oath exemplifies these oaths:

Every person elected or appointed to the office of assessor, at or before the time of receiving the assessment books, shall take and subscribe an oath to be diligent, faithful, and impartial in performance of the duties enjoined on the assessor by law.

Or the Tennessee oath that reads,

I will faithfully, impartially, and honestly discharge my duties as assessor of property according to the law, to the best of my knowledge and ability, without fear, favor or affection, so help me God.

The Machinery Act of North Carolina states that:

The county assessor shall have general charge of the listing, appraisal, and assessment of all property in the county in accordance with the provisions of law. He shall perform the duties imposed upon him by law, and he shall have and exercise all powers reasonably necessary in the performance of his duties not inconsistent with the Constitution or the laws of this State.

XII. Conclusion

1) Does the fact that the adjectives *diligent, faithful, impartial, and honest* suggests that you should follow a protocol as stated by a Washington state GIS manager?

The County Assessor is an elected official and has statutory authority over the cadastral map and how ownership is determined for tax purposes. Under that authority as deputies, our GIS staff researches all legal documents and would distinguish senior rights and eliminate/not show overlap. We

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make a “journal” note on the parcels indicating that the legals have apparent overlap, but the map is drawn per our interpretation of the record.

If a title company insured the property, we might contact them to see why they covered the overlap or if they perhaps “missed” something in the legal. If the owners go to court and a judge sees it differently, then we will adjust the map based on the judge’s decree. Subsequently, the Treasurer would work out any issues with taxes paid in error on the “wrong” parcel (if there was a significant enough valuation change to justify).

2) Or do you feel that you are indeed the administrator of a legal cadastre? Thus, you will show prop-

erty boundaries precisely as legal instruments dictate.

3) In the situation of overlaps, are you comfortable deciding that one of the overlapping properties is being assessed for more acreage than they genuinely own?

We know that the number of questions is not limited to these three. Perhaps the simplest of all conclusions it to remember we are determining property boundaries for property tax purposes, not for legal purposes.

If you need to get advice from your county attorney, do it understanding the priority of calls, the meaning of legal terms, and land surveying principles. A foundation for that body of knowledge is found in IAAO’s (International Association of Assessing Officials) mapping science curriculum.

A more in-depth understanding of property ownership and the interpretation of boundary descriptions is the TEAM workshop “Assessment Administration— Maintaining a County Cadastre.”

In the next TEAM newsletter, we will review: Corporate cadastres— Why is the banking industry rejecting county GIS/cadastre maps?

References:

Traversing the Law: Unwritten Rights in Land Surveying, Jeffery Lucus, PLS, Esq, Point of Beginning magazine .

Objective Uncertainty: Jeffery Lucus, PLS, Esq, Point of Beginning magazine. ❖

Presidential Candidate Joe Biden Vs. the AI

Editor’s Note: It is not always fun being an independent fee appraiser, either.

The information below from the Joe Biden campaign has generated considerable discussion and was addressed by the Appraisal Institute (AI) as the campaign platform was directed at fee appraisals for loan purposes. This was part of what the campaign labeled “END REDLINING AND OTHER DISCRIMINATORY AND UNFAIR PRACTICES IN THE HOUSING MARKET.”

From the campaign website (<https://joebiden.com/housing/>):

“Tackle racial bias that leads to homes in communities of color being assessed by appraisers below their fair value. Housing in communities primarily comprised of people of color is valued at tens of thousands of dollars below majority-white communities even when all other factors are the same, contributing to the racial wealth gap. To counteract this racial bias, Biden will establish a national standard for housing appraisals that ensures appraisers have adequate training and a full appreciation for neighborhoods and do not hold implicit biases because of a lack of community understanding. An objective national standard for appraisals will also make it harder for financial institutions to put pressure on appraisers to their benefit.”

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Interesting Buildings

By Rick Stuart, CAE, FIAAO

Over the years I have collected a very large number of photos I call “interesting buildings.” My intention is to publish a couple each issue. If you have picture(s) of buildings that have piqued your interest, email them to me at r17stuart@gmail.com. I will add to the newsletter.



Van-tastic?

Marty Roth, chief appraiser for the Cowlitz County, Washington, Assessor’s Office, submitted this photo and explanation. I have to believe this is one of the most unusual I have seen. Most parents encourage their kids to leave home. Not sure if this is saying “please stay” or “remove the siding and drive away.”

According to Marty: The van is completely attached to the mobile home. It is the bedroom of the owner’s son with access from the mobile home. Back doors of the van don’t open, but it’s heated with flooring and a bed, with night stand and small dresser. Also an area near the back doors serves as a clothing rack.



Buried Busses

Considering all the fear with the coronavirus, it is only appropriate to show the home, or maybe compound, of a long-time prepper.

Somewhere beneath the snows of a rural part of Ontario, Canada, an 83-year-old man has created one of the most elaborate and bizarre structures in North America. He’s acting purely on a vision and out of a sense of purpose—and fear.

Between 1980 and 1985, Bruce Beach began to do something particularly unusual. The 83-year-old started to collect old and retired school buses wherever he could find them, purchasing each one for about \$300! He ordered them directly to his home address. A total of 42 busses were used.

Now for me, the sad part is that he’s originally from Kansas. Keep those photos coming! Send to r17stuart@gmail.com. ❖



Continued Silliness

By Rick Stuart, CAE

As I continue to look through my laptop, I found this file appropriately labeled “Future Appraiser.”