



Ontario

Ministry of
Consumer and
Commercial
Relations

Property
Rights
Division

BULLETIN NO. 78013

DATE: 3rd March, 1978

TO: ALL LAND REGISTRARS
ALL ASSISTANT EXAMINERS
OF SURVEYS

THE REGISTRY ACT, R.S.O. 1970
Section 78a
Regulation 780, Section 4

DESCRIPTIONS OF EASEMENTS AND
RIGHTS-OF-WAY

Since the advent of reference plans it has generally been concluded that "PARTS" are to be created on these plans to illustrate appurtenant or servient easements and rights-of-way.

Because all "PARTS" on reference plans should be surveyed and monumented in accordance with the regulations, any decision as to whether an easement must be designated as a "PART" should be made keeping in mind the relative survey costs, and the following guidelines should be taken into consideration.

In the case of a *new* severance to which an appurtenant easement will attach the easement should be properly designated as a "PART" on the reference plan. The only exception would be in a case where the Land Registrar's discretion is exercised under Section 78a(2) of The Registry Act.

Where an *existing* property is being conveyed with an existing appurtenant easement described in general terms, e.g. over the lands of a former owner, consideration must be given as to whether the description of the property conveyed is vague or complex. If so, the Land Registrar may require a reference plan to redefine the parcel under Section 79(1) of The Registry Act.

However, it may be an undue imposition to require that the appurtenant easement be surveyed and shown as a "PART" on the reference plan. In this case the Land Registrar may invoke Section 4, O.Reg. 780, with respect to that part of the description relating to the easement, and allow a "composite" description. e.g. "Part 4, Plan 86R-100 together with a right-of-way for ingress and egress as set out in Instrument No.....registered.....
.....over part of Lot....., Concession.....,
and described as follows....." Every effort should be made to improve the old description of the right-of-way from existing information. Where possible, a vague right-

of-way description could be supplemented with a copy of an aerial photograph, showing the existing right-of-way clearly marked thereon, to be attached to the Instrument.

It is emphasized that it is our general policy to request and encourage the use of reference plans to re-describe existing easements and rights-of-way that do not comply with the regulations. The granting of relief as outlined above should be used only in those cases where a survey of an appurtenant easement would be inequitable and/or where the cost of the survey would be excessive in relation to the value of the land being transferred.

Additional guidelines respecting special exemptions and granting relief "having regard to the circumstances", are set out in Bulletin No. 73022.



H. Krebs
Supervisor
Survey Standards Audit Section
Legal and Survey Standards Branch.

Handwritten initials