



## EASEMENTS AND RIGHT-OF-WAYS

Getting to know what is required

### WHAT IS AN EASEMENT OR RIGHT-OF-WAY?

An easement or right-of-way is an agreement that confers on an individual, company or municipality the right to use a landowner's property in some way. The easement agreement will describe a particular portion of property and provides an area of access to the holder of the easement or right-of-way. These rights may also partially restrict a landowner's use of those portions of land affected by the easement. Easements are registered on the certificate of title to the property and are automatically transferred from one owner to another as the land is sold. The easement will remain on title until the holder of the easement discharges their rights from the certificate of title.

Examples of easements and right-of-ways:

#### Easements

access roads  
pathways/walkways  
utilities  
right to park  
right to light  
right to commit a nuisance (noise, dust, etc.)

#### Right-of-ways

utility corridors  
power lines  
sewer/water lines  
gas/oil transmission lines

### WHO OWNS AN EASEMENT OR RIGHT-OF-WAY?

The landowner continues to own the land where the easement is taken. The holder (beneficiary or grantee) of the easement holds certain rights with respect to usage as described in the agreement. The agreement will define all the rights and obligations of the holder of the easement or right-of-way and the restrictions that are placed upon the property subject to the agreement.

### WHAT IS A BLANKET EASEMENT?

A blanket agreement not only covers the specific location of the utility structure but the entire parcel of land.

### PAYMENTS FOR EASEMENTS OR RIGHT-OF-WAYS

To make the agreement legal, the landowner granting the easement will receive a payment (\$1.00 minimum). Any other compensation for the easement is subject to negotiation between the landowner and company/person requesting the easement.

### CAN A LANDOWNER REFUSE TO PROVIDE THE EASEMENT AREA?

Yes. Written consent must be obtained from the landowner prior to the registration of the easement. If refuse, it may still be obtained based upon a decision of the Surface Rights

Board, expropriation of the land, of a judge's order if it is deemed the registration would be a benefit to the public.

### **ARE EASEMENTS OR RIGHT-OF-WAYS REMOVED FROM TITLES?**

Yes the easement can be removed with consent from the holder of the agreement. Or by a judge's order. This removal must be based upon proof that the easement is no longer required.

### **HOW IS THE LOCATION OF AN EASEMENT DETERMINED?**

There are four ways to determine the location of the easement:

- 1) a survey plan may be registered with the Land Titles Office;
- 2) the easement may be described by a metes and bounds description and may also be accompanied by a location sketch;
- 3) the landowner can consult with the holder of the agreement for information on the easement area;
- 4) the boundaries can be identified by a certified Land Surveyor.



### **WHERE CAN YOU FIND EASEMENT INFORMATION?**

Plans and documents registered with the Land Titles Office are the first source for this information. Secondly the holder of the easement would have knowledge of the easement information. The landowner may want to contact a Land Surveyor or legal advisor in assistance with obtaining this information as well.

### **WHY READ THE EASEMENT AGREEMENT?**

Each easement agreement is different and the agreement will identify details, limitations and restrictions on the easement area.

### **DO BUILDING PERMITS HAVE INFORMATION ON EASEMENTS?**

No, it is the responsibility of the landowner to know of any easements and their restriction of the use of the land. The holder of the easement may have the right to veto any future development and uses of buildings may become restricted. The landowner should check the title to the land and any accompanying restrictions. Landowners should also contact the City of Lloydminster Engineering Department, prior to the construction of developments to determine the location of underground facilities.



Example of a title with a registered utility right-of-way:

```

A. L. T. A.
NORTH ALBERTA LAND REGISTRATION DISTRICT
REMOTE LAND TITLE SEARCH
SEARCH DATE: 20/10/2000

S
LINC      SHORT LEGAL      TITLE NUMBER
0027 901 628    9921703;1;13        992 366 111

LEGAL DESCRIPTION
FEAS 9921703
BLOCK 1
LOT 13
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 1.003 HECTARES (2.48 ACRES) MORE OR LESS

ESTATE: FEE SIMPLE
ATS REFERENCE: 4;1;50;2;NE
MUNICIPALITY: CITY OF LLOYDMINSTER
REFERENCE NUMBER: 992 075 422 42

-----
REGISTERED OWNER(S)
REGISTRATION  DATE(MY)  DOCUMENT TYPE  VALUE  CONSIDERATION
-----
992 366 111    02/12/1999  TRANSFER OF LAND  $XX,000  $XX,000
OWNERS
SAND CONTROL SYSTEMS LTD..
OF P.O. BOX 1638
LLOYDMINSTER
ALBERTA S9V 1K6

-----
ENCUMBRANCES, LIENS & INTERESTS
REGISTRATION  DATE (D/M/Y)  PARTICULARS
NUMBER
-----
992 075 424    26/03/1999  UTILITY RIGHT OF WAY
GRANTEE - THE CITY OF LLOYDMINSTER.
AS TO PORTION OR FEAS:9921704

```

provide it does not pose a safety concern or restrict access to the easement area. Landowners should review the agreement prior to construction of alteration to their property.

### WHAT IS AN ENCROACHMENT?

An encroachment is a physical intrusion (location) of a structure, part of a structure or land use into an area of an easement which is contrary to the agreement. The holder may require the structure to be moved or the land use terminated at the landowner's expense. Minor encroachments may be possible with prior written approval of the easement holder. This approval will be given in the form of an Encroachment or Amending Agreement.

### PENALTIES FOR ENCROACHMENT

If a landowner should have an encroachment on an easement that obstructs access to the area or is contrary to the agreement, the landowner may be faced with all costs of removal and any associated damages resulting from unauthorized location of improvements in the easement area.

For further information on specific easement information on your property, please contact the Planning and Development Department, a certified Land Surveyor or legal council.

Information contained in this information sheet provided by the Alberta Land Surveyors' Association.