

PROPERTY LINE DISPUTE???

The Boundary Commission A Practical, Inexpensive Solution

By Duane A. Bonnema



The purpose of a boundary commission is to permanently solve neighborhood boundary problems with the least cost to the residents. Chapter 465 in the Minnesota Statutes contains a law that was designed to accomplish this. The following is an outline of the boundary commission law and my understanding of how it works. The blue text** is taken from Minnesota Statutes Chapter 465.79 and my commentary is the black text.

COMMISSION CREATION

A county board may create a boundary commission. Members shall be residents of the county who are familiar with real property.

I suggest a commission of about 7 members, preferably individuals who are knowledgeable and experienced regarding the resolution of real estate boundary problems (i.e. attorneys, bankers, realtors, etc...). Although serving on the commission is done on a volunteer basis, there may be reimbursement for expenses.

PURPOSE OF COMMISSION

Upon resolution of the County Board or upon petition of an affected property owner the boundary commission shall review the disputed areas. Upon mailed notice to all known parties in interest the commission shall attempt to establish agreements between adjoining landowners as to the location of common boundaries...

This commission views the disputed boundary area, talks to the land owners, evaluates the evidence, and attempts to arrive at both a workable and agreeable solution to the boundary problems.

BOUNDARY LOCATION PLAN

...as delineated by a certified land survey.

Once the lines are agreed upon, a certified land survey is drawn which displays the newly agreed upon line locations as determined by the work of the boundary commission.

COMMISSION RECOMMENDATION

If agreement cannot be reached, the commission shall make a recommendation as to the location of the common boundaries within the disputed area. The Commission shall prepare a plan designating all agreed and recommended boundary lines and report to the county board.

If the landowners cannot come to an agreement, then the boundary commission shall recommend boundary line locations and present a plan designating their recommended solution to the boundary commission board.

PUBLIC HEARING

Upon receipt of the plan... the county board shall hold a public hearing.

The county board mails and publishes notice to the affected parties and then holds a public hearing. The county board may make adjustments to the proposed boundary line plan as it seems just and necessary.

JUDICIAL REVIEW

Following the public hearing, the board may petition the district court for judicial approval of the proposed plan. The court shall determine the location of any contested, disputed, or unagreed boundary.

The court shall issue its judgment in the form of a standard Chapter 505 plat and an order designating the owners of each lot. The decree of the court is placed on the face of the plat and signed by the Judge.

ASSESSMENTS

The board may assess all or part of the cost incurred against the benefited properties.

In other counties, the cost for this process has been running about \$1,000 per landowner, which is generally far less expensive than litigating a boundary description.

**** Blue wording indicates actual wording found in the Minnesota Statutes Chapter 465.79. Some sections of the wording have been deleted to enhance readability and understandability.**

CONCLUSION NOTES

- As the County Surveyor, I am recommending that we set up a boundary commission.
- Several other counties are using boundary commissions successfully.
- The “clean up” of boundary dispute areas will pay lasting dividends to the County Auditor, Treasurer, and Recorder in that it replaces lengthy “metes and bounds” descriptions with a simple lot and block description.
- This year, I already encountered several situations where a boundary commission could be used to resolve boundary problems.
- The boundary commission is a valuable asset to the residents of Kandiyohi County who have property line uncertainties.
- The work of the boundary commission is like a “quiet title” action for multiple parcels. The residents receive the benefits of a “quiet title” action for the approximate cost of doing a normal property survey.
- Both the State Land Surveyors Association and the County Surveyors Association have been giving seminars and having discussions about using Chapter 465.79 (Minnesota Statutes) to permanently repair areas with chronic title problems.
- According to Minnesota Statute Chapter 465 (see next page), the boundary commission is an ideal solution to commonly occurring property line disputes.



Minnesota Statutes

Section: 465.79

Subdivision 1. City council, town or county board.

By resolution, the city council of a statutory or home rule charter city, town board, or county board may create a boundary commission. Members of the commission shall be residents of the county or counties in which the city or town is located who are familiar with real property.

Subdivision 2. Duties of boundary commission.

Upon initiation by resolution of the governing body or upon petition of an adjoining or affected property owner, the boundary commission shall review property descriptions of the disputed areas in the respective jurisdiction. Upon mailed notice to all known parties in interest, the commission shall attempt to establish agreements between adjoining landowners as to the location of common boundaries as delineated by a certified land survey. If agreement cannot be reached, the commission shall make a recommendation as to the location of the common boundaries within the disputed area. The commission shall prepare a plan designating all agreed and recommended boundary lines and report to the city council, town board, or county board.

Subdivision 3. Hearing.

Upon receipt of the plan and a report from the commission, the city council, town board, or county board shall hold a public hearing. The council, town board, or county board shall give mailed notice to all known parties in interest and published notice 20 days prior to the hearing. The council, town board, or county board shall hear all interested parties and may make adjustments to the proposed plan that it deems just and necessary.

Subdivision 4. Judicial review.

Following the public hearing, the council or board may petition the district court for judicial approval of the proposed plan. If any affected parcel is land registered under chapter 508, the petition must be referred to the examiner of titles for a report. The council or board shall provide sufficient information to identify all parties in interest and shall give notice to parties in interest as the court may order. The court shall determine the location of any contested, disputed, or unagreed boundary and shall determine adverse claims to each parcel as provided in chapter 559. After hearing and determining all disputes, the court shall issue its judgment in the form of a plat complying with chapter 505 and an order designating the owners and encumbrances of each lot. Real property taxes need not be paid or current as a condition of filing the plat, notwithstanding the requirements of section 505.04.

Subdivision 5. Special assessments.

The city or board may assess part or all of the cost incurred by it against the benefited properties on a per parcel basis as provided in chapter 429.