

# **NYSAPLS' 63<sup>rd</sup> Annual Surveyors Conference**

**Two-Week Virtual Event**

**Week 1: January 19-20, 2022 • Week 2: January 27-28, 2022**



**Presented: January 28<sup>th</sup> 2022**

**By: Richard C. Brooks, LS**

**Terence G. Carle, Title Examiner**

**Gaps, Gores & Overlaps**

History of this presentation

My History with Terry

My encounters with these issues

Part 1—Ricky Brooks

Part 2—Terry Carle

# *Blacks Law, 8<sup>th</sup> Edition*

## **GORE:**

- 1. A small, narrow slip of land.
- 2. A small (often triangular) piece of land such as may be left between surveys that do not close.

## **Gap:** not defined

## **Overlap:** not defined

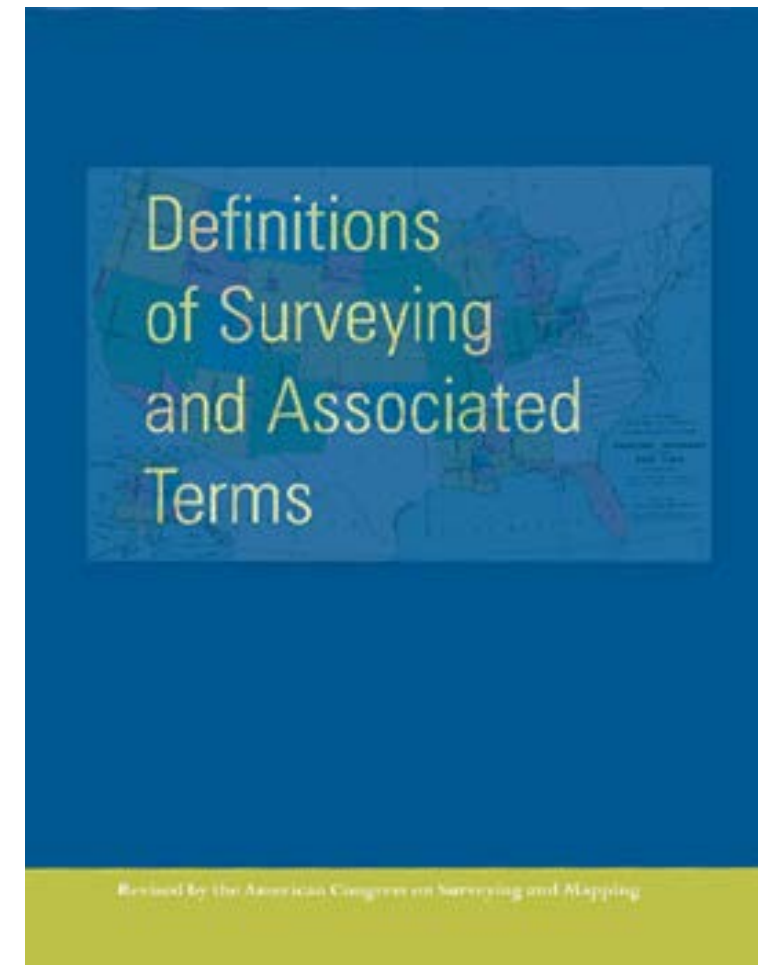
- including under “Deed”

# *Definitions of Surveying & Associated Terms*

NSPS, 2020

## **Gore—**

**1 An irregularly shaped tract of land, generally triangular, left between two adjoining surveyed tracts, because of inaccuracies in the boundary surveys or as a remnant of a systematic survey.**



# Overlap—

1. To occupy the same area in part.
4. A condition arising when a survey carried out according to the descriptions of two separate pieces of property indicates that the properties overlap, while the descriptor's had intended that the properties be contiguous.



Definitions  
of Surveying  
and Associated  
Terms

Revised by the American Congress on Surveying and Mapping

# Gap—{Aerial Photography}



Definitions  
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# Gaps and Overlaps—

**This conditions arises when portions of property are described from two directions; the scrivener should always avoid using calls from two directions.**

**When there is a gap and two parcels do not meet, neither parcel has title to tee surplus since the original grantor did not sell it.**

**When there is an overlap between parcels, normally the senior deed holder will get what is coming to him ...continue reading...**



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# Merriam-Webster Dictionary

- **Gap**-a space between two people or things.
- **Gore**-a small usually triangular piece of land
- **Overlap**- to occupy the same area in part



## Title search and Deed search

- **The Title Search determines what the parcel is, who owns it and what encumbers it.**
- **The deed search is to find out where the parcel is, what its boundaries are and how large is it.**

# Boundary survey for title transfer

- **Surveyors are the eyes of the Title Insurance Companies, and -- for that manner-- the lender and attorneys and usually the buyer.**
- **It is up to us to identify issues on the ground that could adversely affect the title to the parcel being sold.**

- Disputes often **(ALWAYS)** arise regarding the ownership of gaps, gores and overlaps when they are discovered.

- CAUSES:**
- 1) Deficient creating documents,
  - 2) Discrepancy between the description of record and the surveyed description,
  - 3) Improper reading of the deed description,
  - 4) Improper writing of the deed description

*Informative and controlling terms within  
the deed description.*

**....thence South 58° 02' 09" East 157.67 feet to a point in the  
southerly line of land of Richard E. Haines marked by a found  
stone on end in a pile of stones thence....**

**2 Informative terms South 58° 02' 09" East and 157.67 feet**

**1 Controlling term to a point in the southerly line of land...**

**1 Informative marked by a found stone..**

*Informative and controlling terms within  
the deed description.*

**.... thence South 58° 02' 09" East 157.67 feet to a stone  
on end in a pile of stones thence along the line of Richard  
E. Haines ....**

**Apply the Rules of Construction,  
Informative ....  
Controlling ....**

# Rules of Construction (ROC) to resolve conflicts

- A. Lines Marked & Surveyed**
- B. Natural Monuments**
- C. Artificial Monuments**
- D. Maps & Plats**
- E. Adjoiners**
- F. Bearings & Distances**
- G. Between Bs &Ds**
- H. Quantity—Acreage**
- I. Coordinates**

# **ELEMENTS OF CONTROL FOR PROPERTY LINE SURVEYS**

- 1. INTENTION**
- 2. LINES MARKED & SURVEYED**
- 3. NATURAL MONUMENTS**
- 4. ARTIFICIAL MONUMENTS**
- 5. MAPS & PLATS**
- 6. ADJOINERS**
- 7. METES & BOUNDS**
- 8. COURSE & DISTANCE**
- 9. BETWEEN COURSE & DISTANCE**
- 10. QUANTITY**

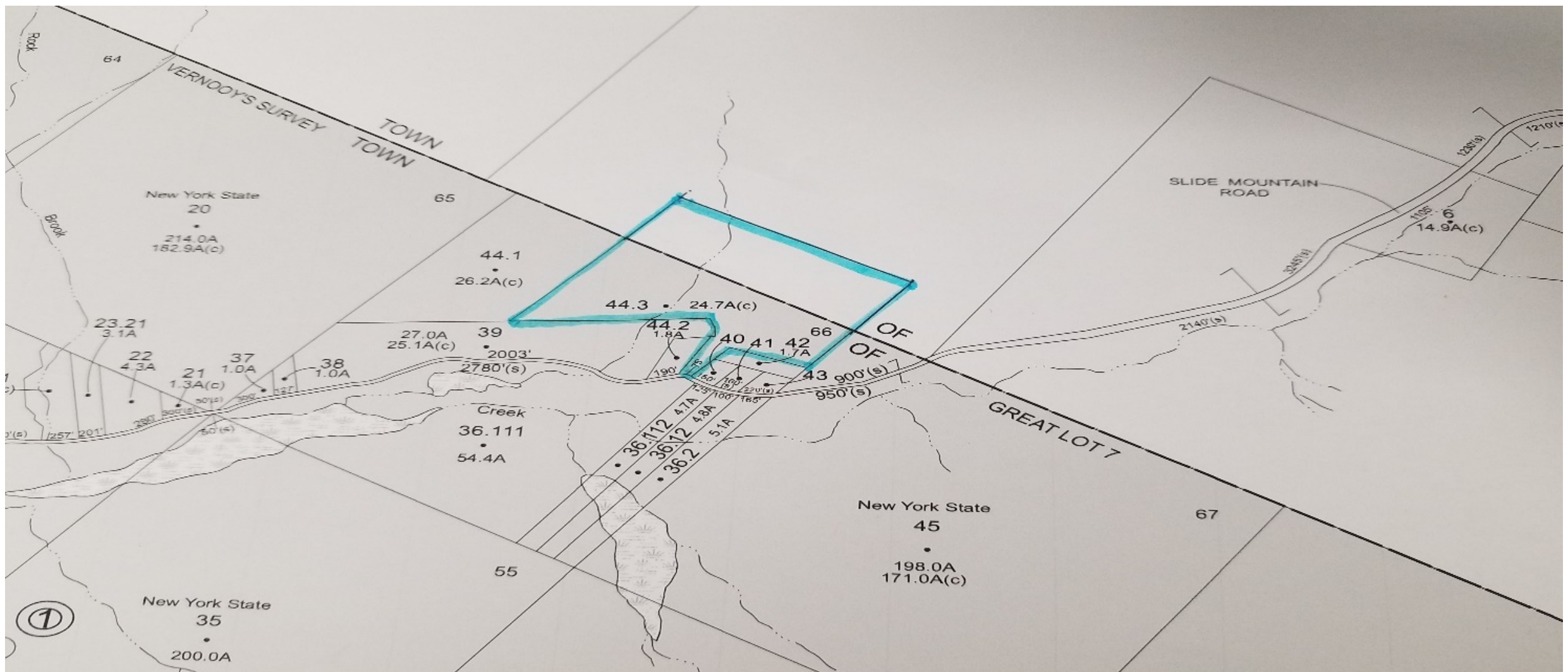
**The courts always fall back to ROC to resolve conflicts within a description.**

They are the first line of defense against conflicting elements causing an erroneous boundary line determination.

- Practice Guide Lines, NYS Education Dept. Office of the Professions
  - Section 5;
    - Section A. Research
- Proposed NYSAPLS MTS, Section 3 - Research



# Lines Marked & Surveyed









Knud E. Hermansen, Ph.D., P.L.S., P.E., Esq.

*What to do with Fences, undated*

- **“The responsibility of the surveyor is not to resolve any conflicting title claims but identify and locate any potential conflicting title claims. This information is communicated to the client (or their attorney) in a clear, understandable, and comprehensive manner. The client may, after receiving legal advice, decide to do nothing, maintain the status quo, negotiate and compromise with the neighbor, recognize any adverse claims, arbitrate, or litigate.”**

- ***End part 1***