

Summary
of
Smith v. Hadad
366 Mass. 106, 314 N.E.2d 435 (1974)
by
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The Massachusetts case of *Smith v. Hadad* is a case that illustrates two important points for property surveys conducted along public road easements.

This case involved a survey to register and confirm title to land by the Land Court of Massachusetts. The boundary of the parcel was described in the deed as running westerly 175 feet from Main street. Other than the road, there were no monuments given in the description. The deed was ambiguous whether the 175 foot measurement began at the western edge or in the center of Main Street. The street is sixty-six feet wide so the ambiguity puts into question a 33-foot wide strip along the back boundary. It is the dispute over ownership of the 33-foot strip which has brought the issue to the Massachusetts' court. The court made two important points in its decision.

Title to the Center of the Road — Most public roads are easements. The presumption is that title to property goes to the center of public road easement. This is true even where the description calls for stakes or other monuments at the side of the road and calls for the boundary to be “along” the road.

Measurements Start at the Side — Where the description is ambiguous, the measurement should start at the side of the road (not necessarily the side of the easement). The court arrived at this decision by looking at common historical practice. The court stated its reasoning as follows:

A majority of the court is of opinion, that it is a common method of measurement in the country, where the boundary is a stream or way, to measure from the bank of the stream or the side of the way; and that there is a reasonable presumption that the measurements were made in this way, unless something appears affirmatively in the deed to show that they began at the centre line of the stream or way. . . . [T]hey both accord with common experience, good sense, and long tradition. *Smith v. Hadad*, 366

Mass. 106, 314 N.E.2d 435, 437, (1974) (quoting *Dodd v. Witt*, 139 Mass. 63, 65-66, 29 N.E. 475, 476 (1885))

These principles may not be the same in all states. Nevertheless, the questions raised by this case should be considered by every surveyor. Surveyors should know what their state law is on the topic.

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