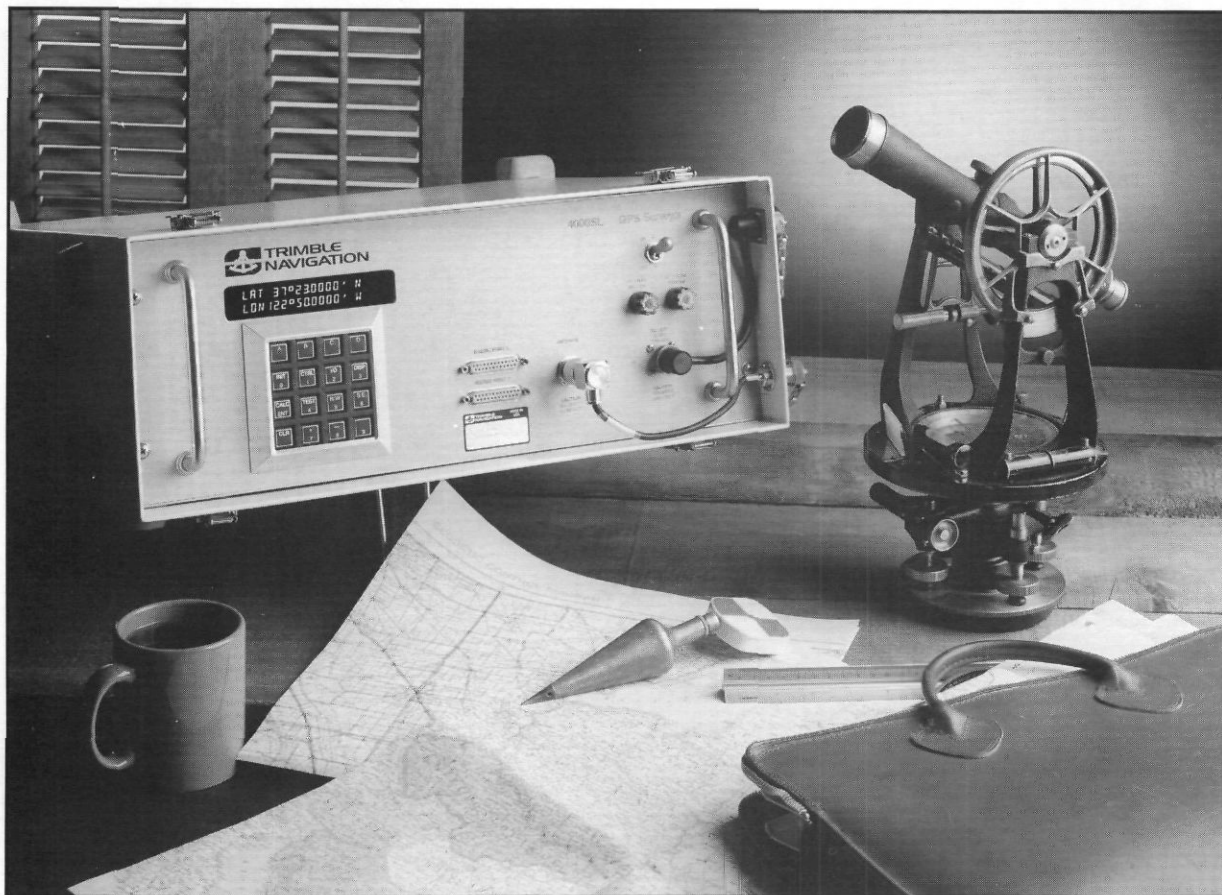


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is the quarterly publication of the California Land Surveyors Association, Inc. and is published as a service to the land surveying profession of California. It is mailed to all Licensed Land Surveyors in the state of California as well as to all members of California Land Surveyors Association, Inc. *The California Surveyor* is an open forum for all surveyors, with an editorial policy predicated on the preamble to the articles of Incorporation of the California Land Surveyors Association, Inc. and its stated aims and objectives, which read:

"Recognizing that the true merit of a profession is determined by the value of its services to society, the 'California Land Surveyors Association' does hereby dedicate itself to the promotion and protection of the profession of land surveying as a social and economic influence vital to the welfare of society, community and state."

"The purpose of this organization is to promote the common good and welfare of its members in their activities in the profession of land surveying, to promote and maintain the highest possible standards of professional ethics and practices, to promote professional uniformity, to promote public faith and dependence in the Land Surveyors and their work."

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California Land Surveyors Association, Inc.

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SUSTAINING MEMBERSHIP

Membership in the California Land Surveyors Association, Inc. as a sustaining member is open to any individual, company, or corporation who, by their interest in the land surveying profession, is desirous of supporting the purposes and objectives of this association. For information regarding sustaining membership, contact CLSA Central Office, P.O. Box 9098, Santa Rosa, CA 95405, (707) 578-6016, FAX (707) 578-4406.

EDITORIAL MATERIAL

All articles, reports, letters, and contributions are accepted and will be considered for publication regardless of the author's affiliation with the California Land Surveyors Association, Inc. Contributions submitted on floppy diskette medium is encouraged. For compatibility, disks should be 5¼ inch, MSDOS (IBM compatible) format. Contributions may also be uploaded to our Bulletin Board, (707) 578-4406. We can accept ASCII text files or word processor files from the following programs: WordPerfect, Microsoft Word, Windows Write, Multimate, DCA (Displaywrite III and IV), Wordstar, Xerox Writer, and Xywrite.

EDITOR

Jeremy L. Evans, LS

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NEXT DEADLINE DATE

Fall 1989 September 1, 1989
Articles, reports, letters, etc., received after the above mentioned date will be considered for the next edition.

Opinions or assertions expressed in articles in this publication do not necessarily represent the official views of the Association.

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Table of Contents

FEATURES

How Adverse Possession Works

by Robert J. Bruss 10

1989 CLSA Conference Report

by Lon Maddox and Pat Mercado 14

The Board of Registration is Sixty Years Old!

by Donald E. Bender 16

Boundary Line Agreements

by Martin D. Paquette 22

Implied Precision and Related Observations (Or Refelctions of a Dinosaur)

by George R. Dunbar, L.S. 30

Strategies for Getting Paid On Time

by R. D. Crowell 32

DEPARTMENTS

President's Message 4

CLSA Officers and Board of Directors 4

From the Editor 5

Letters 6

Application for Membership in ACSM 21

Application for Membership in CLSA 27

CLSA Publication Order Form 29

Index to Advertisers

Associated Consulting 28

AVCOM Corp. 20

BenchMark Co. 4

Brunson Insturment Co. 6

C&R Manufacturing 33

California Surveying & Drafting Supply, Inc. . . 19

Custom Computer Systems Time and Billing . . 5

Geostar Surveys, Inc. 31

Geotronics of North America 23

Hadco Instruments 33

Haselbach 11

Industrial Pipe and Steel 33

Kern Instruments 9

Lewis and Lewis 12, 13

McGlasson & Associates 8

SERVCO 17

Trimble Navigation 2

Western Surveying Instrument Co. 25

Zeiss Inc., Carl 35

Cover Photo: CLSA member Bruce Hall and his son, Ezra, staking soccer fields in Huntington Beach. Ezra is eight years old and, yes, that is his own chaining gear.



President's Message

THERE APPEARS to be a proliferation of "Them vs Us" situations, real or perceived, facing the Professional Land Surveyor these days. Some of "them" might be Engineers, Planners, Architects, bungling bureaucrats, pink cheeked Map Checkers, Photogrammetrists, Environmentalists, other Professional Surveying Organizations, unprofessional Surveyors, etc., etc. You can add to this list as your experience dictates.

Personally, I have no serious problem with anyone trying to improve their status. Heaven knows that "Us," the Surveying Profession, has devoted a lot of time and energy to do just that. I do have a problem with "Them" trying to do it at the expense of "Us," that is, by adding to their bag of goodies by taking something from ours.

Ideally, any two factions should be able to sit down at the same table, put the issue on the table and, in time, reach an agreement that will satisfy both sides. I've been a total loser in negotiations several times. The winner nailed me, but that winner was also a loser. That winner lost my respect and my support.

There is a saying that goes, "It doesn't matter if you win or lose, until you lose." A win-win situation is a "no lose" one. It creates a spirit of cooperation, trust, and mutual admiration that will endure and add immensely to both sides ability to improve their status and well being. This is the philosophy I plan to use this year as your President.

Paul A. Cuomo, L.S.



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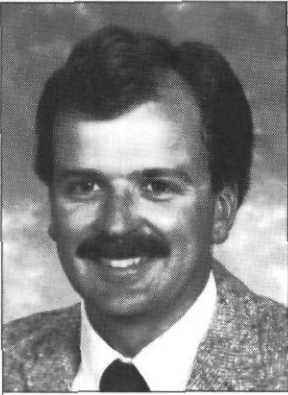
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FROM THE EDITOR

LET'S PARTY! Get Down! Get Funky! Let's Boogie!

Okay, maybe I'm getting a little carried away here, but surveyors do have several significant anniversaries to celebrate over the next couple of years.

On August 14th, the State Board of Registration for Professional Engineers and Land Surveyors will be 60 years old! In this issue of *The California Surveyor*, Donald Bender narrates the events that lead to the creation of the Board in 1929. It's an interesting tale of "mystery and intrigue" which Don will continue to unfold in upcoming issues. Hopefully, there are other aspiring authors out there who can further enlighten us with the early politics and personalities of the Board. I'm personally looking forward to the upcoming articles on the Board, it will provide all of us with a better understanding of some of the past relationships be-

tween the Civil Engineers and the Land Surveyors. The board has changed significantly since 1929 in size, structure, and personality. These changes have recently benefitted the land surveying profession greatly. Don's article could also provide the impetus to begin mending our differences with the Civil Engineers in an atmosphere of better understanding from both parties.

The other two anniversaries don't occur until 1991, but the time to start preparing for the celebration is now. 1991 will mark the 100th anniversary of the licensing of the first Land Surveyor in California (Charles T. Healey, L.S. 0001) and the 25th anniversary of the California Land Surveyors Association! Either one of these anniversaries would make for a great year of celebration, but having both occur in the same year will allow us to really "strut our stuff." We will have several articles between now and 1991 chronicling both the licensing of surveyors and the California Land Surveyors Association.

Again the *Cal Surveyor* will welcome with great appreciation any article, photograph, or other document which will contribute to our celebration of these events.

And now, back to the party!!!

Jeremy L. Evans, L.S.
Editor



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LETTERS

DEAR EDITOR:

Here we/they go again, proposing major changes to the Subdivision Map Act, Section 66412 of the Government Code, which gives the local agency authority to regulate Lot Line Adjustments. Senate Bill No. 162 by Rogers, in the guise of a few insertions and deletions, would in essence replace the Lot Line Adjustment process with a subdivision review process and require the filing of a Parcel Map. Aesthetically, the proposed legislation may improve the public records and planning process; however, I doubt if "ma and pa" property owners can afford or will be able to justify the additional cost and will just continue to live with a problem/situation rather than take the opportunity to improve land use or avoid future litigation.

The goal of Land Planning Laws are to protect and insure the health, safety and welfare of every citizen. These laws must be practical, reasonable and cost effective for both the government and the citizens they seek to regulate. Let's not lose sight of this purpose and try to fix that which may not be broken. Consider the following.

Lot line adjustments are generally an improvement in land use for the owner and the public. The pro-

cessing time and cost should not discourage property owners from doing that which serves the highest and best use of the land.

The Lot line adjustment process should not be used as an enforcement tool. Local agencies should see a Lot Line Adjustment as an opportunity to improve a specific situation, not as an enforcement tool to clean up any and all problems.

Presently Lot Line Adjustments often are used to convey portions of original parcels subject to a Deed of Trust. If a Partial Release is not obtained from the Beneficiary, then in the event of a Foreclosure the portion adjusted is re-attached to the original parcel. In effect wiping out any rights conveyed.

Boundary surveys often disclose record title disagreement with occupation because of errors in deeds or the establishment of unwritten rights. A simple matter of amending or correcting record information causes no visible physical change in the property and no change in the use of the property. The surveyors opportunity to address these problems and correct the record title should be "excluded" from the definition of a Lot Line Adjustment.

Recommended changes in Section 66412 G.C. should be limited to:

A) Require a Record of Survey be filed except when waived by the local County Surveyor or City Engineer.



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B) Require Partial Reconveyances from Beneficiary interests secured by a Deed of Trust.

C) Except record title amendments or corrections that have no physical change in the use of the property when properly executed by a Licensed Surveyor.

Every time the law changes, it becomes more complicated, the public and private sectors must make adjustments, processing becomes more involved, more time consuming, and more costly. The law will never be made perfect; attempting to make it so is absurd. It is in the best interest of all to keep the process simple. Let us work within the framework of existing law addressing specific concerns that directly affect the public health, safety and welfare rather than investing in changes that only increase bureaucracy, processing time and cost with no tangible returns.

Michael R. Mc Gee, L.S.

DEAR EDITOR:

This letter is to inform you of cadastral survey plats approved by the Chief Cadastral Surveyor for California during the fourth quarter of FY 88, July 1 - September 30, 1988.

These plats are now on file in the Survey Records Office, Bureau of Land Management, California State Office, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

| TOWNSHIP | | | APPROVAL | |
|----------|------|-----|----------|--|
| | | | DATE | TYPE OF SURVEY |
| T4S | R4E | SBM | 07/08/88 | Dependent Resurvey & Subdivision and Metes & Bounds Survey |
| T12S | R9E | SBM | 07/11/88 | Dependent Resurvey & Subdivision |
| T26N | R12W | MDM | 07/22/88 | Supplemental Plat |
| T10N | R36W | SBM | 07/25/88 | Dependent Resurvey, Survey & Subdivision |
| T22N | R13E | MDM | 07/26/88 | Dependent Resurvey & Subdivision |
| T15N | R10E | MDM | 08/16/88 | Dependent Resurvey & Subdivision |
| T15N | R2E | HM | 08/18/88 | Dependent Resurvey |
| T22S | R44E | MDM | 09/01/88 | Corrective Dependent Resurvey |
| T13S | R9E | SBM | 09/07/88 | Supplemental Plat |
| T16S | R21E | SBM | 09/09/88 | Retracement, Dependent Resurvey, Subdivision & Survey of Rights-of-Way |
| T5S | R1E | SBM | 09/14/88 | Dependent Resurvey & Subdivision |
| T5S | R8E | HM | 09/14/88 | Dependent Resurvey, Completion Survey & Subdivision |
| T8S | R21E | MDM | 09/14/88 | Dependent Resurvey & Subdivision |
| T13S | R9E | SBM | 09/19/88 | Supplemental Plat |
| T15N | R10W | MDM | 09/21/88 | Dependent Resurvey & Subdivision |
| T15N | R11W | MDM | 09/21/88 | Dependent Resurvey, Survey & Subdivision |
| T31N | R12E | MDM | 09/27/88 | Dependent Resurvey & Subdivision |
| T35N | R11W | MDM | 09/27/88 | Supplemental Plat |
| T32S | R22E | MDM | 09/28/88 | Dependent Resurvey & Subdivision |

You may circulate this letter among your membership as well as publish it in your bulletin if you so desire.

Sincerely,
Clifford A. Robinson, Chief
Branch of Cadastral Survey
Bureau of Land Management
U.S. Department of the Interior

DEAR EDITOR:

This letter is to inform you of cadastral survey plats approved by the Chief Cadastral Surveyor for California during the first quarter of FY 89, October 1 - December 31, 1988.

These plats are now on file in the Survey Records Office, Bureau of Land Management, California State Office, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

| TOWNSHIP | | | APPROVAL | |
|----------|------|----|----------|---|
| | | | DATE | TYPE OF SURVEY |
| T30S | R37E | MD | 10/19/88 | Dependent Resurvey & Subdivision |
| T29S | R37E | MD | 10/19/88 | Dependent Resurvey & Subdivision |
| T18N | R7E | HM | 10/28/88 | Dependent Resurvey & Subdivision |
| T29S | R40E | MD | 10/28/88 | Metes-and-Bounds Survey |
| T12N | R18E | MD | 11/16/88 | Dependent Resurvey, Subdivision and Metes-and-Bounds Survey |
| T29S | R44E | MD | 12/19/88 | Dependent Resurvey |
| T30S | R44E | MD | 12/19/88 | Survey |

You may circulate this letter among your membership as well as publish it in your bulletin if you so desire.

Sincerely,
Clifford A. Robinson, Chief
Branch of Cadastral Survey
Bureau of Land Management
U.S. Department of the Interior

DEAR EDITOR:

This letter is to inform you of cadastral survey plats approved by the Chief Cadastral Surveyor for California during the second quarter of FY 89, January 1 - March 31, 1989.

These plats are now on file in the Survey Records Office, Bureau of Land Management, California State Office, 2800 Cottage Way, Sacramento, California 95825.

| TP/RG/MER | | | APPROVAL | |
|-----------|------|----|----------|---|
| | | | DATE | TYPE OF SURVEY |
| T43N | R10W | MD | 01/06/89 | Corrective Dependent Resurvey |
| T30S | R37E | MD | 01/06/89 | Dependent Resurvey & Subdivision |
| T32N | R09W | MD | 01/06/89 | Dependent Resurvey & Subdivision |
| T17N | R02E | HM | 01/06/89 | Metes-&-Bounds Survey |
| T20S | R25E | MD | 01/23/89 | Supplemental Plat, Section 16 |
| T33N | R10W | MD | 01/08/89 | Dependent Resurvey, Subdivision and Metes-&-Bounds Survey |
| T33N | R11W | MD | 02/08/89 | Dependent Resurvey |
| T09S | R02W | SB | 02/08/89 | Supplemental Plat, Sections 13 & 14 |
| T16N | R07W | MD | 02/14/89 | Dependent Resurvey & Subdivision |
| T08N | R02W | MD | 02/22/89 | Dependent Resurvey & Subdivision |
| T38N | R05W | MD | 03/20/89 | Dependent Resurvey |
| T10N | R32W | SB | 03/24/89 | Amended Survey |
| T36N | R01W | MD | 03/28/89 | Dependent Resurvey & Subdivision |
| T36N | R01E | MD | 03/28/89 | Dependent Resurvey & Subdivision |
| T36N | R02W | MD | 03/28/89 | Dependent Resurvey |
| T36N | R03W | MD | 03/28/89 | Dependent Resurvey |
| T37N | R02W | MD | 03/28/89 | Dependent Resurvey & Subdivision |
| T38N | R02W | MD | 03/28/89 | Dependent Resurvey |
| T39N | R02W | MD | 03/28/89 | Dependent Resurvey |
| T39N | R01E | MD | 03/30/89 | Dependent Resurvey & Survey |
| T02N | R12E | MD | 03/30/89 | Supplemental Plat, Section 19 |
| T02N | R12E | MD | 03/30/89 | Supplemental Plan, Section 30 |

CONTINUED ON NEXT PAGE

Letters

CONTINUED FROM PAGE 7

You may circulate this letter among your membership as well as publish it in your bulletin if you so desire.

Sincerely,
Clifford A. Robinson, Chief
Branch of Cadastral Survey
Bureau of Land Management
U.S. Department of the Interior

DEAR CLSA:

This letter arrives in your presence as a testimony of my gratitude and thanks to you, and the organization that you represent.

I'm referring to the \$200.00 scholarship I received at the 29th Annual Fresno Conference. This scholarship will certainly help further my education. The only way I can repay this scholarship is through a continued, determined effort in my studies. Again, thanks for your gift!

Sincerely,
Robert S. Hagler
C.S.U.F., Student of Surveying Engineering

DEAR PAST PRESIDENTS OF CLSA:

Please allow me to express my deepest thanks for your scholarship donation to the Surveying and Photogrammetry Conference at California State University, Fresno. As the recipient of the 1989 CLSA Presidents Scholarship, please accept my personal thanks for your generosity.

As a graduate engineering student pursuing advanced studies in the field of Surveying, I have set a goal to obtain the best education possible. In an attempt to accomplish this goal, I am daily faced with many long hours of study and homework. There are times when a person begins to wonder if it is worth the effort. It is gratifying to know that there are those in our profession who understand that in addition to field experience, there is also a need for a formal education and are willing to reward those who are attempting to gain both.

Please rest assured that your money will be used for the purpose intended, that of supporting my education. Please extend my personal thanks to the members of our organization, for their support of the Surveying Engineering Program at CSU, Fresno, and for this scholarship.

Sincerely,
Donn A. Liddle
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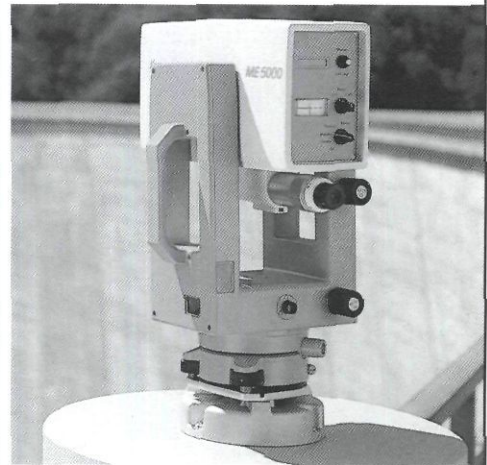
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How Adverse Possession Works

By Robert J. Bruss

WHEN I WAS a little boy growing up near Minneapolis, about twice a year our family would visit my aunt and uncle in southern Minnesota. I recall how my uncle Ted always showed me the garden he planted every summer on a vacant lot which adjoined his home.

Uncle Ted told me he was paying the real estate taxes on this lot, owned by an out-of-town absentee owner, and how my uncle wanted to obtain the title by adverse possession. I thought that was a pretty nifty way to acquire real estate for very little cost.

But unfortunately my aunt and uncle retired and moved to Florida before completing the statutory adverse possession period. However, this situation illustrates how it is possible to acquire real estate by adverse possession if all the requirements are met.

THE ADVERSE POSSESSION LAW

Each state has an adverse possession statute which says a person who meets the requirements for the statutory minimum period, which ranges from 5 to 25 years, can receive legal title by bringing a quiet title lawsuit against the legal owner.

No monetary payment is required to the owner, although most states require the adverse possessor to pay the real estate taxes.

The minimum years of occupancy required are: Alabama 20, Alaska 7, Arizona 10, Arkansas 7, California 5, Colorado 18, Connec-

ticut 15, Delaware 20, District of Columbia 15, Florida 7, Georgia 20, Hawaii 10, Idaho 5, Illinois 20, Indiana 10, Iowa 10, Kansas 15, Kentucky 15, Louisiana 10-30, Maine 20, Maryland 20, Massachusetts 20, Michigan 15, Minnesota 15, Mississippi 10, Missouri 10, Montana 5, Nebraska 10, Nevada 5, New Hampshire 20, New Jersey 20, New Mexico 10, New York 10, North Carolina 7-20, North Dakota 10-20, Ohio 21, Oklahoma 15, Oregon 10, Pennsylvania 21, Rhode Island 10, South Carolina 10, South Dakota 20, Tennessee 7-20, Texas 25, Utah 7, Vermont 15, Virginia 10, Wisconsin 10-20 and Wyoming 10.

Adverse possession laws have several purposes: (1) to encourage use of property, (2) to prevent property abandonments, (3) to collect real estate taxes, and (4) to provide a method to transfer title to unused property. Each year thousands of properties become unused, either intentionally or accidentally, and new owners acquire title by adverse possession.

For example, I recently heard about a young California family who rented a house from an elderly spinster. When she died about two years ago the family stopped paying rent since no heir contacted them.

Perhaps there are no heirs or maybe they don't know the spinster owned this presumably mortgaged-free house. The occupants are paying only the modest real estate taxes. After the five-year statutory adverse possession period in California, this family may be able to claim the house. Meantime they are enjoying inexpensive living.

THE ADVERSE POSSESSION REQUIREMENTS

To obtain title by adverse posses-

sion, the occupant must be able to prove the possession was:

- *Open.* There must be visible evidence of occupancy or use of the premises. However, the entire parcel need not be openly occupied.

- *Notorious.* This requirement means the occupancy must be generally known in the neighborhood with control being exercised over the property.

- *Continuous.* No interruption of the open and notorious occupancy is permitted. If the owner interrupts occupancy, such as by blocking entrance to the land, then the statutory period starts running again from scratch.

For this reason, owners of vacant land should inspect their property at least annually to post no trespassing signs, construct fences and otherwise block use by outsiders.

- *Hostile.* The adverse possessor's use of the land must be without the owner's approval. Granting of permission, an easement, a license or a rental defeats this hostility requirement.

Owners who don't mind others using their land often post signs such as "Permission to use this land is revocable by the owner at any time."

- *Exclusive.* Only the adverse possessor can use the land. If the owner or another adverse possessor uses the land, the adverse possession claim is defeated.

However, in many states an adverse possessor may "tack" his occupancy time onto the use time of a previous adverse possessor.

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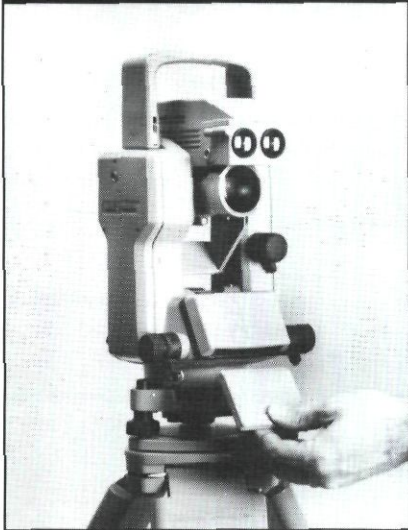
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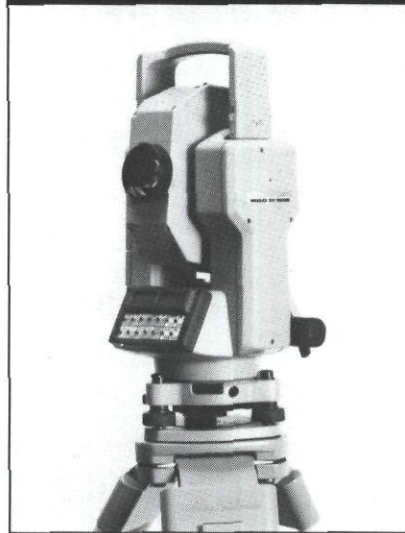
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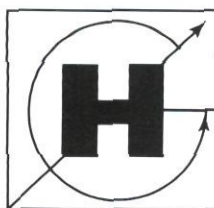
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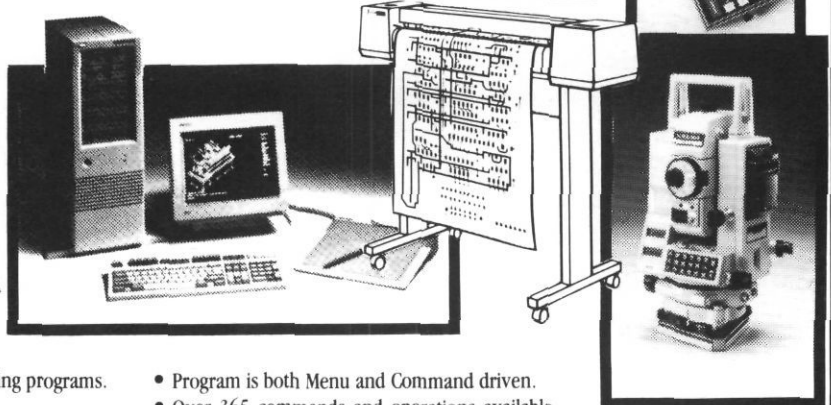
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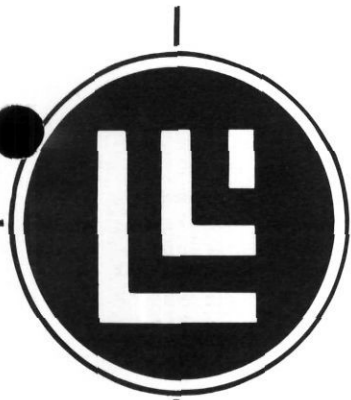
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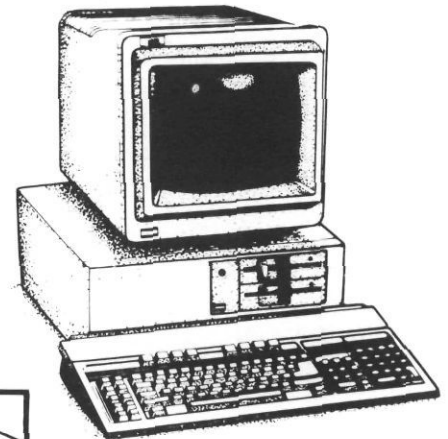
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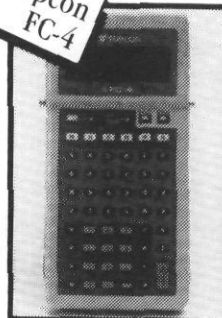
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1989 CLSA Conference Report

By Lon Maddox and
Pat Mercado

THE 1989 State Conference was held March 5th to the 11th in Orange County at the Inn at the Park, across the street from world famous Disneyland. This year's conference was very well attended by surveyors from throughout the state.

The conference began Thursday morning with the welcoming of attendees by Association President Paul A. Cuomo. Paul then introduced Past President Susan Jensen who introduced this year's honored guests.

Tracy Meslow, a recent Fresno State graduate, introduced Dr. Ben Buckner who provided the keynote address "Continuing Education for Surveyors." Dr. Buckner discussed how a continuing education program could be developed, implemented and benefit the practicing surveyor. Immediately following the keynote address Frank Moffitt, Professor Emeritus of Civil Engineering at U.C. Berkeley, spoke on "Analytical Photogrammetry—



Surveyor of the Year, Lou Hall, receives plaque from President Cuomo.

A Primer for Surveyors." Mr. Moffitt presented an overview of Analytic Photogrammetry and Aerotriangulation in a simplified



CLSA President Paul Cuomo with Curtis Brown.

manner in order to give the practicing surveyor some understanding of the subject.

Next the conference attendees met in the exhibit area where exhibitors presented the latest in surveying equipment, software, and related items. As always, the exhibits were very informative and well-attended.

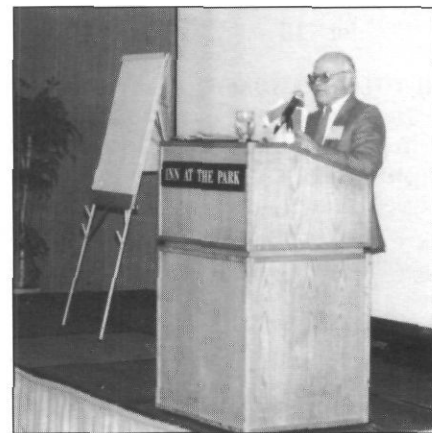
Thursday's luncheon was held in the Tiffany Terrace Room of the hotel where Curtis M. Brown and Michael J. Pallamary spoke on "Maps, Men and Monuments—A Historical Perspective."

Following the luncheon, Walter G. Robillard, Past President of ACSM presented two sessions on "The Surveyor Looks at the Law of Contracts." He discussed the history, types, examples, and legal aspects of contracts and how contracts affect the practicing land surveyor. Once again, Mr. Robillard proved to be an informative and entertaining speaker. This ended the presentations on Thursday, and many of the conference attendees relaxed in the Orange County

Chapter's hospitality suite on the top floor of the hotel.

The Exhibitor Sponsored Cocktail Party afforded conference attendees and their spouses the opportunity to socialize with old and new friends.

Friday's activities began with coffee and rolls in the exhibitors area after which Paul A. Cuomo once again welcomed attendees in the Plaza Ballroom. The morning program consisted of a dual session on the Acceptance or Rejection of Previously Established Corners. These sessions consisted of either Jim McCavitt or Steve Parrish presenting a recent BLM survey where there had been a question concern-



Speaker Walt Robillard discusses surveyors and contracts.

ing the location of a corner. Each case presented would include facts, details of past surveys, and results of recent surveys; along with possible solutions. Skip Robinson would then present additional information, discuss the solution, poll the audience for their opinion and then present BLM's solution. Two surveys were presented before and two after the mid-morning break.

"Learning to Communicate and Speak more Effectively through Improvisational Comedy Techniques"

was the presentation at Friday's joint luncheon. Cherie Kerr, from ExecuProv provided the often humorous program.

In the early afternoon session, Ken Meade discussed the current state of Survey Automation, I.E. G.I.S. His discussion centered around new hardware and software and the impact of these products on the surveyor.

After a brief break to visit the exhibits, Ken Meade discussed the impact of County G.I.S. Systems upon the surveyor. This presentation concluded day two of the conference.

Larry Truman, Past President of the Orange County Chapter of CLSA, opened the final session of the conference on Saturday by introducing Mr. John Tooker.



Jack Sands, San Diego County Surveyors Office, gets information on GPS instrument.

Mr. Tooker is CLSA's legislative advocate in Sacramento. He addressed current legislative drafts that were put into council prior to the state senate recess. Significant in these drafts was a bill introduced the first week of March by the League of Cities that, if passed, would authorize Post-1982 Registered Civil Engineers to sign subdivision maps.

Mr. Tooker gave a brief overview of the impact of the Referendum and Initiative process on how bills are passed and accepted into law. Mr. Tooker closed by stressing the importance of CLSA's membership, as constituents, approaching our state representatives regarding our special interests versus solely working through lobbyists.

Paul Cuomo introduced a distinguished panel that led a discussion entitled "The Land Surveyors Act—Who Needs It."

The first member of the panel introduced was James R. Dorsey, L.S. Jim is the Land Surveyor member of the State Board of Registration. Mr. Dorsey spoke briefly about the Board's efforts with regards to enforcement of the provisions of the LS Act. He stated that the Board's Department of Investigation had been issued Peace Officer Status that included the power to issue the equivalent of a ticket for offenses such as unlicensed practice. In addition the board has required unlicensed individuals to remove phone numbers and advertising from the yellow pages.

Mr. Dorsey focused on the portion of the LS Act that



Left to Right: W. Robillard, C. Brown, M. Pallamary, P. Cuomo, F. Moffitt, B. Buckner.

deals with the Record of Survey and when it is required. He noted that LS Act Sec. 8762 states that if a survey discloses material evidence not previously shown on a filed map that a record of survey is required and that legislative references lean toward common fences and walls in this regard. Jim set the tone for the panel discussion by highlighting the differences between the requirements for a Corner Record and Record of Survey.

The next member of the panel to speak was Robert Hennon, L.S. A principal in the firm of Hennon & Associates his experience includes checking Record of Surveys for Los Angeles County. Mr. Hennon continued to address the differences between the Record of Survey and Corner Record. He stated that as a result of Proposition 13 the local agencies have lost monies allocated for monument preservation and restoration. Mr. Hennon stated that for the 400 Records of Survey that were filed in LA County in one period 1,000 corner records were filed. He would like to see the requirements for the Record of Survey shifted towards the Corner Record, index them similar to city field notes and limit checking process to recording requirements.

Lee Hennes, L.S., works for the firm of Psomas and Associates and is CLSA State Association Treasurer and was the third panel member to speak. Mr. Hennes put

CONTINUED ON PAGE 28



BLM Surveyor Steve Parrish explains sectionalized land boundary problem.

The Board of Registration Is Sixty Years Old!

By **Donald E. Bender**,
Student of Economic History

PROLOGUE

The Board of Registration for Professional Engineers and Professional Land Surveyors is sixty years old. Many Surveyors remember 1929 as the year of the Stock Market Crash and the beginning of the Great Depression. But, major legislative events that year impacted the surveying profession in California and should not be forgotten.

On May 27, 1929, Governor Young signed historic legislation. The constitutional Office of Surveyor General, since 1849, was abolished effective August 14, 1929. The Department of Finance was "vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the Surveyor General" (Chapter 516 of 1929) until 1933. One of the responsibilities was the licensing of Surveyors. This duty had been given to the Surveyor General by the Legislature in 1891 (Chapter CCLV of 1891).

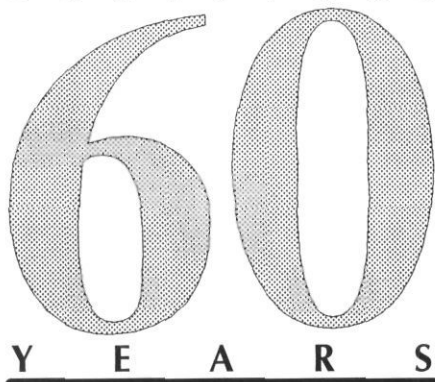
Eighteen days later, Governor Young signed legislation regulating the practice of civil engineering. Assembly Bill 174 had been introduced on January 11, 1929, by Assemblyman Brock as a bill to regulate professional engineering. Subsequently, the bill was amended to cover only Civil Engineers. The cornerstone of this historic legislation was the creation of "a state board of registration for civil engineers" effective August 14, 1929.

The 1929 State Board of Registration for Civil Engineers became the State Board of Registration for Civil and Professional Engineers in 1949. The name of the Board was

changed to the State Board of Registration for Professional Engineers and Land Surveyors in 1983. A Land Surveyor served as Chairman of the Board for the first time in 1988.

While the 1929 Act did not define civil engineering, it did contain very specific language regarding

STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS



architecture. Section 15 of the Act stated that "nothing in this act shall be construed as in any way repealing or abrogating any provision of that certain act entitled an act to regulate the practice of architecture, approved March 23, 1901."

Also, the 1929 civil engineer's Act did not mention surveying. This may account for the decision of the Attorney General on October 16, 1929.

"It is our opinion that the Legislature did not intend to include the regulation or licensing of land surveyors within the act regulating the practice of Civil Engineering, Statutes 1929, Chapter 801. Land surveyors should be licensed in accordance with Act 8340 of Deering's General Laws (Statutes 1907, p. 310)."

The Board of Registration for Civil Engineers however, saw the potential for overlap and moved quickly to resolve the issue. The minutes of the third session of the Board report:

"Motion was made, seconded and carried that the Assistant Secretary be instructed to prepare a tentative opinion for consideration by the Board at the next meeting relative to the difference between land surveying and civil engineering."

We should not however, proceed too quickly in drawing conclusions regarding the difference, or overlap, between surveying and engineering. Let's examine the events prior to the abolition of the Office of Surveyor General and the creation of the Board that regulates our profession today. What were the major events leading to the creation of the Board of Registration for Professional Engineers and Land Surveyors?

MAJOR EVENTS PRIOR TO THE BOARD'S CREATION

Control of the private practice of surveying in the United States began with the California regulation of "Licensed Surveyor" effective July 1, 1891. County Surveyors were required to be licensed and their duties were increased in 1893 (Chapter CCXXXIV of 1893). Licensing of surveyors by California in 1891 set in motion the regulation of surveying by the other states.

In 1906, the last person to hold the position of Surveyor General, William S. Kingsbury, a civil engineer and Republican from Los Angeles, was elected and reelected until 1929.

Regulation of engineering began in Wyoming in 1907 with a Statute that required "All engineers and

surveyors who shall hereafter perform any field work preliminary to the preparation of an application for permit to use the water of the State or shall make surveys of do engineering work relative to the utilization or use of water shall . . ." The American Society of Civil Engineers (ASCE) moved quickly to provide guidance in this new area of state regulation.

The Constitution of California was revised in 1908 to provide that the Legislature could abolish the Office of Surveyor General at its discretion.

On January 3, 1911, ASCE adopted a resolution pertaining to "The Licensing of Civil Engineers."

"Resolved: That the Board of Direction of the American Society of Civil Engineers does not deem it necessary or desirable that Civil Engineers should be licensed in any State; and be it further Resolved: That if, notwithstanding this, the Legislature of any State deems the passage of a statute covering the practice of Civil

Engineering desirable for the protection of the public, the accompanying draft of such a statute, which has been prepared by the Board as embodying proper requirements for that purpose, is recommended."

The statute, as proposed by ASCE, "to provide for the licensing of civil engineers" contained a very broad definition of civil engineering. Included were electrical, mechanical, mining, industrial, hydraulic, municipal, sanitary, structural, and other works. Surveying was not mentioned.

In 1913, a bill was approved that required subdivision maps to be "attested by a civil engineer or licensed surveyor" before recordation (Chapter 306 of 1913).

A joint committee of national engineering societies revised the ASCE proposed statute in 1915 to provide for registration of all major branches of engineering.

A bill in 1917 to regulate professional engineers failed to pass. Also, several bills dealing with sur-

veying failed to pass.

The American Engineering Council drafted a "recommended uniform registration law for professional engineers" in 1919. By the end of 1919, seventeen states regulated architects, eleven states regulated surveyors, and ten states regulated engineers.

In 1920, the Iowa State Board of Engineering Examiners issued a call to the states to send representative to a meeting:

"It having developed in the application of the laws for the registration of Professional Engineers, Land Surveyors and Architects, that there should be an organized and systemized method of procedure to be followed in interstate registration, that there should be a uniform basis of examination and registration . . ."

At the first meeting of the Council of State Boards of Engineering Examiners, now the National Council of Engineering Examiners (NCEE), engineering representatives from

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Board is Sixty

CONTINUED FROM PAGE 17

six states adopted a Constitution that included the following purposes:

"examine the State laws, providing for registration of engineers . . ."

Architecture and surveying were not included. Representatives from the architecture and surveying regulators had apparently not responded to the invitation.

By 1923 various groups of engineers had developed a consensus on legislation for California. In the closing days of the Legislature an attempt was made to introduce a bill for registering professional engineers. Time was short and the bill was postponed until 1925, the next regular session of the Legislature.

On January 20, 1925, Assemblyman McPherson of Vallejo, a consulting Electrical Engineer, introduced AB 333. The bill contained the major provisions of the Model Law previously developed by the American Association of Engineers and ASCE. The bill provided for the creation of a Professional Engineers Registration Board. The legislation moved quickly and both houses had approved the legislation by April 24, 1925.

But, the heavy hand of Governor Richardson struck. Effective May 19, 1925, the Governor's pocket veto dashed the hopes of professional engineers in California. The squabbling within engineering that developed from this historic event in 1925 was to bear heavy on the surveying profession in California.

The tragic collapse of the St. Francis Dam—over 400 lives were lost—on March 12, 1928, provided the catalyst for the regulation of engineering in California. The California Engineers Registration Association was formed with Donald M. Baker of Los Angeles as President and Pecos H. Calahan of Glendale as Secretary-Treasurer. The association's membership developed very rapidly to approximately 1,000 engineers who supported the association's purpose of securing a law requiring the registration of professional engineers.

On January 11, 1929, Assemblyman Brock introduced AB 174. Opposition developed immediately. A difference of opinion developed among engineers with some favoring registration as a professional engineer and other favoring registration by branch. The mining engineers strongly objected to any regulation of their activities. And, some representatives of mechanical and electrical engineering groups also opposed the legislation.

Since the civil engineers favored regulation, the bill was amended to require the registration of civil engineers only. The bill was approved by the Legislature on May 15, 1929. Governor Young approved the bill on June 14, 1929, to become effective August 14, 1929 (Chapter 801, Statutes of 1929). As mentioned earlier, the Act was silent on surveying, and the licensing responsibilities of the Surveyor General had been transferred to the Department of Finance. But, what about structural engineering?

The regulation of structural engineers had been an issue of great debate in California. The Architect's Board, created in 1901, was approached by some structural engineers after the lost attempt in 1923 to register professional engineers. A 1924 rule by the Architect's Board was adopted to encourage architectural licensing of structural engineers to eliminate the controversial area of practice overlap. On April 6, 1929, Governor Young signed SB 177 which defined the term structural engineer within the Act administered by the State Board of Architectural Examiners (Chapter 68 of 1929).

One additional legislative enactment in 1929 would create new opportunities and problems for the surveying profession in California. On June 17, 1929 Governor Young approved an act that significantly expanded the 1907 and 1913 requirements for subdivision maps prior to recordation. The new law imposed a requirement for a "tentative map to be prepared by a civil engineer or licensed surveyor" (Chapter 837 of 1929).

By the end of 1929, thirty states regulated architects, twenty-five

states regulated engineers, and twenty-one states regulated surveyors.

THE FIRST BOARD

Much work lay ahead for the new State Board of Registration for Civil Engineers. While it would be unlawful to practice civil engineering after August 14, 1930, without registration or a specific exemption, the Act did not contain a definition of civil engineering. Without a definition the registration of practitioners could be difficult to administer and the certificate might be of little value. Also, the Department of Professional and Vocational Standards (Department) had been vested with all the duties, powers, purposes, responsibilities and jurisdiction of the State Board of Registration for Civil Engineers. Governor Young appointed the three members to the Board on October 12, 1929.

The first order of business at 11:00 AM on October 28, 1929, for the three-member Board was the election of a President. Meeting in the office of the Lieutenant Governor, Mr. Donald M. Baker, a consulting engineer from Los Angeles, was selected by the remaining two members as President. Mr. H. J. Brunnier, a structural engineer from San Francisco was elected Vice President. Mr. Albert Givan, Chief Engineer and General Manager of the Sacramento Municipal Utility District, was elected Secretary. The Board recessed for lunch and discussion.

When the Board reconvened at 2:00 PM, a conference and discussion was held with Mr. James F. Collins, Director of the Department. Motions were passed requesting the Department to employ Mr. Pecos H. Calahan of Glendale as a Special Investigator without pay. Mr. Calahan was assigned to the Board and appointed Assistant Secretary "for the purpose of setting up the procedure for the registration of Civil Engineers." The meeting was recessed at 5:00 PM and reconvened at 7:30 PM at the Senator Hotel. "The evening was spent in general discussion of the

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CONTINUED FROM PAGE 18

carrying out of the organization and administration of the Act."

Thus, Donald Baker, President of the California Engineers Registration Association, and Pecos Calahan, the Association's Secretary, were in firm control of the future of the civil engineering profession in California.

One must wonder if the new Board members discussed the state of the economy at the evening meeting of the first session of the Board on October 28, 1929. The stock market had begun its historic slide on October 23, 1929. October 29, 1929 (Black Tuesday) is remembered as the day of the Stock Market Crash and is considered by many to be the beginning of the Great Depression.

The second session of the Board on October 29, 1929, was organized to handle routine administrative matters. Director Collins was present and a motion was passed designating each Board member a "special committee to investigate and report upon special matters as may arise in his respective district, the boundaries of the districts at the present time to be constituted of the area adjacent to the members' respective residences."

The "Minutes of the Organization Meeting of the Board of Registration for Civil Engineers, mark the

beginning of many future Board meetings. The future decisions of the Board of Registration for Civil Engineers, as it gained power while the economy slid into chaos, would force monumental changes on the surveying profession in California. Change that was resisted by some surveyors who paid with the loss of their license.

EPILOGUE

It would be 1947 before the State Board of Registration for Civil Engineers experienced real change. The Board was increased to seven members with representatives from the chemical, electrical, mechanical, and petroleum branches of engineering. In 1959, a land surveyor was added to the board that had regulated surveying since 1933. But, the telling of the story of the evolution of the Board, from its booming economy beginning in 1929 to its present position, must wait for another time.

In 1989, surveyors should reflect on the events leading to the creation of the Board and the future of regulation for our profession in California. The future is full of opportunity, if we will only understand the past.

May I take this opportunity to extend my personal appreciation to the public, professional, and staff members of the Board who have brought about the very recent change that is permitting licensed surveyors to be full participants within the Board's regulation powers of the surveying profession in California.

Happy Birthday to the Board. We have come a long way, baby!

References:

- Chapter CCLV of the 1891 Statutes of California.
- Chapter CCXXXIV of the 1893 Statutes of California.
- Chapter 306 of the 1913 Statutes of California.
- Chapters 68, 516, 801, 837 of the 1929 Statutes of California.
- Chapter 86 of the 1907 Session Laws of Wyoming.
- A Brief History of Engineering Registration*. 1962. State Board of Registration for Civil and Professional Engineers.
- Chaining the Land, A History of Surveying in California*. Francois D. "Bud" Uzes.
- Minutes of the State Board of Registration for Civil Engineers*. 1929.
- Occupational Licensing Legislation in the States*. 1952. Council of State Governments.
- State Occupational Legislation*. 1942. United States Department of Commerce.
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- The History of the National Council of Engineering Examiners*. ⊕

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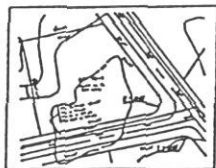
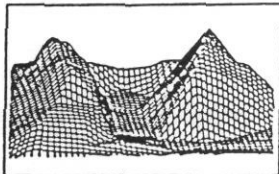
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- American Association for Geodetic Surveying (AAGS)
- American Cartographic Association (ACA)
- National Society of Professional Surveyors (NSPS)

Member:

Any person who has attained the required qualifications in surveying, mapping and related fields as specified below:

AAGS—

Bachelor's or higher degree in a discipline related to geodetic surveying with eight years experience. Up to four years of relevant education may be substituted for experience.

ACA—

Bachelor's or higher degree in a field of study which would qualify the person for a professional position in cartography or related fields, or four years of active professional experience in cartography or related fields.

NSPS—

- a) Any person licensed to practice the profession of surveying, according to state or provincial statutes; or
- b) a GS-1373 employee classified as a Land Surveyor or Supervisory Land Surveyor; or
- c) an academician holding a Bachelor's or higher degree and the rank of assistant professor or higher and teaching in an ABET or CAB accredited or a state land surveying registration board approved surveying program; or
- d) a practicing surveyor or a surveying teacher who has attained a minimum of six years experience in responsible charge of surveying activities or four years of education and two years of experience may submit credentials for consideration.

Contributions or gifts to ACSM are not tax deductible as charitable contributions.

Associated Member:

Any person with an interest in surveying, mapping, and related fields, not eligible to be a Member as defined but meeting the criteria stated below:

AAGS/ACA—

Any person with an interest in geodetic surveying/cartography who is not eligible to be a Member.

NSPS—

Any person who by employment is actively engaged in a program leading to a career in the profession of surveying.

Student Member:

Any person pursuing a course of study as a graduate or undergraduate student on a full-time basis (as defined by the academic institution) leading to a career in geodetic surveying (AAGS), cartography (ACA), or surveying (NSPS).

How to Apply:

1. Determine the highest grade of membership for which you are qualified.
2. Determine which Membership Organization you wish to join (in addition to ACSM).
3. Complete the Application for Membership.
4. Return the completed application to:

ACSM
 210 Little Falls Street
 Falls Church, Virginia 22046
 (703) 241-2446 Fax (703) 533-9614

Membership dues include subscriptions to *Surveying and Mapping* \$7.50, *ACSM Bulletin* \$11.50, and *The American Cartographer* \$7.50. This notice is required by U.S. Postal Service regulations. *The American Cartographer* is provided to members of ACA and *Surveying and Mapping* is provided to members of NSPS and AAGS.

| Dues for July 1, 1989—December 31, 1989 | | | | | | | |
|---|--|---------|---------|-------------|-----------------|------------------|-----------------------|
| Member Organization | ACA | AAGS | NSPS | ACA AAGS | ACA and NSPS | AAGS and NSPS | ACA, AAGS and NSPS |
| Member | \$47.50 | \$47.50 | \$57.50 | \$52.50 | \$62.50 | \$62.50 | \$67.50 |
| Associate | \$35.00 | \$37.50 | \$40.00 | \$40.00 | \$42.50 | \$45.00 | \$47.50 |
| Student | All Student Member Dues are \$10.00 | | | | | | |

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 City: _____ State: _____ Zip: _____
 Home Telephone: _____
(Area Code)
 Work Address: _____
 City: _____ State: _____ Zip: _____
 Work Telephone: _____
(Area Code)

Education:

High School: _____ College: _____ (Years completed)
 Highest Degree: _____
 Experience: (Years) _____ Date of Birth: _____
 Occupation: _____
(If you are licensed, give type, state and number)

Company's or Organization's Name: _____
 Private Business: _____
(Specify type)
 Government: _____
(Position Classification)
 Education: _____
(Position Title)
 Other: _____
(Specify)

If in Government, Education or Other, but also licensed, give type, state and number:

Read criteria above, then check membership applied for:

(Check only one) (You may check more than one, but see instructions)
 Member American Association for Geodetic Surveying
 Associate American Cartographic Association
 Student* National Society of Professional Surveyors
 Former Member? Yes No

ACSM Sponsor's Name (if applicable) _____
 Sponsor's ID Number _____
 Signature of Applicant _____
 Date _____

***Applications for Student membership should have the following certificate completed:**

I certify the applicant is a full time student.
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 Date _____ Educational Institution _____

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Boundary Line Agreements

For the solution to difficult boundary problems

By Martin D. Paquette

ABSTRACT

The practicing Land Surveyor is faced with ambiguous legal descriptions on occasion and boundary surveys that are prohibitively expensive in the real world. Written Boundary Line Agreements are a tool that can be used to settle the location of unknown boundaries when neighbors are willing to cooperate. An agreed boundary is as legally binding as any other boundary. A few legal principles must be observed to prepare a good agreement. A few precautions must be taken with respect to the Title Company and the Planning Department so that no toes get stepped on.

INTRODUCTION

Following are two scenarios in which I believe the execution of boundary line agreements would be used to advantage in solving the problem of hard-to-locate boundaries.

SCENARIOS

In the first scenario the surveyor is asked to survey a parcel described as the Northerly 200 feet of a larger parcel. The larger parcel is rectangular but is not oriented to the cardinal directions. The surveyor's opinion is that the description's intent is a line drawn parallel and 200

feet distant from what could be called the Northerly line. Especially since there is a fence along this line. A literal interpretation of the deed, however, could result in a line East-West and 200 feet distant from the most Northerly corner. This is a classical ambiguous description and cannot be resolved without extrinsic evidence, a court action, or an agreement. I recommend that the surveyor not drop this hot-potato until the parties to the line enter into a boundary line agreement.

In the second scenario a certain party owns five acres described by sectional breakdown and straddling a section line but bounded on the two ends by a road and a creek. A correct survey of the property requires a retracement and breakdown of the two sections. In this example, which is based on a real-life situation, the property is in the mountains, and some of the section and quarter section corners require searches. The surveyor estimates the cost of the survey at \$20,000. The owner says "forget it." An alternative solution, costing maybe \$2,500 is to protract the North-South corners along the section line between a found section corner and found quarter corner and run lines cardinal East-West to the road and the creek. Since this is not a correct survey of the deed it is necessary that the owners and neighbors on both sides enter into boundary line agreements. This example is given because the cost difference is so great between the alternatives.

ARE BOUNDARY LINE AGREEMENTS LEGAL?

The questions that arise as a result of this second scenario are, first, Has there been a Lot Line Adjust-

ment in view of the Subdivision Map Act and second, Will a court of law uphold these agreed lines as being the deed lines?

As regards the first question, it is the case in the county where I practice (Sonoma Co., California) that when a line is agreed upon that is a good faith approximation of the deed line, no lot line adjustment has taken place, and the Lot Line Adjustment procedure need not be invoked. The same is true of unilateral quitclaims to lines of occupation where distances are small. In fact such agreements and quitclaims are frequently made in this county without any consultation at all with the Planning Department. I would suggest that a surveyor discuss this matter with the County Surveyor or City Engineer's office in the area where he plans to use it. The title documents can still be drawn in the form of an agreement even if there is a Lot Line Adjustment in the eyes of the powers-that-be. In many cases, of course, there would be no way of knowing which direction the line is being adjusted.

As to the enforceability of agreed boundaries, case law has been supportive. Quoting *California Real Estate Law* by Miller and Starr, "The doctrine of title by agreed boundary is well settled, and such agreements are favored by the courts." Quoting from the same source, "Once established, the agreed boundary line becomes, in legal effect, the true line regardless of the accuracy of the agreed location as it may be shown by subsequent survey, and the rule binds not only the parties who made the agreement, but also their successors by subsequent conveyances."

CONTINUED ON PAGE 24

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Boundary Line

CONTINUED FROM PAGE 22

The textbooks talk about boundary line agreements only as something to be unearthed in the search for evidence and not as something to be used in current practice. So it came as quite a surprise to me to go through a 4-year surveying curriculum and never hear about the technique I am advocating in this article.

CONDITIONS FOR AN AGREEMENT

The prerequisite for a boundary line agreement is that there exists uncertainty as to the location of the boundary line. This is a logical prerequisite since, if the location of the line is explicitly known, then an agreement to such line is an unnecessary redundancy, and an agreement to some other line is a Lot Line Adjustment. The uncertainty of the location may be a subjective uncertainty, and what this means is that the parties to the boundary are

uncertain of the line's location *even* if somebody else purports to know, or if a survey could disclose the true location. This prerequisite being thus stated, a question that may come to mind is, when the cost of a survey is the only thing preventing a line from being located with certainty, can a boundary line agreement legally be drawn on the grounds that the location of the line is uncertain? A prominent land attorney responds with an unequivocal "yes," and claims to be familiar with many such agreements. Even as this article is in the word processor I have had a job taken from me by a competitor who was able to make a more economical proposal than I on a certain project by recommending a boundary line agreement. I had proposed a traditional boundary solution.

The difference between a boundary line agreement and other sorts of title instruments such as deeds is that an agreement is not a conveyance. The essence of this statement is that the parties to the agreement

are treating the line as if it is the *same line* as described in their deeds. In actual practice, however, boundary line agreements are commonly drawn in the form "Boundary Line Agreement and Quitclaim Deeds." The quitclaim deeds are precautionary, as many quitclaim deeds are; that is to say "I quitclaim all interest in such and such *if any*, lying Northerly of the road . . ." Quitclaim deeds help assure clean title and help clarify such usually obvious facts as who owns on which side of the line. A title company may insist on the operative language of a conveyance provided by the quitclaim portion of the agreement before it will guarantee title; however the conveyance should not be necessary for the agreement to be enforceable in court.

PREPARING BOUNDARY LINE AGREEMENTS

To prepare a good Boundary Line Agreement, the following minimum requirements should be observed:

1. The owners of the respective properties must execute the agreement. The agreement need not be written (but no surveyor should ever recommend anything but a typed, signed and recorded document).

2. The agreed line must be explicitly located or locatable on the ground. Monuments and a Record of Survey are highly recommended. An accurate description or reference to the record map should be made in the agreement. An example document is presented on pages 24 and 26.

A FEW CAUTIONS

1. If land is encumbered by a deed of trust, the trust deed holders must be notified that an agreement is being made. Their signatures may have to appear on the document. A partial reconveyance may be in order for anything quitclaimed.

2. Be sure that the local governing body is not going to accuse you of disregarding the Lot Line Adjustment process.

CONTINUED ON PAGE 26

Figure 1: Sample Document

| | |
|---|------------------------------|
| RECORDED AT THE REQUEST OF . . . WHEN RECORDED RETURN TO . . . | |
| BOUNDARY LINE AGREEMENT AND QUITCLAIM DEEDS | |
| This indenture executed this 5th day of August, 1986, by and between the following parties: Laverne M. Washington, party of the first part, and David Sorenson, Carol Sorenson, Albert George Calvin and Verna Calvin, parties of the second part. | |
| WITNESSETH | |
| WHEREAS, the above listed parties are owners of certain real property located within the County of Sonoma, State of California, described in deeds listed as follows: Laverne M. Washington, Document Number 83-055297; David Sorenson, Book 3812 Official Records Page 873; Albert George Calvin, Book 1474 Official Records Page 494. | |
| WHEREAS, the common boundary lines between said properties, as described and referred to in the public records, are uncertain as to location. | |
| WHEREAS, the parties hereto desire and intend to establish of record common boundary lines between their properties. | |
| NOW THEREFORE, the herein above listed owners hereby mutually covenant and agree as follows: Each party does hereby agree that the boundary as delineated in Exhibit A and made a part hereof, and marked upon the ground do constitute the true boundaries between themselves, excepting therefrom any easement interests which may exist in record or in fact. | |
| IN WITNESS WHEREOF, the undersigned have executed this boundary line agreement and quitclaim deed the day and year first above written. | |
| _____ Laverne M. Washington | _____ Carol Sorenson |
| _____ David Sorenson | _____ Calvin Verna Calvin |
| _____ Albert George | |

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Boundary Line

CONTINUED FROM PAGE 24

3. Do not attempt to deceive. Do not represent an agreement line as being close to the deed line unless you know that it is. Be sure that the parties understand what they are agreeing to and why.

4. Make sure to have the cooperation of the Title Company when preparing Boundary Line Agreements as regards its willingness to guarantee title.

5. In some cases it may be wise to get a Certificate of Compliance concurrently with the agreement to insure the future development potential of the parcel(s). In the same way that a Lot Line Adjustment may preclude a future Certificate of Compliance, a Boundary Line Agreement may have the same effect. In a perfect world it would not have any such effect, but it is better to play it safe.

6. A great deal of confusion will result if agreements are not incorporated into future legal descriptions. They may even get lost in the title chain. I know of a place where one party still seems to have color of title to land far on the other side

of an agreement line that was established twenty years ago. The old deed from before the agreement was pulled into the title report, and the agreements were overlooked. We do need to see that this sort of thing does not happen any more. If land boundaries cease to be sectional lines, then they should not be described as sectional lines. A boundary agreement cannot move a sectional line!

7. When in doubt, consult a lawyer.

SHOULD YOU RECOMMEND A LINE?

Surveyors will occasionally find themselves needing to recommend locations for agreement lines. In many cases an old existing fence is the line of choice. In a great many cases the purpose of the agreement is to solidify a line that you and everybody already know in your hearts is the line but you can't prove it. When lacking an obvious choice for where to put a line, it is probably wisest to ask the parties to make a choice rather than to make it for them. In my experience people will tend to confuse my intent to recommend an agreement

line and think that I am showing them the actual deed line. Letting them choose will prevent this confusion.

WHY THIS IS NOT THE SOLUTION TO ALL PROBLEMS

The most common problem with agreements is that one of the parties has no interest in being agreeable. This is usually the neighbor, and he will be stubborn about this for the same reason that he refuses to grant easements and for the same reason that he'll speak against you at the Planning Commission. It's worth putting some effort into convincing him that a Boundary Line Agreement is in his best interest too. Without the agreement the surveyor will be forced to run the expensive survey or stick his neck out on the ambiguous job.

ABOUT PROFESSIONAL IDEALS

Some surveyors object to the idea of using the B.L.A. to handle expensive surveys. The objection usually takes the form, "It is not proper for us to throw away perfectly good historical land lines and use the bastardized land lines created by agreements." In the case of the sectional boundary, the descriptions of the properties may carry on in the form of sectional descriptions and yet the lines are no longer the sectional lines. At some future time somebody may finally be able or willing to pay for the sectional survey, but it will be inappropriate to use it. "What use, then, is the Public Land System if we're not going to use it?"

In response, I don't see anything improper or unprofessional about solving somebody's boundary problem legally, cheaply, equitably and permanently. I don't believe there is anything sacred about the Public Land System, although it is a wonderful thing to use, in fact rather grand, if you can only get somebody to pay for it. (Maybe GPS will start to make section surveys cost-effective.) I think that what the discomfort all boils down to is that if you have changed the legal description from lines qual-

CONTINUED ON PAGE 28

Figure 2: Exhibit A for Sample Document (Figure 1).

| EXHIBIT A | |
|--|--|
| Laverne M. Washington QUITCLAIMS to | |
| David Sorenson and Carol Sorenson, Albert George Calvin and Verna Calvin | |
| All that real property located in Section 6, T9N, R16W M.D.M., County of Sonoma, State of California and lying East of the following described line: | |
| Beginning at a found 2 inch iron pipe with cap LS 5493, said pipe marking the North quarter corner of said Section, said pipe also shown on that certain Record of Survey filed October 10, 1985 in Book 491 of Maps at Page 30, Sonoma County Records; thence South 01 13' 13" West 520.96 feet to a set 1/2 inch rebar and cap LS 5493, said rebar located on the South top of bank of Calvin Creek; thence continuing South 01 13' 13" West, 200.46 feet to a set 1/2 inch rebar and cap LS 5493, said rebar located in the center line of Calvin Road and also being the termination of said line. | |
| David Sorenson and Carol Sorenson, Albert George Calvin and Verna Calvin QUITCLAIM to: | |
| Laverne M. Washington | |
| All that real property located in Section 6, T9N, R16W M.D.M., County of Sonoma, State of California and lying West of the following described line: | |
| Beginning at a found 2 inch iron pipe with cap LS 5493, said pipe marking the North quarter corner of said Section, said pipe also shown on that certain Record of Survey filed October 10, 1985 in Book 491 of Maps at Page 30, Sonoma County Records; thence South 01 13' 13" West 520.96 feet to a set 1/2 inch rebar and cap LS 5493, said rebar located on the South top of bank of Calvin Creek; thence continuing South 01 13' 13" West, 200.46 feet to a set 1/2 inch rebar and cap LS 5493, said rebar located in the center line of Calvin Road and also being the termination of said line. | |

WHY YOU SHOULD JOIN THE CALIFORNIA LAND SURVEYORS ASSOCIATION



The goal of the California Land Surveyors Association is to promote and enhance the profession of surveying, to promote the common good and welfare of its members, to promote and maintain the highest possible standards of professional ethics and practice, and to elevate the public's understanding of our profession. CLSA represents all land surveyors, whether they are employees or proprietors, whether in the public or the private sector.

REPRESENTATION

LOCAL: Your local chapter represents you in local issues. Through your chapter representative to the State Board of Directors, the individual member can direct the course CLSA will take.

STATE: Through an active legislative program, legislative advocate, and liaison with the Board of Registration, the surveyor is represented at the state level.

REGIONAL: CLSA is an active member of the Western Federation of Professional Land Surveyors. This federation is composed of associations throughout the western United States and addresses regional issues.

NATIONAL: Through institutional affiliation with the National Society of Professional Surveyors and the American Congress on Surveying and Mapping, CLSA is represented at the national level.

EDUCATIONAL OPPORTUNITIES

CLSA presents annual conferences which provide technical and business programs, as well as exhibits of the latest in surveying and computing technology. Seminars and workshops are presented to assist in continuing education.

CLSA publishes the *California Surveyor* magazine and the *CLSA News* to keep the membership abreast of changing legislation, legal opinions, and other items which affect our profession.

BUSINESS AND PROFESSIONAL SERVICES

CLSA provides a fully staffed central office which is available to answer questions or to provide up-to-date referrals concerning legislation, educational opportunities, job opportunities, or other issues concerning our membership. Health and professional liability insurance programs are available to members.

The California Land Surveyors Association is taking this opportunity to explain our structure and our activities. Your membership and involvement will provide you with the opportunity to meet and exchange ideas with your colleagues, to make valuable professional contacts, and most importantly, to work toward improving and enhancing the surveying profession.

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- ASSOCIATE MEMBER GRADE: Any person who holds a valid certificate as a Land Surveyor in Training.
- STUDENT MEMBER GRADE: A student in a College or University actively pursuing the study of land surveying.

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b. Address _____ City _____ Zip _____

c. Mailing Address _____ Phone No. _____

d. Employment: Private _____ (Principal _____) Retired _____ Public _____

Name of Firm or Agency _____

e. Signature and L.S., P.S., C.E., OR L.S.I.T. No. _____

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Expiration Date: _____ Signature: _____

FIRST YEAR'S ANNUAL DUES ARE TO BE PRO-RATED FROM DATE OF APPLICATION

Boundary Line

CONTINUED FROM PAGE 12

ified as Public Land lines to lines that are not necessarily Public Land lines, then a lot line adjustment has, in some way or other, taken place. So be it, then. A boundary line agreement is a proven method of creating a lot line adjustment, if we must call it that, in which a line is adjusted from an unknown to a known position. I am not representing it as a method of conducting fraudulent boundary determinations or as a way of avoiding the Lot Line Adjustment process when the County expects it.

CONCLUSION

The Boundary Line Agreement is a useful tool for solving otherwise expensive boundary problems. It may be the only adequate way of solving an ambiguous boundary description short of a court action. It can be used judiciously to avoid the sometimes enormous expense of a section survey. ⊕

Conference Report

CONTINUED FROM PAGE 15

the discussion into perspective by relating a project that required filing Records of Survey in 22 counties. He noted the disagreements and lack of continuity of requirements not only in form but in content. He stressed that the Record of Survey is the "Professional Work Product and Opinion of the Surveyor." The suggestion was made that through legislation the format of the R.S. can be standardized and a limit could be put on exorbitant checking fees. Mr. Hennes proposed that the importance of the Record of Survey would be significant with the development of Land Information Systems and Geographical Information Systems (L.I.S. and G.I.S.).

Michael Duffy, L.S. was another panel participant. As Chief Land Surveyor for the County of San Bernardino, Michael has had extensive experience reviewing both Records of Survey and Corner Records and he brought examples of both to illustrate their purposes.

Robert Holquin represented the Title Insurance Industry in the discussion by talking about constructive notice and how it applies to the Record of Survey. Mr. Holquin is the Assistant Vice President for Security Union Title Insurance Company.

The last member of the panel to speak was Mr. Reid Penland, R.L.S. Mr. Penland is a Registered Land Surveyor from Arizona and is currently the Supervising Land Surveyor for Alameda County. Reid summarized the panel discussion by addressing the relationship between the private surveyor and the public agency surveyor. One obvious difference is that the agency surveyor does not pick his clients. His client is whoever walks in the door. Mr. Penland highlighted Alameda County's effort to streamline processing and aggressive attempts to show the private surveyor that his work product is respected. He also presented a procedure that the Alameda County Surveyor calls a "Submittal Meeting." In this system the private surveyor meets with the county

Adverse Possession

CONTINUED FROM PAGE 10

In addition, most states require the adverse possessor to annually pay the real estate taxes on the parcel. This prevents government-owned land from being adversely possessed, except in the states of Alaska and Wisconsin.

HOW A PRESCRIPTIVE EASEMENT DIFFERS

Many people confuse adverse possession with prescriptive easements. Adverse possession involves an entire parcel of property and usually requires payment of the real estate taxes on that land.

But a prescriptive easement involves hostile use of just a portion of a neighbor's land for the statutory required number of years. The payment of real estate taxes is not required for prescriptive easements.

For example, if you use part of your neighbor's land for a garden or a pathway without his permission for the required number of years (usually the same as for adverse possession), you can perfect a prescriptive easement by suing your neighbor in court.

For further details, consult a real estate attorney.

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surveyor to review his map. The County Surveyor pulls related record information prior to the submittal meeting and the private surveyor has a more active participation in the checking process.

The days session and the conference closed with an audience participation open discussion on the L.S. Act and attendance remained high in anticipation of the grand raffle. ⊕



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Implied Precision and Related Observations

(Or Reflections of a Dinosaur)

By George R. Dunbar, L.S.

IN THIS DAY of the data collector, computer, and plotter, I am continually amazed by the lack of sophistication of both the programmer and the user, who think nothing at all of the ridiculousness of printing out deltas on a 20 foot radius curb return to $00^{\circ} 00' 01''$ (one second of arc).

Have any of these folk stopped to reason that this is the equivalent of showing our linear measurements to five or six decimal places (i.e., 20.00 feet = 20.000097 feet)? Now any surveyor will tell you that in the everyday world of the practicing land surveyor, this type of linear measurement is impossible. If someone were foolish enough to show measurements between two found points as 100.000485, he would be laughed out of the county he practices in. But no one (almost no one) thinks anything at all of showing one second bearings. And, yet, one second of arc is 0.0256 feet in a mile. Have you ever tried to see 0.03 feet at a mile distant? Even at night it's impossible. A one-second Wild T-2 theodolite only has between two and three seconds resolution, and a one-second triangulation measurements are the result of averaging a minimum of six direct and six inverted sightings with a repeat of any with a split of more than five seconds.

I am constantly on my software supplier's back to build a "toggle" into all of my bearing outputs, so that, depending upon the length of the line and the methods of angular measurement used, I can specify my output. In the meantime, unless

I can marshal some support from the surveying community, I am faced with re-computing all of the garbage output so that the printout will conform to the methods and instrumentation used.

I should mention that I am also such a dinosaur that I believe staunchly in reporting my measurements as they were performed in the field, rather than adjusting them. *If* I have done my work properly and have exercised due care as any prudent land surveyor is expected to, there is no need to adjust my measurements. *If*, perchance, I have an error, it will become immediately apparent to those who come after me, who may then invoke "the theory of blunders" with impunity. Never prorate a blunder, rather, place the blunder where the blunder occurred.

Understand the difference between accuracy and precision. If you re-set a corner exactly in the same location where it has always been, you are 100 percent accurate, even if your measurement are only 1:200. After *always* striving for 100 percent accuracy, then, and only then, can you attempt to report that location as precisely as is possible. Temper that "precision" with common sense. Don't use a 30" instrument and report angles or bearings to 01". Don't use a rag tape and report distances to hundredths. This isn't being professional, it is simply a snow job.

Think of your parcel maps as legal descriptions; leave no doubt as to where any excess or deficiency is to be placed, especially if you have not surveyed the remainder! If you do not, the courts may deem all lots to have the same seniority, and cause a gross error in prior deeds to be prorated, or, at

the very least, cause someone in the future a costly court battle in order to invoke the "theory of blunders" recited above. I have seen a parcel map that was compiled from record that divided a parcel into four parcels, with two fronting on a county road with their common boundary shown as a forty-foot right-of-way being created by the map. Both lots on the road had a frontage of 100.00 feet. However, a subsequent survey revealed that the deed frontage was truly $300 \pm$ feet, and an existing road was about 100 feet from one end, with no way of knowing for sure if the road existed prior to or came after the parcel map. I am sure some surveyor and attorney were quite happy with the ensuing brouhaha, since they made money, but can you imagine the opinion both litigants have of the surveyor who prepared that map, and probably of surveyors in general?

In closing, I find that perhaps this article could just as easily been entitled "professionalism." If we wish to be considered as professionals, then we, as a collective group, must begin to act like professionals. Join and support our state and national surveying associations, and contribute to our profession, instead of sitting back and saying "what can you do for me?" while pressing the key on our computer that activates the "Compass, Transit, or Crandall" adjustment and looking at our mathematically perfect map, while knowing full well that the field closure was only 1:3000. ⊕

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Strategies for Getting Paid On Time

By R. D. Crowell

TODAY'S CLIENTS are demanding. In some ways, that is good. In others, it can be intolerable. The expectation that you and your colleagues will cheerfully finance a healthy portion of the front-end costs of construction in the United States falls at the latter end of the scale. It is not reasonable, and it increases your exposure to unnecessary claims of professional liability.

OLD HABITS CAN BE COSTLY

According to the most recent PSMJ financial statistics survey, the average firm carries its receivables for a period of 70 days,¹ a number that has not changed significantly in nearly a decade. What it means is this: From the day a cost is incurred to the day payment is received, something on the order of three months' time elapses. In other words, if yours is the average firm, some 20 to 25% of your annual income is outstanding every day of every year. At today's interest rates, this represents a cost of 2.5 to 3% of your gross receipts. That is a lot of money.

The interest expenses is not the end of it, however. The cost of seeking to collect the virtually uncollectible can be far greater. Clients who, for whatever reason, have absolutely no intention of paying your most recent invoices have a very nearly impregnable defense for their refusal to do so—there are errors in your plans and specifications!

1. Professional Services Management Journal, 1988 PSMJ Financial Statistics Survey. Newton, MA. PSMJ. 1988.

They may not be unusual errors; they may not even be significant. But they can still be used to raise the ante—to make your collection efforts potentially so costly that the idea of settling for pennies on the dollar (or for nothing at all) will begin to seem to make great good sense. The answering of a suit to collect fees with a cross-complaint alleging negligence may well be owner cost containment in its crudest form, but it happens all the time.

CASTING ABOUT FOR A CURE

Things do not have to work out this way. Your clients expect you to perform your services in a timely fashion, and you have every reasonable right to insist upon prompt payment in return. You can do so without compromising either your professionalism or your professional relationships if you can come to grips with the idea that sound business practices are fully compatible with both. Consider the following suggestions:

1. *Manage the process carefully.* It has to be viewed as an integrated whole. It begins with an evaluation of the credit risk you assume every time you take on a new project, it extends to being candid with your client about your expectation of prompt payment, and it ends with routine and persistent follow-through on each and every invoice. Set a 45 day average as your goal. Establish clear policies and procedures which escalate from polite inquiry to firm demand. Assign clear responsibility for collection, ideally to the project, and incorporate a review of the results of your efforts into your routine management activities. Make exceptions when accommodations are necessary, but

treat them as what they are—exceptions.

2. *Keep your contractual options open.* You just may need to exercise them. If your client intends to pay you on time, there is little reason to expect resistance to a provision calling for interest, within the constraints of the law, or, alternatively, for more than 30 days. Nor should you find it necessary to give up an lien rights you may have. Insist, as well, on the right to stop work without liability for consequential or other damages if payment is not received within some reasonable (and reasonably short) period after notice of your intent to do so.

3. *Adjust your approach to the risk involved.* If your credit evaluation of your client gives you pause, be prepared to step up the escalation of your collection procedures. Consider insisting on a retainer covering at least 30 days' service, and provide that the retainer be credited only against your final invoice. This will give you time to react without placing huge sums at risk in the event one of your invoices should remain unpaid after 45 days. Recognize, too, that the smaller the amount outstanding, the less worthwhile a costly collection effort. Asking for a retainer on all small projects, those involving fees of, say, \$10,000 or less, may be a useful precaution.

4. *Address the idiosyncrasies of your client.* Depending on your perception of your client's organization, you may want to incorporate a copy of your invoice into your agreement to avoid a later, time-consuming dispute over its format. If you are dealing with a government agency (or with a large, cor-

porate client with an equally Byzantine administrative structure), walk your first invoice through the system. This should give you a better understanding of how its twists and turns can best be accommodated. You may have to be prepared to bill separately for reimbursables, for example, to avoid delay in the payment of a \$50,000 invoice because of questions about a \$5 item.

5. *Initiate collection efforts immediately.* Begin before the first alarm sounds at 30 days. Have your project manager follow through at 15 days—both to make certain the invoice has been received and to ferret out any problems that might cause hesitation or delay. The sooner these problems are addressed and resolved, the sooner you will be paid and the less likely it will be that they will mushroom into a later crisis. Send a statement at 30 days, including interest on the un-

paid balance. You might forward it with a letter asking for an explanation for the overdue account.

6. *Exercise your remedies if you must.* If you have not been paid by the end of 45 days, something may well be wrong. Check it out. It may be time to send a notice of your intent to stop work if payment is not received within the notice period provided for in your agreement. Do so, if necessary. If your services are complete, and if you are still in a position to withhold the results, withhold them. At 60 days, have your attorney send a demand letter. At 75 days, you may well have exhausted your reasonable options. File a lien if you are entitled to do so under the law and if your attorney believes it to be an appropriate strategy. Otherwise, you may have to be prepared to sue. Approach this final option with caution, however, for the likelihood of a cross-complaint alleging negligence is high.


Does all this sound too severe? Perhaps. But if your communications with your clients are clear on the subject of payment at the outset, and if your project team follows through consistently throughout the life to the project, you are not likely to have to invoke these remedies. But you do need to have the process in place. If you do not, it is never too late to start.

Reprint from *General Notes*; OC/CCCE & LS.



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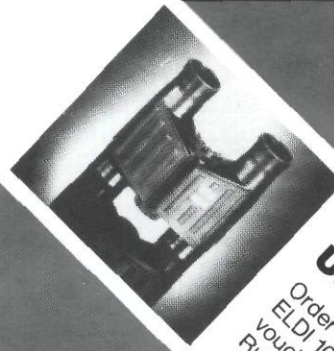
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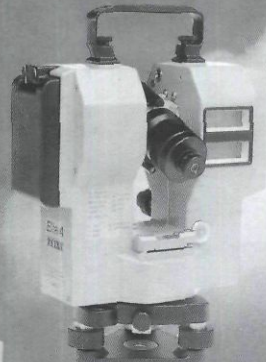
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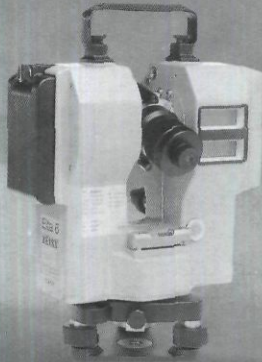


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