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The California Surveyor

Winter 1998

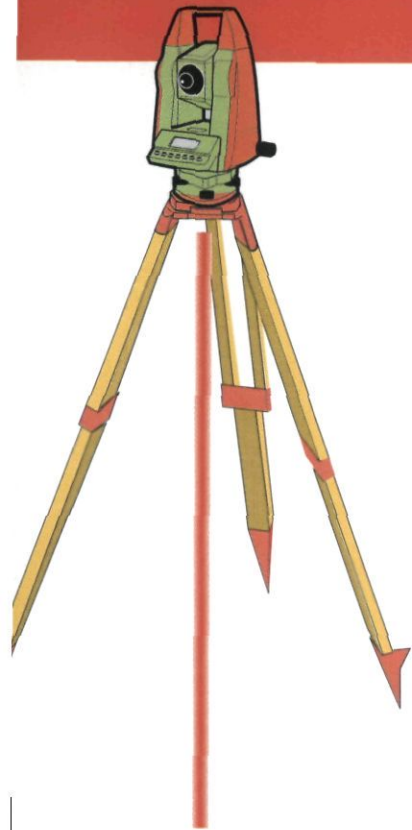
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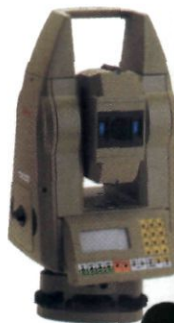
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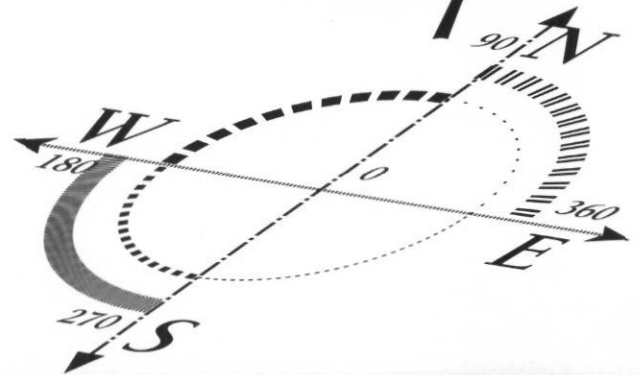
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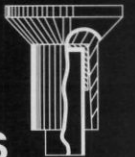
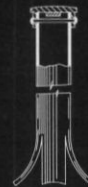
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"Recognizing that the true merit of a profession is determined by the value of its services to society, the 'California Land Surveyors Association' does hereby dedicate itself to the promotion and protection of the profession of land surveying as a 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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On the Cover:

1997 CLSA President Gary Lippincott (right) presenting Life Membership Resolution to Tom Mastin (left) in recognition of Tom's contributions to the CLSA and the Land Surveying profession.

From the Editor

A Fairy Tale

By Phillip A. Danskin, PLS

As Monty Python's Flying Circus so aptly put it, "Now for something completely different:"

Once upon a time there lived an editor named Tom. He was editor of a widely read survey journal called *The California Surveyor*. Tom was brilliant, hard working, AND dedicated, but he was editor for so many years, he felt it was time to move on - (not from natural causes, rather before such.) As editor, he wrote an enticing editorial in search of his successor. Nothing - The masses were not responding. No calls. No inquiries - absolutely no interest. Tom, in desperation, discussed his dilemma with Dorothy. She clicked her red shoes together three times and... still nothing.

Suddenly an elf appeared. His name was Robert, with the intellect of Einstein and the mannerisms of Dr. Niles Crane. The elf Robert told Tom to dig a large pit, two meters square and three meters deep beneath a giant sequoia in the North Lands.

While Tom was digging... Dorothy was studying a self-help book on hypnotism. During a recess of an important land surveyors' Board of Directors' meeting, she thought it would be nice to practice on Phil, a surveyor from Up North. One might equate Phil to "Martini," a character in *"One Flew Over the Cuckoos Nest,"* (i.e., different to say the least.) Dorothy began waving a fob in Phil's face, and in a monotonic voice repeated "Your plumb bob is getting heavy... Heavier... I want you to consider being the editor to a famous surveying journal... Your tack-ball is made of lead... I want you to consider being the editor to a famous surveying journal..." (Dorothy had tried the same tact on others, but to no avail.)

Back in the woods of North Land, Tom continued digging. The elf Robert watched from above, sipped a Perrier, provided words of encouragement, along with a few jokes. When Tom finished the digging, the elf

instructed him to calculate the hypotenuse of a sixty degree angle to the top of the sequoia, and to purchase a length of strong rope three times the calculated length. Also, while in town, Tom was told to bring back an axe, some strong netting in order to cover the pit, some pulleys... "and another Perrier."

While Tom was in town requisitioning supplies, elf Robert received a report from Dorothy, that hypnosis did not appear to be working. Robert told her they had one last hope, the-Coochoos-Nest-Martini surveyor from Up North. "I admit it's divergent, but, if we don't get a replacement for Tom, I'm afraid he'll go Postal on us!"

Meanwhile, back in LaLa Land, Up North, Phil returns from the surveyors' meeting. Things are not going smoothly for Phil. He has not found the section corner needed to remain in the good grace of his mingy client, Mr. Scrooge. This causes some severe bouts of insomnia. Unable to sleep, Phil tosses and turns 'til the wee hours of early morning. As soon as he falls asleep, the elf Robert awakens him like a cheap clock-radio. "Ah, ah, are you the angel on the Seventh Step?" asks Phil. "No, I'm the Elf of Section Corners," replies Robert. "Wow, you're just what I need!" Phil exclaimed. "Would you help me on the Scrooge Survey?"

"Certainly, my good man," replies the elf. With all the control he could muster, so as not to break out in laughter, he said, "Scour the area where you met Tom, the prospector, last week and there will be a sign."

Phil was now as anxious as a hunting dog hearing the pickup start... Elf Robert quickly returned to the woods and instructed Tom how to tie off rope, rig pulleys to bend the top of the giant sequoia, and camouflage the netting over the pit! "It's a fine snare, Tom. Like the ones in a Tarzan movie. Time to get your axe ready... be very still and I'll go bait the trap."

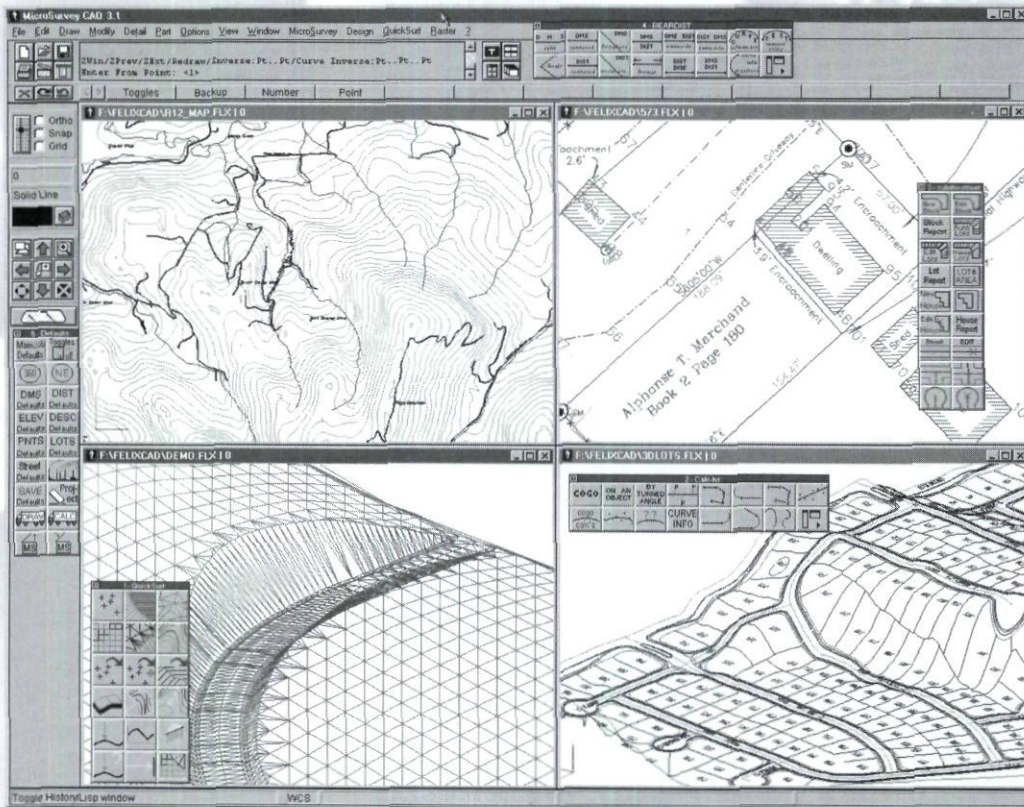
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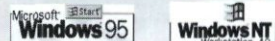
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Letters to the Editor – A Fairytale (continued from page 6)

Phil traipsed around; fat, dumb, and happy; to the spot where the elf told him to search. Low 'n behold - a sign! Literally, an off-the-press-today-magazine-slick-color pamphlet, atop an old post scribed "Sec 37 T1N R22W MDBM" Wow! The angel was right! But wait a minute, he thought to himself, Section 37?... R22W? "Is this brochure the sign the angel spoke of?" Phil thought to himself. Noticing the ground a bit spongy, indicative of the bog called for in the government notes, he cautiously walked over and removed the brochure. The pamphlet read as slick as a time-share salesman in Florida after a hurricane. On the front was a picture of an enormous and beautiful castle atop a mountain... and a view of the ocean in the background. There in bold letters were: "NEED VOLUNTEER EDITOR. GREAT BENEFITS: RETREAT CASTLE. SEVERAL POOLS. HIGH CEILINGS. GOLD TOILET! AND MORE!" He continued turning the pages, forgetting about the section corner... and on the next page appeared a photograph of a box of cigars... "UNLIMITED CUBAN CIGARS!" it read... Crouched beneath the brush, Tom was getting anxious. The elf whispered, "a good hunter must be patient. Fortunate for us, the prey looks like he's taking the bait." Phil continued to read with amazement, "MISTRESS INCLUDED. TURN PAGE FOR PHOTO."

"Now Tom! Cut the rope! Hurry!" Exclaimed the panicked angel Robert.

In a flash, Phil was whisked skyward, at the speed of sound, causing his ear-ring, nose-ring, navel-ring, and ring-ring to glow cherry red. He was stunned, covered in rope, upside down, and dangling from the top of the

sequoia. As consciousness was returning, he peered below to the forest floor, and there lay the "prospector," Tom, and the elf Robert, convulsing in laughter. The elf said to Tom, hysterically, "Did you see his eyes bug, when he saw the picture of Anna Nicole Smith? It was at that point, I knew we had to spring the trap!"

"... Dorothy at once unlocked the gate of Tom's prison and set him free... Dorothy's first act was to call all the Winkies together and tell them that they were no longer slaves..."

L. Frank Braum

So there you have it. How they found your new Editor, Phil Danskin. Well, not really, but believe me, it's plausible. I still firmly believe that Dorothy used her hypnotic powers!

On a serious note, I would like to sincerely thank Tom Mastin, our Editor-in-Chief since ??? for a job well done. Who, without reward, spent countless hours on shepherding thoughts to maintain the high quality of "The California Surveyor." Thanks Tom! I will do all in my power to attempt your high standards. However, all of you Winkies will have to bear with me, and all are encouraged to make your thoughts known. The California Surveyor is a vehicle of opinion, knowledge, and sometimes debate. Please write!

*Most Sincerely, Phil Danskin, the new guy
(geometre@vom.com) ⊕*

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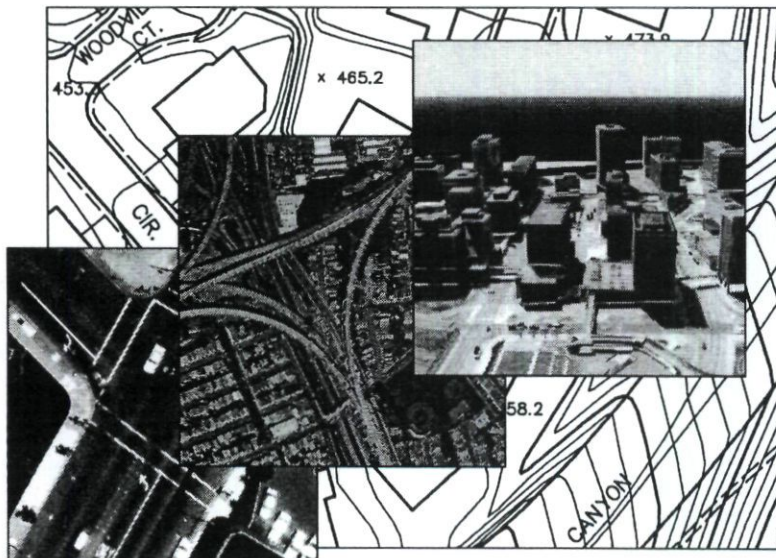
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Letters to the Editor

The following is an excerpt of Michael Butcher's article featured in the *California Surveyor*, Spring 1997.

"Another recurring topic is the disregard for filing records of survey. The common excuse is the rising cost of checking fees. I do not understand the logic of this argument, as the record of survey is for the benefit of the client, and all associated costs are borne by the client. The continuation of the argument is that a fellow surveyor will be awarded the project because he is willing to bypass the recordation. What would you do?"

■ Faulty Logic

There is faulty logic in your argument endorsing the Record of Survey requirement as briefly noted in your comments in the Spring issue of the *California Surveyor*.

Your error is in the statement '... the Record of Survey is for the benefit of the client.' Nothing could be further from the truth, as witnessed by my more than 20 years of surveying in the private sector. Nor does this filing requirement benefit the surveyor who prepares the map. It only benefits other surveyors who are able to latch on to the valuable information in an almost parasitic way at some future time. It also gives County Surveyors a false air of importance, and allows them to ignore their responsibilities with respect to the Monument Preservation Fund. Ask the Alameda County Surveyor how much money is in this fund, and how much has been disbursed over the last 10 years.

How does this filing requirement benefit the client who a) cannot afford the additional cost or b) decides to forego the survey and make his own conclusions as to where a property line lies? Your naivete is appalling, and your comments reflect the very tired and very simplistic view of the C.L.S.A. The fact is that this is a bad regulation;

that is why the majority of surveyors historically have chosen to ignore it. This also explains why so many surveyors in the private sector do not join C.L.S.A. Your organization, with its head-in-the-ground ideology, has absolutely nothing to offer the surveyor who's trying to make a profit from a very difficult occupation.

Any time, you are welcome to spend a day with me in the field; I would provide you the education and experience you clearly do not possess regarding this topic.

Jeffrey D. Black

■ Licensed Land Surveyor

Mr. Black you have a excellent point, but Mr. Butcher has one too. Some checking fees are outrageous. In some cases, checking fees are more onerous than the survey!

However, I take exception with your viewpoint of CLSA. For it was CLSA that went to bat for us, (a few years ago), with Record of Survey legislation bypassing the County Surveyor's Office and recording directly with the Recorder. Unfortunately, it did not pass. Whose interest does one think CLSA was acting on?

"We are charged with accurately locating on the ground, what is written in the record."

When a surveyor records a survey, he or she is going on record as to opinion. You are correct about some surveyors 'hanging their hat' on the nearest survey, (recorded or otherwise). A competent surveyor not only investigates the merit of another survey, but also asks, 'is this survey called for in the record?' If so, matters are simplified for the surveyor. If not, the surveyor, accepting its opinion, should also be able to defend the survey he or she is hanging their hat on. Estimating on the premise that the nearest recorded survey is a dependable one can be a dangerous game! Beware of "C.E. Inverse," or "L.S. Dontknowtitle!"

The importance of recording a survey, regardless if performed by "C.E. Inverse," or "L.S. Dontknowtitle"

is to serve as a record of findings (assuming one can measure). Therefore, if they don't know how to survey (to a higher standard of practice, that we in CLSA profess), they more likely than not, know how to measure. Recording surveys perpetuate original evidence (via - considering the survey as random control.)

The next time a potential client requests a survey, "To fix this once and for all," remind them a surveyor gives an opinion as to the location of boundaries! The Court(s) fixes boundaries! Such contacts give us the opportunity to shine as professionals; to educate the public of the duties and responsibilities of the professional surveyor to the client; and that we act in their best interest. Sometimes at our own expense - the expense of **recommending** they not survey their boundary!

As we all know, we could go on and on regarding this subject. Thanks for your opinion.

Editor

■ Record of Survey

Because of the most recent change in the Land Surveyor's Act, we must file a Record of Survey for nearly every survey we do. Because of the extra cost to the consumer, we are attempting to make the process as cost effective as possible. One of the problems we encounter is that each county surveyor wants the map done "his" way. That is, some things which, in my opinion, are not mandated by the Land Surveyor's Act, are requested to be shown or changed.

The result is, typically, lots of extra time and expense trying to get the survey recorded. I've had

one county surveyor contend that Section 8764(b) means that bearing will be based on True North, and not simply my choice for a basis of bearings.

Because I've had to deal with so many different county surveyors and their opinions, I've decided to take a hard line on Record of Survey checking. I hope that other surveyors do the same. I also hope that county surveyors will limit their checking to the basic and simplest approach to compliance with the requirements of the Land Surveyor's Act. If we cannot agree on their checking procedure, I will ask that Section 8768 be implemented.

I know this sounds as though I intend to be uncooperative and unpleasant. That is really not the case. It is, however, my survey and I do the best job I can. I hope that checking the map is also done with a spirit of cooperation and not try to enforce what is not specifically required by state law. For example, if my map gives a scale in feet, it is safe to assume that "distances shown are in feet and decimals thereof." It would be nonsense to assume otherwise. The same would apply to a map done in the metric system, with a scale in meters.

I am sure the intent of the Land Surveyor's Act is not to have the County Surveyor nit-pick the surveyor's drafting technique.

Aaron L. Canvasser, RCE 21182

[Editor's Note: For more information on Record of Survey checking procedures, see BORPELS Policy Resolution #97-03 approved 28 Feb 1997.] ⊕

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Do you have any similar wisdom to share? Maybe to add to CLSA's Who's Who Directory of State Contacts, etc. Sharing means caring for our profession. If we don't share, then those in need of wisdom, (me for one), may unknowingly discredit the profession due lack of insight.

Again, please share. ⊕



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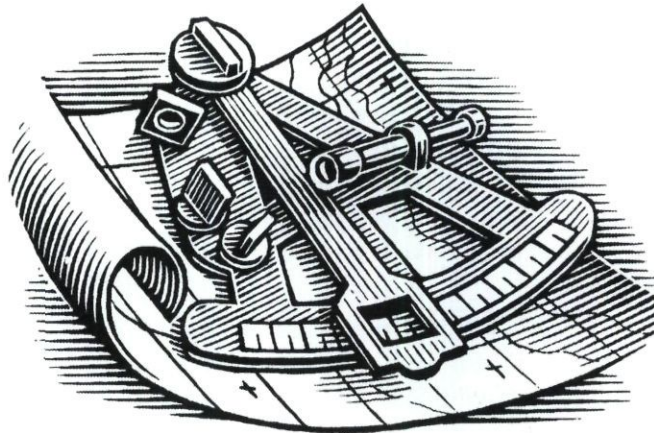
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Are You Afraid to Charge What You're Worth?

By Daniel Beardslee

Let's confront this subject head on. To be successful, land surveyors must make a substantial income. To make substantial income, they must charge a fee that is well above the cost of providing the service. If they charge enough to make a substantial income, they will be respected in the community. They will be considered professionals — the much sought-after recognition we all talk about at society meetings. If they make a substantial income, and are thereby regarded as professionals, a different set of youngsters will consider entering the profession. Income opportunities will attract young, bright motivated individuals who now enter professions that already offer substantial incomes and prestige such as engineering, law and architecture.

The obvious conclusion, of course, is that we now charge too little for our services. If we did charge enough, more universities would offer surveying programs and more students would seek entry into the profession. If we did charge enough, we wouldn't have to worry about being regarded as professionals.

What happens to be the truth of the matter? The only thing on this earth that will result in surveyors being regarded with the prestige we crave is to raise the overall

income level. No amount of paper writing, lobbying, tie wearing, program presentation, brochure and film producing or anniversary celebrating will achieve the results we seek. Only an improvement in our income level will do it.

What do we do about this dim-witted situation we have allowed ourselves to fall into? It does not take a genius to see that the prevailing rates charged by surveyors promises no more than a lower middle class income to members of this profession. The bigger step is dealing with an old argument-how can we raise rates with the specter of competition being what it is?

I believe the answer only takes some rational thinking and, more profoundly, courage! The first logical step is to analyze the cost of doing business. I have been all over the country lecturing to land surveyors, and I find that they universally have little knowledge of the actual costs of conducting their business.

In every circumstance, when a cost analysis is constructed using rational input, the surveyors conclude that they couldn't possibly charge the kind of rate it would take to make a substantial income. They feel they would price them-

selves out of business. The implication is that the "competition," who would charge less, would grab all the business. Do you think that is really true? I certainly don't.

Like any other service, land surveying is a matter of value. Consider if you will the impact of changes in surveying technology in the past 15 years. Instead of three people yelling at each other while dragging around transits, 300-foot chains and five-place trig tables, we now work with auto-reducing total stations. We routinely use powerful hand-held electronic calculators and portable radios. The same work that once took three people can be accomplished by two people in a fraction of the time.

Who has benefited most from these improvements? Is the land surveyor better off? Or have things actually gotten worse?

Keep in mind that surveying a property boundary is the equivalent of providing boundary insurance. It is single premium, unlimited liability, unlimited term insurance that extends to third parties whom you may not even know.

Real property has appreciated at a proportionally higher rate than other assets. It would seem that the value of determining the boundaries of that real property would appreciate accordingly. If we were still using the old technology, would boundary surveys cost more or less? It seems to me that surveying would cost about the same.

So why do we use new equipment? Do we make more or less money? Is the survey of property boundaries a higher or lower fraction of the total value of the real property?

It seems to me that if a boundary

survey were typically worth four percent (just to adopt a figure to work with) of the value of the property, it still should be worth the same proportionate amount using new technology. Given that land surveyors typically charge by the hour for their services, does it make sense to do the job faster, with more accuracy and with fewer people? If we can do the same job in half the time, should that increased efficiency be represented by higher profits and better salaries for land surveyors or should it be passed along to the land owner?

If the service is as valuable as it has always been, is it immoral to charge what it is worth in a higher priced economy?

I find no reason to invest in current technology so that I may work three times as fast, charge my clients less, and have to scrape up three times as many jobs just to

make the same, or relatively the same, revenue as I did with the old equipment. On top of that, I am still faced with the cost of acquiring techniques, software and equipment that often requires additional time, effort and money to work out the initial "glitches."

Many surveyors do just that without reflecting it in their charges because of fear that the surveyor down the street will do it for less. What about that surveyor down the street, then? That surveyor has the same problems that you do. We all do more or less the same thing.

What do you think the surveyor down the street would do if he/she found out, for instance, that you have taken this matter to heart, and that you are charging 3 to 4 times more for a lot survey than their current rate. What's more, what will this surveyor think when it is discovered that you are getting it?

Do you think this surveyor might be inclined to think about raising rates a little? If it was discovered by your competitors that you were charging four percent of the current value of the property (regardless of the hours involved), do you think that surveyor might decide to get in on part of the action?

Does it make sense for only the client to benefit from your more efficient work, or should you? Would you feel better or worse about the profession if the average income was twice what it is today?

Work out the math sometime. Land surveyors are good at arithmetic. What would happen if you were to double the price of surveying and lose half your work? Would you make more or less money? Think about it.

Reprinted from Texas "Metes and Bounds." August 1996. ⊕

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Carefully Scoping The Scope of Work

By Wendy J. Woodbury Straight, L.S.

It is not highly unusual for a client to ask for something we cannot provide. It may be an item that is outside the scope of our daily practice or it may be outside our specialized area of expertise. It may even be outside the scope of our license, in general or in a particular state. Common examples are requests for appraisals and requests for certification with regard to zoning compliance.

Usually we have no problem explaining that the request is a service that we are unable to undertake. Most of us can visualize a clearly drawn line between what we do and what we don't do, whether for ethical, practical, or legal reasons.

Occasionally, however, the line is not so obvious, and the unreasonable request is hidden in what would on the surface be an ordinary set of requirements for, say, a topographic survey. Most frequently in such a circumstance, the client is a major corporation and quite often a multi-state restaurant or convenience store chain. Such requests are not only hard to find because of the detail and fine print of the proposed specification. They also represent a deadline and estimate with which the surveyor must contend. (Someone is always breathing down our neck, telling us to hurry up and to do it cheap.)

Complicating matters is the fact that such specifications may be of

the type that can negate the surveyor's professional liability insurance. Policies that exclude coverage for express warranty may leave the surveyor high and dry if he or she has implied a guarantee by agreeing to a request as seemingly innocuous as, for example, "locate all utilities."

It is our duty, however, to examine the scope of work with a fine-toothed comb so that we can alert the client - for the client's own sake - to proposed items that are for any reason outside our realm.

Let us look at a few sample items taken from the topographic survey requirements of two major restaurant chains. First, let us review the type of request that may require a professional practitioner in a field other than land surveying.

One national chain requests that the surveyor show minimum sight distance from all driveways. In some states, such a calculation might be construed as engineering and must be relegated to a professional engineer; a surveyor may conduct the horizontal and vertical measurements required, but only an engineer may certify as to how far one may see from a certain height in each direction. In other states, although sight distance calculations might fall within the scope of surveying, a particular surveyor may wish to refer the calculations to another professional who performs such work on a

regular basis.

It is our duty to call such items to the attention of the client even though we may be shot as the proverbial messenger. Engaging another professional may be more costly to the client, and as the bearer of the bad news, we are on the spot. It is less uncomfortable to be there at the outset, however, than to be there after inappropriate certifications have been made.

Also a sample of requirements that might necessitate referral or subcontracting to a professional in another field is the establishment of wetlands. In some states, a certified biologist must first delineate wetlands before the surveyor can measure and map them. Even where surveyors may be allowed to determine wetlands, it may not be in the client's or the surveyor's best interest to do so. If determination of wetlands is not in our regular course of work, we may be much better off to refer the work to a surveyor who specializes in such matters. Again, it is our duty to notify the client of tasks we cannot perform without the expertise of another.

Next, let us review items that may negate our professional liability coverage. The most glaring request often occurs in the certification requirement of national chains, where it is not uncommon to find the surveyor asked to certify the correctness of his or her work.

Because such a statement might be construed as an express warranty that may run contrary to the surveyor's insurance policy, it is in the interest of clients that we inform them of this fact. We can safely certify that the work has been performed under our supervision and to a defined standard or specification. Yet, for the client's sake as well as our own, we cannot and should not make guarantees.

Additional hidden language that may imply an express warranty are the terms "all" and "any."

A common example is as follows, as found in Item 4 of the requirements of a popular fast-food chain: "Show the location of all utilities and underground installations both on and/or serving the property."

A diligent surveyor may inform the client as follows: "The term 'all' may signify an express warranty, which often negates the application of surveyors' professional liability insurance, a case that is not to your advantage as the client. Kindly replace the term 'all' with 'record

and/or visible and/or known."

Item 6 of the same requirement specifies the location of all buildings. Due to the rare, unforeseen existence of a buried foundation from a long-raised building, we cannot in good conscience certify that we have located all buildings now or formerly on the premises. On the other hand, we can certify that we have located visible and/or record structures according to a well-defined spec.

Usually, national chains do not include the requirements to show "all cemeteries" or "all hazards," but amazingly, some state and regional surveyors' standards do specify such things. Again, it is our duty to inform the client and our professional association that we can only locate items that are visible or for which we have been provided record information.

Because we hate being scolded, we are frequently hesitant to discuss such nearly hidden but inappropriate requests with the client. A typical comeback from the

client is, "You are the first surveyor who ever mentioned that to us," or, even worse, "We have hired many surveyors over the year, and they have all accepted these requirements."

Most often, however, if we can reach reasonable people in top real estate management for the corporation, we find that they are extremely receptive to our discussion and to our suggestions for minor specification revision that would allow our compliance.

In the few cases where we might lose a job because of our adherence to duty and conscience, we may take consolation in the fact that it was probably a client who would have also balked at our request for retainer.

Wendy Woodbury Straight has been owner of Woodbury Surveying in Dunkirk, N.Y., for the past 13 years. She is also the editor of "Progress and Perspectives" newsletter. E-mail: straight@cenews.com

Reprint from "Civil Engineering News," July 1997. ⊕

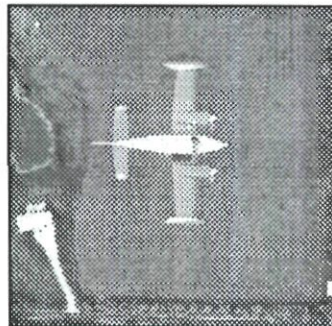
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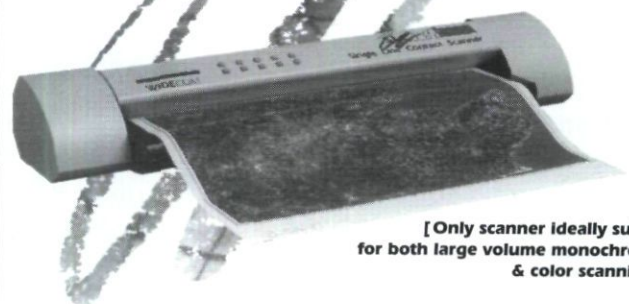
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Professionalism In Surveying

By Steven Frank, Ph.D.

The question sometimes arises as to whether the surveyor is or is not a professional. The Florida Board of Professional Land Surveyors registers surveyors in Florida, using the definition "professional land surveyor." However, a recent Florida court decision (*Garden vs. Frier*, 602 SO.2D 1273, 1992) held that registered surveyors in the state of Florida were not professionals and were not entitled to protection under Florida's Professional Malpractice Limitations Statute. The court reasoned that professionalism typically requires a four year degree, although that degree might not be in the field of study of that vocation, and noted that in Florida surveyors were allowed to become registered without a four year degree requirement. Although Florida encourages and has provisions for allowing four year degree graduates to become registered, the court held that only when there is an absolute requirement for a four year degree for registration can a vocation be considered, a profession.

Are surveyors a profession without a four-year degree requirement? Although the *Garden vs. Frier* decision is the first I have seen to define a profession as such, there seems to be grounds for the courts reasoning. Black's Law Dictionary, 5th edition, defines a profession as "a vocation or occupation requiring special, usually advanced, education and skill. The labor and skill involved in a profession is predominantly mental or intellectual, rather than physical or manual... implies professed attainments in special knowledge as distinguished from mere skill." Since we assume today that everyone will get a high school education, we no longer consider such an achievement as "advanced education." We, as a society in whole, have come to equate "advanced education" as a college degree, and more specifically, a four-year college degree. If one could become a professional merely by completing a four-year degree program, we would soon be swamped with professionals. However, education is just one of the pillars of professionalism.

The professions have their roots in the 16th century trade guilds and clergy. Men of the cloth "professed" their dedication to a higher calling than the pleasures of the earth. By the 17th century, doctors and lawyers also "professed" to a higher creed where dedication to service took precedence over other considerations. Engineering and surveying started the road to professionalism in the late 19th century. Professions have retained this dedication to a "higher calling" and have promulgated with written Codes of Conduct.

Codes of Conduct provide guidelines for professional behavior. They describe how professionals behave toward clients, other professionals, employees, and the general public. These guidelines are often vague since they are meant to be flexible and cover a lot of behavior with a minimum of rules. Understanding Codes of Conduct requires understanding the underlying reasons for the code. This has become a complex process that requires study of why the rules are needed and what they are intended to protect. Until recently, such study has been largely perfunctory in four year Surveying degree programs. Knud Hermansen at the University of Maine introduced a Practical Ethics course in the program there in 1995. We have used this as a core to develop a course in practical ethics called "Professionalism and Ethics in Surveying and Mapping," at New Mexico State University. The class is being taught for the first time this fall. The course seeks to provide students with an understanding of professionalism and the need for a Code of Conduct as well as an understanding of and practical application of professional ethics as written in Code of Professional Conduct. The course appears to be popular with students and has attracted several local practitioners who have helped to provide valuable insight into the issues covered in the course with their experiences.

We will be giving two seminars (with help from Kery Greiner) in this area at the New Mexico Professional Surveyors Conference in Albuquerque

Continued on page 19

You Think You Have Red Tape!

A New Orleans lawyer sought an RFC loan for a client. He was told that the loan would be granted if he could prove satisfactory title to property offered as a collateral. The title dated back to 1803, and he had to spend 3 months running it down. After sending the information to RFC, he got this reply: "We received your letter today enclosing application for loan for your client, supported by abstract of title. Let us compliment you on the able manner in which you prepared and presented the application. However, you have not cleared the title before the year 1802, and therefore, before final approval can be accorded the application, it will be

necessary that the title be cleared back of that year."

Annoyed, the lawyer replied: "Your letter regarding titles in Case No. 189156 received. I note that you wish titles extended further back than I have presented them. I was unaware that any educated man in the world failed to know that Louisiana was purchased from France in 1803. The title to the land was acquired by France by right of conquest from Spain. The land came into possession of Spain by right of discovery made in 1492 by a sailor named Christopher Columbus, who had been granted the privilege of seeking a new route

to India by the then reigning monarch, Isabella. The good queen, being a pious woman and careful about titles, almost, I might say, as the RFC, took the precaution of securing the blessing of the Pope for the voyage before she sold her jewels to help Columbus. Now the Pope, as you know, is the emissary of Jesus Christ, the Son of God, and God, it is commonly accepted, made the world. Therefore, I believe it is safe to presume that He also made that part of the world called Louisiana, and I hope to hell you are satisfied."

Reprint from "The Georgia Land Surveyor," May-June 1997. ⊕

Professionalism In Surveying

(continued from page 18)

next January. We will also be developing a correspondence course under a contract with NCEES that can be used nationwide. Development of the course will be done by myself and Knud Hermansen with assistance from the NMSU and/ or U of Maine Philosophy Departments.

Dr. Frank is an assistant professor in surveying at NMSU and the advisor to the student chapter of the American Congress on surveying and Mapping/New Mexico Professional Surveyors (ACSM/NMPS).

From the New Mexico State University, Law Cruces, Aggie Surveyor, Fall 1996, and now reprinted from "Missouri Association of Registered Land Surveyors." ⊕

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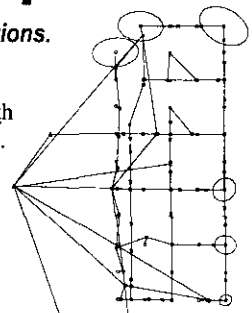
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A Few Thoughts on Surveying as a Means to Earning a Living

[Editor's note: This article first appeared in the "Ontario Land Surveyor's" publication in July of 1925. The author is unknown. It is reprinted here from New Hampshire's "The Benchmark" Fall 1994, and from "The Treasure State Surveyor," April 1997 (and now from "Utah Foresights").]

Why are surveyors always poor? Why cannot a Surveyor, by the practice of his profession without sidelines such as engineering and contracting, make more than a bare living? When you consider the Surveyor's professional training and the necessity for intensive study and application necessary to fit him for the service he renders to the public, it is difficult to understand why he is not able to attain the same affluence as members of other professions.

It may be to some extent due to the Surveyor himself, who does not as a rule aspire to the social status accorded the other professions, nor has he, until recently referred to himself or his work in a professional manner. For instance, not so long ago in offices of several surveyors with whom the writer was acquainted, it was the practice to say that so and so had ordered a survey, just as you would order a pound of sugar or any other commodity, and their clients were their customers.

The surveyor is altogether too prone to figure on the time it takes to make a survey, rather than on the value of the survey to the client. No one can imagine a surgeon estimating his time on an operation at so much a minute; instead, he looks his patient over and charges in accordance with his value to the community expressed in terms of worldly goods. Similarly, the Lawyer and the Valuator value their services in proportion to the amount at stake. The difference between a professional man and a tradesman is that the latter charges the value of the job to himself, the former, the value to the client and the surveyor is content for the most part to fall in line with the tradesman or artisan. A comparison of the fees charged in connection

with the purchase of a property for conveying, valuing, and surveying will reveal this very clearly, the surveyor getting about 25 percent of what the others get in spite of the fact that he assumes as much, if not more, responsibility than the others and brings as much, if not more, professional training, knowledge, and experience to bear on the matter. A surveyor's responsibility is directly proportionate to the value per foot of the property surveyed, and an ad valorem scale of charges is the only one that will gain for the surveyor in general practice an adequate return for his services.

The necessity for a Surveyor, in the course of the practice of his profession, to perform with his own hands certain acts of manual labor such as planting monuments and disinterring the remains of an important corner post many years lost to view has perhaps something to do with the attitude of the public toward the profession, and if we could all wear frock coats and plug hats (we said this was written in 1925) on the job and have a man do the digging, we might be better appreciated. It is perhaps a fact that, due to the surveyor's fence climbing and excavation duties, he is not always as sartorially resplendent as might be and, in the rainy season, might easily be mistaken for a ditch digger after a hard day in the trenches, and to this extent suffers in the public estimation in comparison with the members of other professions.

If a surveyor is busy every day in the year [1925] at \$300 a day, he may be able to charge 250 days or \$7500; deduct his overhead at about 50 percent and the balance of \$3750 represents the maximum earning power of the surveyor, unless he is able to employ other surveyors.

The remedy is in the surveyor's own hands. He must at all times conduct himself to the end that his occupation may assume professional standing. He must disabuse the public of the idea that he ranks with the artisan, and must base his charges on the value of his services to his client and not on the value of his time to himself. ⊕

Title Insurance

Lender's title policy endorsement, which insured accuracy of property's "dimensions," did not provide coverage for discrepancy in land area.

Golden Sec. Thrift & Loan Ass'n v First Am. Title Ins. Co. (1997) 53 CA4th 250, 61 CR2d 442.

Golden Security Thrift & Loan Association lent William Green \$450,000 to buy land. As part of the transaction, Golden Thrift obtained an ALTA lender's title policy. The policy included CLTA endorsement Form 116, which provided that the map attached to the policy showed the land's correct location and dimensions. The boundaries on the map were accurate but the stated area of 2.06 acres was inaccurate (the actual area was 1.36 acres). Green defaulted, Golden Thrift acquired the property at its own foreclosure sale, and, anticipating a substantial loss on resale because of the acreage discrepancy, gave First American Title notice of a claim under the policy. First American denied the claim, and the trial court granted its motion for summary judgment after Golden Thrift sued.

The sole issue was the proper construction of the word "dimensions," which was not defined in the policy. Golden Thrift contended that the term, as used in the policy, was ambiguous and should be construed to include area, acreage, and other concepts covering overall size. The appellate court, however, accepted First American's argument that the common usage and understanding of the term refers to measurements such as length and width, height and depth, which are linear. Noting common dictionary definitions, the court concluded that area and dimension are distinct concepts, area being calculated by a mathematical formula based on dimensions. The term "dimensions" is not ambiguous and did not include the concept of area.

The court also rejected Golden Thrift's claim that the title company's actions amounted to negligent misrepresentation because Golden Thrift claimed it relied to its detriment on the false representation of

the acreage on the map. A policy of title insurance is only a contract for indemnity; it does not constitute a representation that the insured contingency will not occur. Accordingly, if the contingency occurs, there can be no negligence or negligent misrepresentation based on the policy alone. Here, Golden Thrift's claim was meritless because it did not allege any representations outside of the policy itself.

CROSS-REFERENCE: For a discussion of the CLTA 116 series of endorsements, see California Title Insurance Practice §§8.93-8.94 (2d ed Cal CEB 1997). For a discussion of claims procedures, and theories and defenses in title company actions, see Title Insurance, Chaps. 11-12.

Reprint from 20 Real Property Law Report, April 1997.

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It's Not Enough To Call Yourself A Professional

By Jane Gaboury

Item: A cartoon published in a 1995 issue of "Benchmarks," the New Mexico Professional Surveyors' newsletter, features a surveyor sitting at a drafting table asking "You mean you want the revised revision on the original revised revision revised again???" A cigarette hangs from between the two teeth in his mouth. Candle stumps, banana peels, apple cores, cigarette butts, and empty wine bottles litter his sordid work area. His shirt and pants are torn and ragged, and a ball and chain is attached to one ankle. A sex magazine protrudes from a drawer in his table.

Item: A 1996 issue of "The Sooner Surveyor" newsletter, published by the Oklahoma Society of Land Surveyors, reports on its "Ladies' Agenda" for the upcoming annual conference. Readers are informed that on Thursday afternoon, a consultant will conduct a beauty makeover for anyone who wants to "get gorgeous for the Exhibitor's Social" that evening and that the Friday home and garden show scheduled for the ladies "won't cost you fellas a dime unless she decides to redo the house from the ideas she will get!"

Item: According to a news brief in the October 1996 issue of the Kansas City Metro Surveyors Association newsletter, an attorney representing the association's board has suggested that the group "stop the free beer at meetings immediately, if not before" due to the potential liability should a

member, after attending a meeting and having two or three drinks, become involved in a car accident while driving home.

I read many state society newsletters from surveyors' associations, so I can say with certainty that these items, while not typical of the content of most newsletters, are not isolated examples, either.

Also not unusual is the space devoted to members' letters and editorials that take stands against such injustices as:

- Surveyors not being treated with the respect awarded other kinds of professionals.
- The general public's lack of understanding of surveyors' duties.
- Surveyors' measly compensation.
- The growing wave of civil engineers and others who are willing providers of services that surveyors believe should be within their domain alone.
- Local, state, and federal laws that do not clearly delineate services that should only be provided by surveyors.

So, surveyors want to be held up as a class of professionals just like doctors, lawyers, dentists, civil engineers, and others? Don't get me wrong. I understand the importance of surveyors' work

and I have sincere respect for their knowledge and abilities. But in light of the above-mentioned items, I just have to ask: If surveyors have such blatant disregard for presenting themselves as professionals, how can they ask others to view them any differently?

I've never read an American Medical Association state chapter journal, but I can't imagine that such a publication would denigrate its very members with an ill-drawn cartoon depicting a physician in a squalid, unprofessional atmosphere. Do attorneys get news- letters from their state associations that speak only to the male members of the profession and pretend - for their own convenience - that no female practitioners exist? Must state dental associations resort to the lure of free booze to attract members to the occasional meeting?

For all the good that surveying's national societies are trying to do for the profession, its members, and their image, state or local groups

can quickly negate that headway with ill-conceived messages that seek to keep members "in their place" as good ole boys. The problem, it appears, is the delight many surveyors take in perpetuating that image of themselves. It may be kind of cute, but it doesn't do much to advance the professionalism of the profession.

There are many, many folks who are spending a lot of time and energy speaking out for the profession and its practitioners, both on the national and the local level. Let's not belittle their efforts by undermining their important messages.

And let's hope the kids who are now entering the profession see it as that - a profession. Maybe they will have the pride in their education and their work to see themselves and their peers as professionals.

Reprinted from "Civil Engineering News," July 1997.



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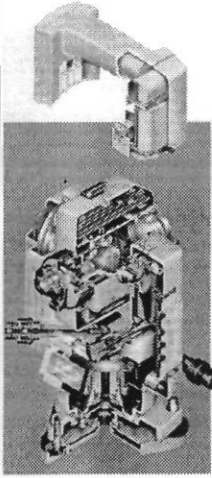
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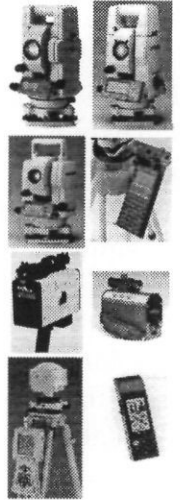


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The goal of the California Land Surveyors Association is to promote and enhance the profession of surveying, to promote the common good and welfare of its members, to promote and maintain the highest possible standards of professional ethics and practice, and to elevate the public's understanding of our profession. CLSA represents all Land Surveyors, whether they are employees or proprietors, whether in 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: The Surveyor is represented at the state level through an active legislative program, legislative advocate, and liaison with the State Board of Registration. ■ REGIONAL: CLSA is an active member of the Western Federation of Professional 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.

Education 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.

Join CLSA Today!

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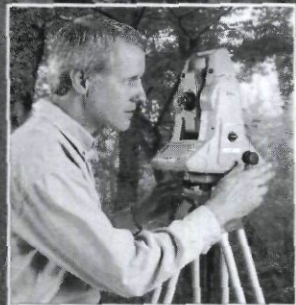
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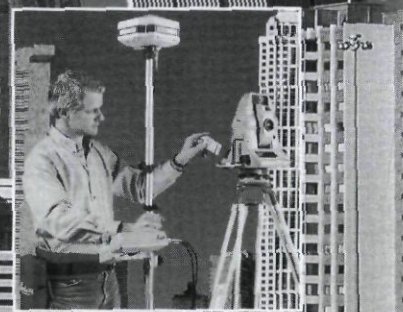
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