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BOARD OF REGISTRATION FOR
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FINAL REPORT

AD HOC COMMITTEE - SURVEY RECORDING ACT

Committee Purpose:

Over the last couple years several events have occurred that have effected upon the practice of land surveying in Washington and the requirements within the Survey Recording Act. Because of increased confusion of the correct interpretation of the "exempt provisions" within said act, the state Attorney General was requested to render an opinion concerning selected questions on survey recording.

That opinion, AGO 1989 NO. 1, did clarify some areas of concern but also raised others that had earlier been thought to be clearly understood. In response to increasing questions about the ramifications of the opinion and whether its provisions should be enforced, the Board initiated committee activity with representatives of LSAW and DNR to develop an understanding of the law and potential language for future amendments.

After several months of hard work and one unsuccessful attempt at amending the Survey Recording Act, the "Exempt Provisions" in chapter 58.09 RCW were amended by legislative action in 1992. The amendment revised RCW 58.09.090 by adding language under a new subsection (1)(d). That language specifically addressed the interpretation of whether and when a recorded survey was required involving platted lots in subdivisions and short plats. A copy of that amending language is attached as an exhibit to this report.

While this new language was largely found to clarify many of the earlier questions being raised, it was also noted that additional confusion may exist. It was for that reason the land surveyor members of the Board of Registration wished to organize this committee and develop, if possible, a consensus opinion on how the amendment is applied and how the Board should approach enforcement of its provisions.

This report reflects the comments developed by that committee from their meetings on September 25, 1992, and July 9, 1993, at the Wyndam Garden Hotel, SeaTac, Washington.

Committee Organization:

Board of Registration for Professional Engineers and Land Surveyors

Robert Cray, PLS, chairman	Oak Harbor, WA.
Jerry Olson, PLS, PE	Vancouver, WA.
George A. Twiss, PLS, recorder	Olympia, WA.

Land Surveyors Association of Washington (LSAW)

Scott Valentine, PLS	Spokane, WA.
Al Hebrank, PLS	Seattle, WA.

Department of Natural Resources (DNR)

Michael Kinnaman, PLS	Olympia, WA.

Members "at large"

Paul Tomkins, PLS	Walla Walla, WA.
John Abenroth, PLS	Sedro Woolley, WA.

Discussion Items:

At their meetings the committee entered into general discussion of survey practice and recordings as it commonly applied in their particular area. While there were many common areas of practice, there were equally a number of situations that varied from area to area. These topic areas and the resulting questions are summarized as follows:

If a formal subdivision or short plat has good monumentation, but that monumentation was not set at the time of platting, does a resurvey of a portion need to be recorded?

Is an old subdivision plat considered monumented if the final plat map makes no reference to monuments being set, even if monuments are found?

If, as within areas in the city of Seattle, the city Engineers Department sets the monuments after the plat is recorded, are those monuments considered original to the plat?

Does the act of "surveying" or "surveyed" actually mean the setting of monuments and lot corners?

The committee also discussed wording in the amendment pertaining to the physical displacement of 0.50 feet that would need to exist to require a recording to take place. The committee members were of the opinion that further clarification of that provision was unnecessary and that land surveyors should not have any difficulty in applying this requirement.

Definitions:

The committee discussion on the above topics appeared to indicate that one cause of potential variation of interpretation was in the understandability of certain terms and phrases. It was therefore concluded that the committee develop definitions for clarity. The following are the recommendations presented:

"controlling monuments"

Controlling monuments, as used in RCW 58.09.090, shall be defined as road centerline, block and/or plat exterior corner monuments, necessary to allow correct parcel location by sound principals of land surveying. Lot corners do not qualify as controlling monuments for the purposes of a recording exemption even though they may control property corners in the survey. A survey to the controlling monument to test for discrepancies would need to be done to qualify for exemption.

NOTE: A "discrepancy", as defined in RCW 58.09.090(1)(d)(i), pertains to the positions of controlling monuments as defined herein.

"public survey map records"

A "public survey map record" is considered a map or exhibit prepared to illustrate or index land survey monument(s) and/or dimensional information of surveyed lines as typically found in the custody of the local City/County Engineer, County Auditor or the Public Land Survey Office of the Washington State Department of Natural Resources.

"surveyed subdivision/short subdivision plat"

A "surveyed" subdivision/short subdivision plat is one in which:

It can be verified that the controlling monuments were established as a function of the plat approval and/or recording, OR;

It can be verified that the local agency over plat approvals performed the monumentation of plat boundaries subsequent to plat recording, OR;

It can be verified that existing controlling monuments, which were not established as part of the platting process or by the local regulatory jurisdiction, occupy a position relative to other monuments, as provided for in RCW 58.09.090(1)(d)(iv), which are shown in the public record.

NOTE: It is the surveyor's responsibility to verify that monuments were set as part of the platting process.

Questions and Answers:

The following information is presented in question and answer format to cover typical situations that the committee members felt would develop from time to time. With these questions the committee attempted to discuss the most logical questions that would come up on whether a certain survey is or is not exempt from recording. It is not the purpose of this segment to attempt to address all possible scenarios. However, the committee members do feel that these 6 situations account for the most commonly asked questions on the recording of surveys. In developing this information the committee used the Survey Recording Act, AGO 1989 No. 1 and some well applied common sense.

1. I have been hired to perform a survey in a short plat that was recorded without any indication that the short plat was monumented and no subsequent survey record exists in the public record. If I find existing controlling monuments that I use to set lot corners, do I need to file a Record of Survey?

   Answer: YES

   If there is no indication that the short plat was surveyed as part of the platting process, you are required to file a Record of Survey. Even if you find correctly placed controlling monuments, there would be no record to support their position. Refer to the above definition of "surveyed".

2. I have been asked to resurvey a lot in a short plat that I surveyed and recorded one year ago. My field work indicates no variation from my original information and no encroachments or discrepancies were noted. If I reestablished and set two missing corners from existing control, must I file a Record of Survey?

   Answer: NO

   Given that this is a resurvey of one's own survey and no discrepancies were found or any conscious redetermination made, recording is not necessary. Even if all corners needed to be reset, this survey is exempt.

3. I am involved in resurveying a lot in an old recorded subdivision. The original plat makes no reference to controlling monuments being set or a survey being performed. However, this particular plat has old controlling monuments defining the roads and intersections that agree very closely with the plat record. There is no public record or indication of when or who set the controlling monuments but they have been accepted as plat monuments for a very long time. In my resurvey need I file a Record of Survey?

   Answer: YES

   Since the controlling monuments are not identified on any record you would be required to file a Record of Survey. However, subsequent surveys may be exempt if they are a retracement of the survey(s) of controlling monuments which you have recorded.

4. In the above question if the situation was changed so that the found controlling monuments can be identified through research of public records as having been set by the plattor or having been set by the local government agency under their authority in plat approvals, is a recording necessary?

   Answer: NO

   Since these monuments can be traced back to the original platting process, even if they were actually set after the plat was recorded, a recording may not be necessary.

5. In a recent survey of a platted lot I found a 3/4" iron pipe in a location that the plat map indicates a 1/2" rebar was set as a controlling monument. The found iron pipe is correctly placed and no distance variations or encroachments were noted. Is a survey recording necessary?

Answer: YES

Since you have recovered a monument that does not appear of record, it is considered a discrepancy and a recording would be necessary.

6. While retracing a surveyed plat to do a lot survey, I find all controlling monuments to exist and be within acceptable measurement limits. I discover all four lot corners are missing and I reestablish them using the found controlling monuments. I do not find any physical evidence of encroachment or overlap. Must I file a record of survey?

Answer: NO

A non-existing original lot corner does not require the filing of a survey if the controlling monuments are existing and within the allowable tolerance.

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Summary:

It is the committee's belief that the scenarios discussed herein will generally cover those instances of unique circumstances that will generate the most questions and confusion. If a practicing land surveyor truly reads the law and applies good professional judgement, they will find that most surveys in plats or short plats should be recorded. At a minimum a licensed land surveyor should keep in mind the overall benefit surveys provide to the public in general and not just their clients or their client's wishes.

It is also important to remember that the original intent of the survey recording act was to create a public record of survey information for public benefit. While this report discusses situations that permit a surveyor to not record a survey, a surveyor should keep in mind the overall benefit that is obtained when a recording is made.

Respectfully Submitted:

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Accepted by the Board January 21, 1994