

Professional Ethics and the Land Surveyor

Presented by:
Anthony M. Gregory, PS
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ABONMARCHE



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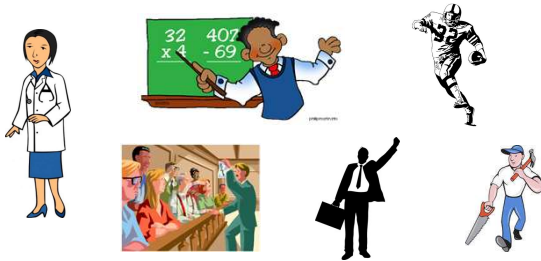
SEMINAR OBJECTIVE: Holding a license as a Professional Land Surveyor is truly a privilege and an honor. However, such a distinction also carries with it obligations. One such obligation is to practice professionally and ethically. This seminar will cover professionalism and ethics from a general viewpoint, and from that of a land surveyor. In addition to reviewing and discussing published standards such as the Chapter AE-8, Professional Conduct, the seminar will include discussions of various situations involving professional ethics.

Professional Ethics and the Land Surveyor

SEMINAR OUTLINE: Topics presented in this seminar will include the following:

- A discussion of what it means to be a professional
- A discussion of the general meaning of ethics
- A discussion of creeds, codes, and canons of ethics
- A review of the Rules of Professional Conduct included in Chapter A-E 8
- Discussions of various situations involving professional ethics

What is a Professional??



(Graphics from clipartbest.com, freepic.com, clipartguide.com, math.phillipmartin.info, gograph.com, rosleptier.com)

How About the Land Surveyor??



- Is the Land Surveyor a "Professional"?
- Does the public view the Land Surveyor as a "Professional"?
- Do the courts view the Land Surveyor as a "Professional"?
- Does the typical Land Surveyor view himself/herself as a "Professional"?

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Professionalism??

- professional land surveyor reprimanded for performing a substandard survey.
- professional land surveyor fined due to unprofessional conduct arising out of a guilty plea for Class A Misdemeanor Theft.
- land surveyor license fined for sealing a Surveyor's Certificate on a sheet of paper that was not a survey.
- land surveyor license placed in refuse to renew status for failure to meet the minimum standards of practice for boundary surveys.

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Professionalism??

- professional land surveyor license fined for failure to meet the minimum standards of practice for professional land surveying.
- [land surveyor's] survey contained erroneous corners; property lines that should have been straight were curved and angled and poorly marked and/or blazed; and accessories were not marked in compliance with practice and contract.
- [land surveyor] performed a survey and filed a [survey] map in [.....] County that contained errors and ambiguities which were perpetuated in subsequent maps he filed over the next 25 years, and which affect at least half of 35 sections in Township xx North, Range xx, [.....], in [.....]

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What is a Professional???

- "The roots of professionalism are thought to lie in theology where clergy 'professed' a duty to God. "Profession" took on a secular meaning sometime in the late 17th century, extending to medicine and law (Howell and Howell, 1976) and later to surveying and engineering in the mid 19th century (Bender, 1987).
- A "profession" is defined as "an occupation requiring advanced academic training, as medicine, law, etc." (Webster's New World Dictionary) Therefore, a "professional" is a member of such a profession.
- A "professional" is a person, who is a member of a professional body due to the education qualification and follows the prescribed moral and professional code of conduct. (thelawdictionary.org/professional)

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Attributes of a Professional

If a surveyor wants to be in a learned profession, the individual must seek the attributes of the learned professions. Ten of these attributes are as follows:

1. *having a unique and superior education in a specific field of knowledge,*
2. *providing a service to the public in having the ability to persuade,*
3. *placing oneself in a position of trust,*
4. *conducting practice within a code of ethics,*
5. *desiring to gain high eminence with financial return of secondary importance,*
6. *using independent judgment and accepting liability,*
7. *providing services to those unable to pay,*
8. *charging fees to those able to pay, such fees are dependent on the services rendered rather than labor or product,*
9. *becoming a persuasive and effective communicator, and*
10. *seeking continued education to maintain professional competency.*

(From Evidence and Procedures for Boundary Location)

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Some Principles of Being a Professional

Principle. Professional stature cannot be attained by self-proclamation; it must be earned, and others must bestow the title on the profession.

Principle. Superior and distinct education in a field of knowledge is one essential feature of a profession.

(From Evidence and Procedures for Boundary Location)

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Professionalism

“Responsibilities to the public demand that the surveyor place service to mankind above personal gain.”

(Andrew L. Harbin)

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Some Principles of Being a Professional

Principle. The surveyor has the following obligations to the public:

- (1) to see that the client's boundaries are properly monumented without subtracting from the rights of the adjoiner;
- (2) not to initiate boundary disputes;
- (3) not to aid in unauthorized surveying practice;
- (4) to see that those licensed to survey are properly qualified by character, ability, and training;
- (5) to see that those who prove unworthy of their privileges have those privileges deprived;
- (6) to agree not to attempt to practice in any professional field in which one is not proficient; and
- (7) to produce a quality product regardless of the price.

(From Evidence and Procedures for Boundary Location)

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Professionalism

"It is unprofessional to act in any manner or engage in any practice that will tend to bring discredit on the honor or dignity of the surveying profession."

(Curtis M. Brown)

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Professional or Unprofessional??



(Graphics from thumbtack.com)

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Chapter 443
Examining Board of Architects, Landscape Architects,
Professional Engineers, Designers, and
Professional Land Surveyors

Chapter 443 – Definition of Practice of
Professional Land Surveying

"Practice of professional land surveying" means any of the following:

(a) Any service comprising the establishment or reestablishment of the boundaries of one or more tracts of land or the boundaries of any of the following interests in real property:

1. The rights-of-way of roads or streets.
2. Air or subsurface property rights.
3. Public or private easements.

(b) Designing or coordinating designs for the purpose of platting or subdividing land into smaller tracts.

(c) Placing, replacing, restoring, or perpetuating monuments in or on the ground to evidence the location of a point that is necessary to establish boundaries of one or more tracts of land or the subdivision or consolidation of one or more tracts of land or to describe the boundaries of any interest in real property identified in par. (a).

Chapter 443 – Definition of Practice of
Professional Land Surveying

(d) Preparing maps that depict any interest in real property identified in par. (a) for the purpose of establishing the boundaries of any such interest in real property.

(e) Preparing any of the following:

1. An official map established or amended under s. 62.23 (6), established or amended under the authority of s. 61.35, or adopted under s. 60.61.
2. An assessor's plat under s. 70.27.
3. A map or plat of cemetery lands under s. 157.07.
4. A subdivision plat, certified survey map, or correction instrument under ch. 236.
5. A condominium plat or correction instrument under ch. 703.
6. A project and time-share property plat under s. 707.215.

(f) Performing construction surveying or geodetic surveying in connection with any of the practices specified in pars. (a) to (e).

Chapter 443 – Definitions of Professional Land Surveying Terms

(1m) "Construction surveying" means surveying or mapping that is performed in support of infrastructure design, in support of improvements related to private and public boundary lines, or in support of construction layout or historic preservation, and establishing any postconstruction documentation related to that surveying or mapping.

(3b) "Geodetic surveying" means surveying to determine the size and shape of the earth or the precise positions of points on the surface of the earth.

(7m) "Professional land surveyor" means a person who, by reason of his or her knowledge of law, mathematics, physical sciences, and measurement techniques, acquired by education and practical experience, is granted a license under this chapter to engage in the practice of professional land surveying.

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Chapter 443 — Disciplinary Proceedings Against Professional Land Surveyors

443.12 Disciplinary proceedings against professional land surveyors.

(1) The professional land surveyor section may reprimand a professional land surveyor, or limit, suspend, or revoke the license of any professional land surveyor, for the practice of any fraud or deceit in obtaining the license, or any gross negligence, incompetence, or misconduct in the practice of professional land surveying.

(2) Charges of fraud, deceit, gross negligence, incompetence, or misconduct may be made against any professional land surveyor by the professional land surveyor section or any person. Such charges may be made on information and belief, but shall be in writing, stating the specific acts, be signed by the complainant and be submitted to the examining board. All charges shall be heard according to the rules promulgated under s. 440.03 (1).

(3) If after a hearing 3 members vote in favor of reprimand or limiting, suspending, or revoking the license of a professional land surveyor, the professional land surveyor section shall notify the surveyor to that effect. The surveyor shall return the license to the examining board immediately on receipt of notice of a revocation. The action of the professional land surveyor section may be reviewed under ch. 227.

(4) The professional land surveyor section, for reasons it deems sufficient, may reinstate a license to engage in the practice of professional land surveying that has been revoked, if 3 members vote in favor of such reinstatement. This subsection does not apply to a license that is revoked under s. 440.12.

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Chapter 443 — Professional Land Surveyors - Exception

443.134 Exception for photogrammetry and construction surveying.

Nothing in this chapter may be construed to prohibit a person who has not been granted a license to engage in the practice of professional land surveying under this chapter from utilizing photogrammetry or remote sensing techniques or performing topographic surveying, construction surveying, or geodetic surveying for purposes other than a boundary establishment or reestablishment specified in s. 443.01 (6s).

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The Legal Role of The Surveyor

Because of a surveyor's professional status:

1. The surveyor is elevated to recognition in the courts of law above that of a layman.
2. He/she is held to a higher degree of liability for his/her errors than is an ordinary person because of the degree of trust placed upon him/her for impartiality, capability and responsibility.
3. He/she is presumed to possess those skills and education required of an expert in his/her field.

(From Clark on Surveying and Boundaries)

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Professional Conduct

Without a firm foundation of ethics one cannot be a professional.

(From Evidence and Procedures for Boundary Location)

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What are "Ethics"??

- "code of morality: a system of moral principles governing the appropriate conduct for a person or group." *(General web-based definition)*
- "Ethical practice, simply put, is doing the right thing at the right time." *(Guy, 1990)*
- "the science of moral duty or conforming to professional standards of practice." *(Illinois Professional Land Surveyors Association)*
- "Ethics includes that branch of a moral science concerned with the duties members of the profession owe to their public, their professional associates, and their clients." *(Evidence and Procedures for Boundary Location)*
- "... whatever you wish that others would do to you, do also to them ..." *(Matt. 7:12 ESV)*

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Presenting of Various Situations Involving Professional Ethics

Throughout this presentation, various situations involving professional ethics situations are presented for consideration and discussion. Some of these are taken from or based on situations included in works by others, as listed below, or as otherwise identified.

- *“Professionalism and Ethics in Surveying”, by Steven Frank, ACSM-ASPS-MAPS-MARLS 2000 Workshop, March 19 & 21, 2000 (“Frank”)*
- *“Ethics and Professional Courtesy”, by Knud Hermansen, PLS, PE, Ph.D., Esq, Seminar for Northwest Chapter ISPLS, Valparaiso, Indiana, July 27, 2001 (“Hermansen”)*

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Professional Ethics Situation 1

A Professional Surveyor has frequently completely development projects that have been reviewed by a particular municipal plan commission. The surveyor is in the process of submitting another project that will be reviewed by the same municipal body. The surveyor, who is a Chicago Blackhawks season ticketholder, offers game tickets (at no charge) to a key member of the plan commission. Can this situation be considered as ethics violation? (Based on a scenario from at various ISPLS PS Exam Reviews by Carol Morman, PE, PS)

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Professional Ethics Situation 2

You receive a request to perform a retracement survey. In completing your preliminary research for the survey, you discover that your client’s parcel adjoins a parcel owned by your brother. How would you react to this discovery? (Frank and Hermansen)

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Creeds, Codes, and Canons of Ethics

A **creed** is a statement of beliefs, or a set of principles

A **code** is a set of unwritten rules according to which people in a particular group, class, or situation are supposed to behave

A **canon** is a fundamental belief that usually encompasses several rules; an established principle; a basis for judgment

(Based on general definitions from various sources)

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NSPS Creed and Canons

(from nspss.us.com)



As a Professional Surveyor, I dedicate my professional knowledge and skills to the advancement and betterment of human welfare.

I pledge:

- To give the utmost of performance;*
- To participate in none but honest enterprise;*
- To live and work according to the laws of humankind and the highest standards of professional conduct;*
- To place service before profit, honor and standing of the profession before personal advantage, and the public welfare above all other considerations;*
- In humility and with need for Divine Guidance, I make this pledge.*

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NSPS Creed and Canons

(from nspss.us.com)



- Canon 1. A Professional Surveyor should refrain from conduct that is detrimental to the public.*
- Canon 2. A Professional Surveyor should abide by the rules and regulations pertaining to the practice of surveying within the licensing jurisdiction.*
- Canon 3. A Professional Surveyor should accept assignments only in one's area of professional competence and expertise.*
- Canon 4. A Professional Surveyor should develop and communicate a professional analysis and opinion without bias or personal interest.*
- Canon 5. A Professional Surveyor should maintain the confidential nature of the surveyor-client relationship.*
- Canon 6. A Professional Surveyor should use care to avoid advertising or solicitation that is misleading or otherwise contrary to the public interest.*
- Canon 7. A Professional Surveyor should maintain professional integrity when dealing with members of other professions.*

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WSLS Code



I. Purpose/Intent

In order to establish and maintain a high standard of integrity, professional conduct and skill in the art and science of Land Surveying, and to better facilitate our obligation to promote the public health, safety and general welfare of the citizens of the State of Wisconsin, we hereby acknowledge and recognize the need to follow and consistently adhere to a set of guidelines beyond those minimal requirements prescribed by legal code or statutes.

Therefore, in order to establish and maintain the aforementioned guidelines, this Code of Professional and Ethical Conduct (the Code) shall be binding on every member of the Wisconsin Society of Land Surveyors (the Society) licensed to practice this profession in the State of Wisconsin, as well as their agents, employees, officers or partners.

The Code as set forth herein is specifically designed to safeguard the property and welfare of the citizens of Wisconsin and its enforcement shall be construed to be a reasonable exercise of the policies and by-laws vested in the Board of Directors of the Society.

Any Society member who holds a certificate of registration as a Land Surveyor from the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors is hereby charged with being knowledgeable of the existence of the Code and with understanding its provisions.

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WSLS Code



II. Responsibility to the Public, Clients and Society

A. The Land Surveyor in the course of his/her duty shall understand that the safety, health and welfare of the general public, and their opinions of our profession, are dependent upon each Land Surveyor's actions and conduct in all matters relating to this profession. Therefore:

1. A Land Surveyor shall never purposely accept the minimum standards applicable to this profession as his/her highest standard.
2. A Land Surveyor shall be governed by the highest standards of ethics and integrity in all relationships, including dealings with other professions, contractors and trades, and shall also act in a professional manner in dealing with his/her employee/employer.
3. A Land Surveyor shall remember that the lands surveyed in the course of his/her professional services affect not only the valuable assets and interests of each owner/client, but also that of the abutting owners, both private and public.
4. A Land Surveyor shall not sign, stamp, approve or leave the impression of such approval, any plat or other document related to the practice of Land Surveying that does not meet accepted standards.
5. A Land Surveyor shall not allow others to sign, stamp, approve or leave the impression of such approval, any plat or other document related to the practice of Land Surveying with his/her name or seal.

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WSLS Code



6. A Land Surveyor shall not sign, stamp, approve or leave the impression of such approval, any plat or other document related to the practice of surveying for anyone else, where the field work or particulars behind such a document are not derived from that Land Surveyor's personal knowledge, actions or direction.
7. A Land Surveyor shall not allow others to sign, stamp, approve or leave the impression of such approval, any plat or other document related to the practice of Land Surveying where he/she knows or has good reason to suspect that the field work or particulars behind such a document were not derived from the personal knowledge, actions or direction of the claimant of same.
8. A Land Surveyor, upon learning of a significant mistake or discrepancy in his/her services, shall immediately inform his/her client(s) and employer(s) of any potential consequences; and shall give notice, as appropriate, to all other proper authorities, agencies or individuals as the situation may warrant.
9. A Land Surveyor shall not attempt to practice in any field of surveying in which he/she is not adequately qualified.
10. A Land Surveyor shall not deviate from the rules and regulations set forth for Land Surveying and professional conduct in the State of Wisconsin nor for any other state or jurisdiction where he/she may legally practice Land Surveying, and endeavor always to remain current in said rules and regulations.
11. A Land Surveyor shall recognize that the public interest requires that the cost of surveying services be fair and reasonable, but is not the controlling consideration in the selection of individuals or firms to provide these services. 33

WSLS Code



- 12. A Land Surveyor shall be truthful and straightforward in any professional report, statement or testimony, whether or not under oath, nor shall he/she knowingly omit relevant and pertinent information from such report, statement or testimony when the result of such omission would or reasonably could lead to a fallacious conclusion.
- 13. A Land Surveyor shall not, as an expert witness before any court, commission or other tribunal, express any opinion, unless it is founded upon adequate knowledge of the facts at issue, and upon his/her honest conviction of the accuracy and propriety of his/her testimony. Under such circumstances, should his/her knowledge be inadequate, the Land Surveyor must so cite his/her lack of adequate knowledge of the facts.
- 14. A Land Surveyor shall not issue statements, criticisms or arguments on surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless he/she has prefaced his/her comments by explicitly disclosing the identities of the party or parties on whose behalf he/she is speaking, and by revealing the existence of any pecuniary interest he/she may have in the matter.

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III. Responsibility to the Profession

- A. With an understanding that the results of a Land Surveyor's services are a testament to his/her professional competence, and that such results survive as witness to it a long time thereafter, not only as it concerns the public welfare, but for those present surveyors, and those yet to come along, who must "follow in their footsteps," it is therefore the Land Surveyor's obligation to the profession to promote, advance and aid the endeavors of all Land Surveyors by maintaining the highest levels of honesty, integrity, skill, education and professionalism. Therefore:
 - 1. Public Statements
 - a. A Land Surveyor shall not engage in any public disputes, arguments or public controversy with another Land Surveyor over fees charged or over other professional practices, except as he/she may be required to testify before a court of law or hearing conducted by the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, or by the Ethics and Standards of Practice Committee of the Society.
 - b. A Land Surveyor shall not publicly express an opinion on a Land Surveying subject unless he/she is fully informed as to all of the facts relating thereto and is competent to form a sound opinion thereof.
 - c. A Land Surveyor shall not make any public statement about Land Surveying, Land Surveyors or surveying practice, when such statements would tend to bring discredit to the honor and dignity of the Land Surveying profession.

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2. Conflict of Interest

- a. A Land Surveyor shall promptly inform his/her employers and/or clients of any business association, interests or circumstances which could influence his/her judgment or the quality of professional services.
- b. A Land Surveyor shall conscientiously avoid a conflict of interest with his/her employer, but if unavoidable shall forthwith disclose the circumstance before accepting any assignment.
- c. A Land Surveyor shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless there is full disclosure to any prior consent of all interested parties.
- d. A Land Surveyor's professional judgement shall not be influenced by accepting any gratuities directly or indirectly, from contractors, their agents or other parties dealing with his/her client or employer in connection with work for which he/she is responsible.
- e. A Land Surveyor or land surveying firm shall not solicit a professional contract from a government body on which that surveyor or a principal or officer of his/her organization serves as a member. Conversely, Land Surveyors serving as members, advisors or employees of a governmental body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to professional services offered or provided by said concern, to the governmental body which they serve.

WSLS Code



3. Personal Conduct

- a. A Land Surveyor shall conduct himself/herself in such a manner as the public has a reasonable right to expect and demand of a professional person charged with public responsibility.
- b. A Land Surveyor shall not act in a manner or engage in any practice which will bring discredit on the honor and dignity of the Land Surveying profession.
- c. A Land Surveyor shall not falsify or permit misrepresentation of his/her, or associates academic or professional qualifications; nor shall he/she misrepresent or exaggerate the degree of responsibility nor the complexity of previous assignments.
- d. A Land Surveyor shall not offer, give, solicit or receive, either directly or indirectly, any commission or gift, or other valuable consideration in order to secure work, nor make any political contribution with the intent to influence the award of a contract by public authority.
- e. A Land Surveyor shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another Land Surveyor, nor indiscriminately criticize another Land Surveyor's work.

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WSLS Code



3. Personal Conduct

- f. A Land Surveyor shall not knowingly associate with, or permit the use of his/her name or firm name in a business venture by any person or firm which he/she knows or has reason to believe is engaged in business or professional practices of a fraudulent or dishonest nature.
- g. If any Land Surveyor having knowledge of, or adequate reason to believe, that another Land Surveyor or surveying firm is in violation of any of the above provisions, or of State Statutes or Administrative Codes, it shall be incumbent upon that Land Surveyor to take whatever appropriate action as necessary to uphold the integrity of the profession among his/her peers and with the public. Said action may include, but is not limited to, submitting a complaint to either the Ethics and Standards of Practice Committee of the Society or the Wisconsin Department of Regulation and Licensing.
- h. A Land Surveyor shall keep current on professional matters, particularly those relating to laws and regulations.

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Professional Ethics Situation 3

You complete a surveyor location report (mortgage inspection plat) on a residential project. The two parcels which make up the building site are described by "metes and bounds", and are described from different commencing points. In your work, you find that an apparent gap exists between the two parcels, and the gap would go through the new building. You draw your plat, and show the apparent gap and include notes regarding your findings. The developer calls you and objects to the notes and detail of the gap on your plat, and asks you to remove the note and make no mention of the gap, as he is afraid that the title company will object to the situation. What would be your response?

Would your response be different if the call came from the developer's attorney?

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**Chapter A-E8
Professional Conduct**

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Professional Ethics Situation 4

A well-respected, fellow land surveyor whose work that you are very familiar with is getting "up in the years". You become aware of the fact that this practitioner is beginning to make some uncharacteristic errors and omissions in his surveys. Other surveyors within your geographic area are also aware of these errors and omissions. You have considered this fellow land surveyor a respected colleague and a friend, and you value his friendship. Do you have any ethical responsibility to confront this fellow professional and talk to him about his declining judgments in his surveys? Explain how you would handle this situation. (Frank)

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Professional Ethics Situation 5

You are contacted by a developer who is in the process of seeking approval for a major development in the area in which you work. You are aware that another firm from your area had been hired by this developer for the subject project, based on their "low bid". The developer admits to you that he has some concerns with the other firm's work and asks if you would be willing to step in and finish the project, including the staking of lots. What would be your response(s) to the developer? (Hermansen)

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Professional Ethics Situation 6

At a local meeting of a professional land surveying society, several practitioners complain about the "shoddy" work and business practices of a competitor. They have evidence but no proof of the "shoddy" work when making the disparaging remarks. Is there an ethical violation? (Hermansen)

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Professional Ethics Situation 7

You complete a boundary survey of a 40-acre parcel within Section 15, and collect your fee from the client. Within the next year, a landowner of another 40-acre parcel within the same section contacts you, and says that he saw your survey vehicle in the vicinity when you were working on the first survey, and states that he might consider hiring you to survey his land, depending on your fee. Would you charge the second landowner the same fee as the first? Or, since you have already measured out and broken down the section, would you charge the second landowner a lesser fee? Explain your justification for your answer.

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Tony Gregory, PS
gregorylandsurveying@gmail.com



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