



## vantage point

# What's in a Name?

**D**uring introductions under social circumstances and asked what I do for a living, I say, “I am a surveyor.” In four states, that also means licensed professional land surveyor, but in terms of what I do, it is surveying. Based on the turmoil in Oregon recently, though, I am wondering how to rephrase that introduction outside of those four states. It seems that strict adherence to regulatory definitions of practice mean that a mere verbal claim to be a practitioner is sufficient to violate many states’ rules about who can use certain words to describe themselves.

The case raising these thoughts is that of Mats Jarlstrom, an Oregonian who has a degree in engineering from a Swedish university and worked as an electrical engineer for Sweden’s Air Force and later for an electronics company before his arrival in the US in 1992. Currently he is a self-employed consultant who tests audio products, and repairs, upgrades, and calibrates test instruments. When he became interested in traffic signal timing (due to his wife’s receiving a ticket, but not seeking to overturn the citation), he analyzed the current mathematical formula that establishes how long a light stays yellow. The formula was drafted in 1959, and Mr. Jarlstrom found that it failed to account for the fact that drivers slow down to turn right. His error evolved from sharing his thoughts with the formula’s creator, the Institute of Transportation Engineers, the media, and the Oregon State Board of Examiners for Engineering and Land Surveying. His letter to the Board said, “I would like to have your support and help to investigate and present the laws of physics related to transportation engineering in the State of Oregon.” His offer to make a presentation of his theories to the Board for review and comment earned him

an immediate investigation lasting two years and culminating in a \$500 fine for improperly using the title “electronics engineer” and publicly stating “I’m an engineer.”

During the investigation Mr. Jarlstrom asserted that he was exempt from registration requirements because he does not make final engineering decisions or

*thereby engaged in the practice of engineering under ORS 672.005)1\_(b)... [By] asserting to the public media in correspondence that he is a (‘Swedish’) engineer, Jarlstrom held himself out as, and implied that he is, an engineer...”* (There are various other regulations cited as being violated as well.)

“...a mere verbal claim to be a practitioner is sufficient to violate many states’ rules...”

offer engineering services directly to the public. On receiving the Board’s final 10-page decision, Mr. Jarlstrom hired the Institute for Justice to represent him in a suit claiming infringement of his First Amendment rights in the Oregon Board’s condemnation of his discussion of the mathematics of traffic signals if he referred to himself using the word “engineer.” The Board’s final order in Case 2929 reads:

*“By reviewing, critiquing, and altering an engineered ITE formula, and submitting the critique and calculations for his modified version of the ITE formula to members of the public for consideration and modification of Beaverton, Oregon’s and ‘worldwide’ traffic signals, which signals are public equipment, processes and works, Jarlstrom applied special knowledge of the mathematical, physical and engineering sciences to such creative work as investigation, evaluation, and design in connection with public equipment, processes and works. Jarlstrom*

During the wait for a court decision, the National Society of Professional Engineers wrote to the Washington Post to clarify that there is a distinction between an engineer and a licensed professional engineer, primarily being the “*legal and ethical duty of PEs to hold paramount the public health, safety, and welfare in their designs, construction, and observations. It isn’t a matter of one being superior or smarter than the other, the piece of paper you hold from your college or university, where you earned your degree, or the organizations you’ve joined. It is a matter of meeting the legal prerequisites for carrying out the practice of engineering on projects that have public safety implications as defined by that particular state’s law and rules.*” NSPE closes its cry for greater public attention and awareness as to what it is to be a professional engineer by saying, “... the term ‘engineer’ is often misused—and even abused—by individuals and companies to describe a wide assortment of non-engineering activities and services in ways that mislead, deceive, and at times put the public at risk. Engineering titles, like medical

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Let's also forget that proration under the authority of agreeable owners may be a valid method to stabilize boundaries when original evidence is truly lost.

Nope, this guy simply went rogue and applied his personal definition of "what is fair". That's it! He couldn't come up with any better explanation? I'm not even going to fire up the "rant mobile" and yell about how "that guy" is redistributing property he doesn't own nor was under contract to survey. Every other owner's lot on the block was upset by the proration. Geeeeeeeezzzz! Okay, I'll stop now and just leave it at "the surveyor was unable to point to any authority".

Well, what, then, is authoritative?

The Court states: "The long established use of the unrecorded survey, together with the fact that property rights have been acquired pursuant to recorded plats following this unrecorded survey, is sufficient to establish that the unrecorded survey was recognized by the surveyors of the area as the survey which established the procedure to be followed in locating boundary lines within the quarter section." Okeedoakie! So here's what we have to work with: 1.) People have transferred property accepting the unrecorded map as a supplement to the original plat. 2.) This has been the standard of care for a long time and has supported many land conveyances. 3.) The unrecorded map was recognized by local surveyors as the instructions within that quarter section. All of those actions in concert are authoritative! Possessing the cognitive ability to recognize them during a survey is our profession.

By the way, does anybody notice who and what is absent from this authority? The Government and regulatory guidance, right? This case is a great example of the power of

the people. Please don't confuse this power with the concerns of the over caffeinated social justice warriors down at the weekly campus whine-a-thon. There's a big difference. Our young and aspiring generation of Professional Land Surveyors are set to inherit the keys to a millenia of well settled rules and law that are the foundation of our free society, but you don't see that on CNN. Understanding how to access this guidance is fundamental to retracement work. The authority of free land owners is documented in case law and likewise rarely highlighted by the bureaucrats running the counter down at Tammany Hall. It is our professional obligation, not a regulatory requirement, to acquire and perpetuate this knowledge.

One last thing on "proration". The Court called the defendant's survey a "new survey" as in never seen before. Well that being the case, isn't setting prorated corners like planting evidence at a crime scene, no?

*"The arbitrary proration of the 50-foot right-of-way among the lots of the southwest quarter was not in accordance with the plat of Miami Land and Development Company, nor in accordance with any other former plat of the area. It was a new survey and was not supported except for the State Road Department Plat."*

Gnaw on that till next month! ■

**Jason Foose** is the County Surveyor of Mohave County Arizona. He originally hails from the Connecticut Western Reserve Township 3, range XIV West of Ellicott's Line Surveyed in 1785 but now resides in Township 21 North, Range 17 West of the Gila & Salt River Base Line and Meridian.

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and law titles, should be reserved to those who are licensed or have graduated from an accredited engineering program."

After arguing for limited use of the word "engineer," this final statement intrigues me. Mr. Jarlstrom does have an engineering degree. But what kind of accreditation is NSPE calling for? By each state's registration board? By ABET? Do foreign degrees have any standing?

In the end, Mr. Jarlstrom won his suit, and while not seeking refund of the \$500 fine he does ask for legal fees. ■

**Wendy Lathrop** is licensed as a Professional Land Surveyor in NJ, PA, DE, and MD, and has been involved since 1974 in surveying projects ranging from construction to boundary to environmental land use disputes. She is a Professional Planner in NJ, and a Certified Floodplain Manager through ASFPM.

For those who wish to make their own decisions about whether it was Jarlstrom or the State Board overstepping appropriate bounds, here are a few articles providing background and opinions (there are many more). It was George Will's editorial that first drew Jarlstrom's story to my attention, but further reading has made the question a broader one for me.

**Institute for Justice, "Illegal Math? A state board in Oregon is punishing people for talking about traffic lights and any other 'engineering' topics"**

<http://ij.org/case/oregon-engineering-speech/>

**Jarlstrom, Mats, "I Am an Engineer"**

<http://theinstitute.ieee.org/ieee-roundup/blogs/blog/mats-jrlstrm-i-am-an-engineer>

**National Society of Professional Engineers, Letter to the Washington Post**

<https://www.nspe.org/sites/default/files/resources/pdfs/Letter-George-Will-060917.pdf>

**Oregon State Board of Examiners for Engineering & Land Surveying, "In the Matter of: Mats Jarlstrom, Case No. 2929, Final Order by Default."**

<http://ij.org/wp-content/uploads/2017/04/OR-Math-Jarlstrom-Final-Default-Order-IJ084769xA6322.pdf>

**Pretz, Kathy, "Does having a License Make You an Engineer?"**

(NOTE: The varying views posted in response to this article are interesting.)  
<http://theinstitute.ieee.org/ieee-roundup/blogs/blog/does-having-a-license-make-you-an-engineer>

**Will, George, "Engineering without a License"**

<http://www.nationalreview.com/article/448392/oregon-engineering-license-case-mats-jarlstrom-free-speech>



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