



# SURVEY OR NO SURVEY: the **UNLICENSED** land surveyor

**W**hen is locating someone's property corners or boundary lines not considered the practice of land surveying? Unfortunately, this question has become a gray area in the surveying profession, and some licensing boards are seemingly unable to control the actions of unlicensed individuals doing surveying. It's one matter if a landowner personally finds a marker in the general vicinity of where he or she thinks a property corner should be located. However, when unlicensed individuals give the appearance to the public that they are knowledgeable, and also charge a fee for finding a landowner's monument, it becomes an entirely different situation that affects the profession.

One generally won't find these people advertising in the local Yellow Pages, but they are out there. The Internet has opened up our profession to unlicensed individuals disguising themselves as surveyors who want to make a quick dollar, and it has also provided an easy way for frustrated landowners to have their property surveyed for a fraction of what a legitimate survey might cost. The average citizen usually doesn't need their property surveyed to satisfy a curiosity, but rather the reason involves something greater such as erecting a fence, maintaining the proper setback for a building addition to a house, or helping resolve a dispute with a neighbor.

Fortunately the so-called "locating services" are usually short-lived, but they are almost always started by someone who is familiar enough with land surveying to be dangerous.

>> By Jerry Penry, LS

One Internet-based company in Ohio advertised during the summer of 2007 in the Dayton and Cincinnati areas. Their multi-page website contained statements such as “*Who needs an expensive survey when all you really need is to know where your property corners are?*”, and “*We are not Surveyors! We simply find the monument that marks your property corners, and we do it cheap!!!*” They went on to explain that the service they were offering was for informational purposes only, and that the monumentation found may or may not mark the actual property corners. The price for this company’s service ranged from only \$15.00 to \$35.00 depending upon the travel distance to the site.

This company has since disappeared, but one has to wonder if there were any customers who paid for their services. The individual representing this company also had a personal blog on the website describing why he had started the business. “*You know it really bothered me when I saw my previous employer charging people for a full blown survey (\$850.00) when all we did was locate their property monuments. Those monuments were not more than an inch out and the greedy [expletive] charged them full price anyway.*”

Another company that also appeared on the Internet during the summer of 2007 was based in the area of Rochester, Minnesota. This company originally offered to install three-inch diameter fiberglass markers that were 24-inches long and were embossed with “WARNING DO NOT REMOVE, SURVEY MARKER LOCATED”. Prices for their service started at \$250.00 and went up to \$350.00 per four-corner lot. A site plan could be drafted for an additional \$60.00 and a 10-percent discount was offered as a “Good Neighbor Discount” if an adjoining neighbor also contracted with this company. In bold text they stated “*Don’t pay for a survey if you only need a locate.*” This company quickly caught the attention of surveyors across the nation who began contacting them with questions since it appeared that they were offering unlicensed surveying services.

Within days the wording on their website began to change. The heading “Identifying Boundaries” was changed to “Identifying Markers”. A paragraph stating that they could not create certified drawings was added as well



## “Don’t pay for a survey if you only need a locate.”

as wording to contact a local building and safety department for setback and permit regulations. Wording in red text appeared that stated that their markers were for reference only and were only placed *beside* existing survey markers. Further disclaimers came later stating that they could not make a marker determination, and that the monument found near a lot corner may not be a property corner at all. The placement of the fiberglass markers by this company later ceased, but then offered to place a temporary flag in the area that was consistent with the deed. In an effort to further protect themselves, they added wording to their website that stated that they were not a surveying firm and did not perform any surveying services. Radio advertisements and the placement of ads under “Surveyor-Land” in telephone directories gave a public impression otherwise. By August of 2008 this company was still maintaining

an active website with the minimum price for a “locate” lowered to \$125.00. The original address associated with this company was the same as for a landscaping company.

The Minnesota Board for Land Surveyors took legal action against the Rochester-based company and won. In October of 2008, a settlement agreement and a cease and desist order was reached which included the company having to pay a civil penalty and the banning of this company from performing or advertising any services that implied it could perform land surveying.

Other advertisements for surveying services have appeared on the Internet site known as Craigslist. One person in the Cincinnati area posted this grammatically-challenged message in June of 2008: “*Have you had a survey in the past on your property but have know ideal where the the corners are? let me help. .... this is not a survey and im not taking responsibility for replacing*

corners that aren't in...this is just reverification of where there at, if prior survey exist on the property...". Yet another person advertising on Craigslist in the Marietta, Georgia area offered his twenty-six years of experience as a land surveying technician as expertise when finding property corners. His services offered most jobs under \$100 and stated that even the most complex job would be less than one-quarter of the cost for a real survey. He further stated that he was not a licensed land surveyor, but he would mark corners with "special surveying ribbon".

Do-it-yourself instructional videos and offers to perform inexpensive boundary surveys have also appeared on the Internet auction site eBay. In other cases, some cities are routinely sending out their unlicensed public works director, utilities director, or other employees to locate property corners or measure lines to determine building setbacks which gives the public an impression that this service is free. When the public servant cannot locate the needed corners and the landowner needs to call a licensed surveyor, the quoted fee is likely disputed since "most of the work has already been done". One Wisconsin city's web page offers to the public the use of the Engineering Department's "property corner locator" to help find their property corners.

Many licensed land surveyors who pay their yearly association dues and licensure fees are becoming increasingly frustrated when individuals who are not operating under the same guidelines are doing the same type of work. Reactions from state licensure boards vary greatly when individuals performing land surveys without a license are brought to their attention. A cease and desist order, as was issued in the Minnesota case, can be issued against the perpetrator and the state attorney general can become involved, but only if specific laws have been violated. Many individuals are careful to not call themselves "land surveyors" or use the term "surveying" when advertising to locate property corners. If a landowner is aware that the individual who is locating their property corners is not representing himself as a surveyor, then there is usually no case of fraud. Licensure boards are often more responsive to disciplining their own constituents than dealing with outsiders when it pertains to the rules of land surveying. Unfortunately, this can

cause a lack of trust in leadership when it seems that nothing is being done to safeguard the profession. The lack of resources in both time and money is also causing some states to fall behind in their investigations. Other states have increased licensure fees to hire a person to help regulate their profession and to follow up on complaints.

While many larger surveying companies are not actively engaged in the surveying of smaller parcels of

land, the practice of land surveying by unlicensed individuals does harm the entire profession. The public can perceive our fees as too high, and it further denigrates a profession that continually struggles to find unity and take the lead in deciding what is truly considered "land surveying". *AS*

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