

Boundary Disputes The U.S. Surveyor's Role

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Boundary Disputes – The U.S. Surveyor's Role

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Rules

Rule 1. The “quasi-judicial” capacity of surveyors

Thomas M. Cooley, Chief Justice of the Supreme Court of Michigan summarized the role of the surveyor: “Surveyors are not and cannot be judicial officers, but in a great many cases they act in a quasi-judicial capacity with the acquiescence of the parties.

Rule 2: The surveyor's responsibility to the public is equal to his responsibility to his client.

Whether in performing a retracement survey or in attempting to reconcile a boundary dispute the surveyor has an obligation to the public (i.e., his client's neighbor) equal to his responsibility to his client's interests. It is a situation endemic to the professional status assigned to surveyor through public licensure.

Rules

Rule 3. Surveyor objectivity

The surveyor and the attorney have distinctly different roles when trying a boundary dispute in litigation. The attorney is an advocate for her client while the surveyor is a witness offering expert testimony in an unbiased, objective manner.

Rule 4. No “true” answers

“If a court upheld the surveyor’s evaluation of the evidence in the example, it is because the surveyor arrived at a comprehensive and well-reasoned answer rather than because he arrived at the theoretically correct answer. ... there are no ‘true’ answers waiting to be discovered, only well-reasoned answers.”

Williams, Mitchell G., Esq. and Harlan J. Onsrud, Esq., in “What Every Lawyer Should Know About Title Surveys”, *Land Surveys, A Guide for Lawyers and Other Professionals*, Second Edition, Section of Real Property, Probate and Trust Law, American Bar Association, 2000.

Rules

Rule 5. Professional cooperation between surveyors.

Two surveyors coming to differing “well-reasoned answers” have a regulatory obligation in some jurisdictions to seek a common understanding and, in any case, an ethical obligation to reconcile their differences in order to meet their social responsibilities and to ...

Rule 6. Keep peace in the neighborhood

The physician’s oath to “do no harm” may be reflected in the surveyor’s obligation not to disrupt the peace in the neighborhood. The source of boundary disputes between neighbors is often found within the realm of the surveyor’s expertise and it is often within the surveyor’s ability to reconcile differences. It is also true that many boundary disputes have their origin in the retracement work of a surveyor who, in his zeal to serve his client’s interests, has failed to recognize a neighbor’s just claim.