

THE LEAGUE OF

california surveying organizations

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County Surveyor's Office, 2nd Floor -123 East Anapamu Street

SOUTHERN REGION

Santa Barbara, CA 93101

December 9, 2005

CHAIR

Ms. Cindi Christenson, P.E.
Board of Registration of Professional Engineers and Land Surveyors
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Sacramento, CA 95833-2926

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San Diego County Surveyor
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RE: Force filing of Corner Records

VICE CHAIR

Dear Ms. Christenson:

Jay Keller
Riverside Co. Flood Control Dist.
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Recently I received a Corner Record that I felt had insufficient monumentation to precisely locate the corners being set. I felt that a Record of Survey was required and I asked the surveyor to proceed in that manner. The surveyor refused and demanded that the Corner Record be filed. I placed a note on the form that stated the surveyor was not relieved of the responsibility of filing a Record of Survey due to insufficient found monuments but that hardly addressed the issue. I have spoken with several County Surveyors and this topic has been talked about at both the California League of Surveying Organizations and CEAC Survey Policy Committee meetings. After discussion yesterday at the League meeting, I was asked to write your office to obtain an opinion regarding this issue. Your assistance would be greatly appreciated so that League members can act accordingly and CEAC can make a decision as to whether or not they would attempt to change the PLS Act to not allow "force-filings" of Corner Records under these conditions.

SECRETARY

Michael B. Emmons
Santa Barbara County Surveyor
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TREASURER

Henry Figueroa
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Question: Is the County Surveyor required to file a Corner Record if it is not in compliance with Section 8765(d) or if a Record of Survey is required under Section 8762 both of the Business and Professions Code?

As always, I thank you for your time and consideration of this request. In speaking for the California League of Surveying Organizations, we appreciate the effort your office makes to give us guidance on surveying matters within the State. If you need any further information, please give me a call at (805) 568-3020 or write me at memmons@cosbpw.net any time. Again, thank you and I look forward to your earliest response.

Very truly yours,

Michael B. Emmons

Secretary

California League of Surveying Organizations

CALIFORNIA CODES

BUSINESS AND PROFESSIONS CODE

SECTIONS 8762(a), 8762(b(1-5)), 8765(d), 8773, 8773.1, 8773.2, 8773.3, 8773.4

8762. (a) Except as provided in subdivision (b), after making a field survey in conformity with the practice of land surveying, the licensed surveyor or licensed civil engineer may file with the county surveyor in the county in which the field survey was made, a record of the survey.

(b) Notwithstanding subdivision (a), after making a field survey in conformity with the practice of land surveying, the licensed land surveyor or licensed civil engineer shall file with the county surveyor in the county in which the field survey was made a record of the survey relating to land boundaries or property lines, if the field survey discloses any of the following:

(1) Material evidence or physical change, which in whole or in part does not appear on any subdivision map, official map, or record of survey previously recorded or properly filed in the office of the county recorder or county surveying department, or map or survey record maintained by the Bureau of Land Management of the United States.

(2) A material discrepancy with the information contained in any subdivision map, official map, or record of survey previously recorded or filed in the office of the county recorder or the county surveying department, or any map or survey record maintained by the Bureau of Land Management of the United States. For purposes of this subdivision, a "material discrepancy" is limited to a material discrepancy in the position of points or lines, or in dimensions.

(3) Evidence that, by reasonable analysis, might result in materially alternate positions of lines or points, shown on any subdivision map, official map, or record of survey previously recorded or filed in the office of the county recorder or the county surveying department, or any map or survey record maintained by the Bureau of Land Management of the United States.

(4) The establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions of which are not ascertainable from an inspection of the subdivision map, official map, or record of survey.

(5) The points or lines set during the performance of a field survey of any parcel described in any deed or other instrument of title recorded in the county recorder's office are not shown on any subdivision map, official map, or record of survey.

8765. A record of survey is not required of any survey:

(d) When the survey is a retracement of lines shown on a subdivision map, official map, or a record of survey, where no material discrepancies with those records are found and sufficient monumentation is found to establish the precise location of property corners thereon, provided that a corner record is filed for any property corners which are set or reset or found to be of a different character than indicated by prior records. For purposes of this subdivision, a "material discrepancy" is limited to a material discrepancy in the position of points or lines, or in dimensions.

8773. (a) Except as provided in subdivision (b) of Section 8773.4, a person authorized to practice land surveying in this state shall complete, sign, stamp with his or her seal, and file with the county surveyor or engineer of the county where the corners are situated, a written record of corner establishment or restoration to be known as a "corner record" for every corner established by the Survey of the Public Lands of the United States, except "lost corners," as defined by the Manual of Instructions for the Survey of the Public Lands of the United States, and every accessory to such corner which is found, set, reset, or used as control in any survey by such authorized person.

(b) After the establishment of a lost corner, as defined by the Manual of Instructions for the Survey of the Public Lands of the United States, a record of survey shall be filed as set forth in Section 8764.

(c) Any person authorized to practice land surveying in this state may file such corner record for any property corners, property controlling corners, reference monuments, or accessories to a property corner.

8773.1. The board shall by regulation provide and prescribe the information which shall be necessary to be included in the corner record and the board shall prescribe the form in which the corner record shall be submitted and filed, and the time limits within which the form shall be filed. A corner record shall be a single 8.5 by 11 inch sheet which may consist of a front and back page.

8773.2. (a) A "corner record" submitted to the county surveyor or engineer shall be examined by him or her for compliance with subdivision (d) of Section 8765 and Sections 8773, 8773.1, and 8773.4, endorsed with a statement of his or her examination, and filed with the county surveyor or returned to the submitting party within 20 working days after receipt.

(b) In the event the submitted "corner record" fails to comply with the examination criteria of subdivision (a), the county surveyor or engineer shall return it to the person

who submitted it together with a written statement of the changes necessary to make it conform to the requirements of subdivision (a). The licensed land surveyor or licensed civil engineer submitting the corner record may then make the agreed changes in compliance with subdivision (a) and note those matters that cannot be agreed upon in accordance with the provisions of subdivision (c), and shall resubmit the corner record within 60 days, or within the time as may be mutually agreed upon by the licensed land surveyor or licensed civil engineer and the county surveyor, to the county surveyor for filing pursuant to subdivision (c). The county surveyor or engineer shall file the corner record within 10 working days after receipt of the resubmission.

(c) If the matters appearing on the corner record cannot be agreed upon by the licensed land surveyor or the licensed civil engineer and the county surveyor within 10 working days after the licensed land surveyor or licensed civil engineer resubmits and requests the corner record be filed without further change, an explanation of the differences shall be noted on the corner record and it shall be submitted to and filed by the county surveyor. The licensed land surveyor or licensed civil engineer filing the corner record shall attempt to reach agreement with the county surveyor regarding the language for the explanation of the differences. If they cannot agree on the language explaining the differences, then both shall add a notation on the corner record explaining the differences. The explanation of the differences shall be sufficiently specific to identify the factual basis for the differences.

(d) The corner record filed with the county surveyor of any county shall be securely fastened by him or her into a suitable book provided for that purpose.

(e) A charge for examining, indexing, and filing the corner record may be collected by the county surveyor, not to exceed the amount required for the recording of a deed.

(f) If the preparer of the corner record provides a postage-paid, self-addressed envelope or postcard with the filing of the corner record, the county surveyor shall return the postage-paid, self-addressed envelope or postcard to the preparer of the corner record with the filing data within 20 days of final filing. For the purposes of this subdivision, "filing data" includes the date, book or volume, and the page at which the corner record is filed by the county surveyor. This subdivision shall not apply to a county surveyor's office that maintains an electronic database of filed corner records that is accessible to the public by reference to the preparer's license number.

8773.3. In every case where a corner record is filed pursuant to Section 8773, the licensed land surveyor or registered civil engineer shall reconstruct or rehabilitate the monument of such corner, and accessories to such corner, so that the same shall be left by him in such physical condition that it remains as permanent a monument as is reasonably possible and so that the same may be reasonably expected to be located with facility at all times in the future.

8773.4. (a) A corner record shall be signed by a licensed land surveyor or licensed civil engineer and stamped with his or her seal, or in the case of an agency of the United States government or the State of California, the certificate may be signed by the chief of the survey party making the survey, setting forth his or her official title, prior to filing.

(b) A corner record need not be filed when:

(1) A corner record is on file and the corner is found as described in the existing corner record.

(2) All conditions of Section 8773 are complied with by proper notations on a record of survey map filed in compliance with the Professional Land Surveyors' Act or a parcel or subdivision map, in compliance with the Subdivision Map Act.

(3) When the survey is a survey of a mobilehome park interior lot as defined in Section 18210 of the Health and Safety Code, provided that no subdivision map, official map, or record of survey has been previously filed for the interior lot or no conversion to residential ownership has occurred pursuant to Section 66428.1 of the Government Code.

(c) This section shall not apply to maps filed prior to January 1, 1974.