



SLSI Submits Response to Licensing Board on Request for Ruling

A request for a declaratory ruling was submitted to the Iowa Board of Engineering and Land Surveying Examiners by a professional land surveyor in Iowa. The request was seeking interpretation on several sections of the Iowa Code and Administrative Rules. The SLSI Board of Directors voted to unanimously submit the following response to the licensing board.

193C-1.1{542B) General Statement

The practices of engineering and land surveying affect the life, health, and property of the people in Iowa. The Iowa engineering and land surveying examining board's principal mandate is the protection of the public interest.

193C-11.3 (5428) Boundary Location

Every property survey shall be made in accordance with the legal description (record title) boundaries as nearly as is practicable. The surveyor shall acquire data necessary to retrace record title boundaries, center lines, and other boundary line locations. The surveyor shall analyze the data and make a careful determination of the position of the boundaries of the parcel being surveyed. The surveyor shall make a field survey, locating and connecting monuments necessary for location of the parcel and coordinate the facts of such survey with the analysis. The surveyor shall set monuments marking the corners of such parcel unless monuments already exist at such corners.

354.4 (4)

If a parcel described as part of the United States public land survey system, and not entirely within an official plat, lies within more than one forty-acre aliquot part of a section, the acreage shall be shown only for assessment and taxation purposes for each portion of the parcel that lies within each forty-acre aliquot part. The surveyor shall not be required to establish the location of the forty-acre aliquot line by aliquot part. The surveyor shall not be required to establish the location of the forty-acre aliquot line by survey but is required to use reasonable

assumptions in determining its approximate location for assessment and taxation purposes.

5428.2 5. a. (1)

Setting permanent monuments constitutes an improvement to real property.

Petition for Declaratory Order

Note: The underlined portions of code sections differ from the petitioner's underlining in his petition.

There has been a long standing practice of some land surveyors in Iowa to show calculated corner positions for United States Public Land Corners as shown on the attached recorded plat from the Tama County Recorder's Office. These positions have bearings shown to the second and distances shown to the one hundredth of a foot. No monumentation is shown on the plat for these corner positions nor is there a United States Public Land Corner Certificate on file for said corners.

355.4 Boundary location.

The surveyor shall acquire data necessary to retrace record title boundaries, center lines, and other boundary line locations in accordance with the legal descriptions including applicable provisions of chapter 650. The surveyor shall analyze the data and make a careful determination of the position of the boundaries of the parcel or tract of land being surveyed. The surveyor shall make a field survey, locating and connecting monuments necessary for location of the parcel or tract and coordinate the facts of the survey with the analysis and legal description. The surveyor shall place monuments marking the corners of the parcel or tract unless monuments already exist at the corners.

355.6 Monumentation

1. The surveyor shall confirm the prior establishment of control monuments at each controlling corner on the boundaries of the parcel or tract of land being surveyed. If no control monuments exist, the surveyor shall place the monuments. Control monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The surveyor shall affix a cap of reasonably inert material bearing an embossed or stencil cut marking of the Iowa registration number of the surveyor to the top of each monument which the surveyor places.

355.7 Plats of survey

8. If United States public land survey system corners control the land description, the corners shall be clearly identified on the plat including a description of the monumentation and shall indicate whether the monuments were found or placed.

355.11

1. A United States public land survey corner certificate shall be prepared as part of any land surveying which includes the use of a United States public land survey system corner, having the status of a corner of a quarter-quarter section or larger aliquot part of a section, if one or more of the following conditions exist:

Petitioner's Questions

3. (A)

Does the land surveyor have the choice to not monument any United States Public Land Corners shown on their plat?

3. (B)

Does showing the corner position of a United States Public Land Corner by bearing and distance on a plat constitute use?

Petitioner's Answers

4. A.

No. There is no discretion allowed for in corner monumentation.

4. B.

Yes. Showing bearings and distances to a corner position means that you have determined the position of that corner. Without monumentation as a retracing surveyor I have no way to check the previous survey for accuracy or a blunder as I cannot check my measurement to the previous survey.

5.

A Declaratory ruling will clear misunderstandings as to the responsibilities to monument corners and create consistency of results for Iowa surveys.

I have personally presented talks on this subject at local and state land surveying meetings only to be told I was interpreting the code too strictly.

6. I know of no other proceeding or any other government entities' investigation involving this matter.

7. This ruling will affect the practice of all Professional Land Surveyors in Iowa.

Society of Land Surveyors of Iowa Board of Directors Response

Note: All comments below assume; traditional accepted, and practiced principles, written and unwritten in the code of the state of Iowa, have been exhausted to recover monumentation of the corners required to perform a survey of a parcel or tract of land the Land Surveyor was retained to survey.

The petitioner states there has been a long standing practice of some land surveyors in Iowa to show calculated corner positions for United States Public Land Corners. There are many examples of calculated corner positions for United States Public Land Corners from the very beginning in the original survey of the Public Lands. Professional Land Surveyors are aware of what corners were monumented in the Public Land Survey, section corners and quarter section corners. The center of the section, quarter-quarter corners, government lot corners and fractional quarter-quarter corners were not monumented, yet we as Professional Land Surveyors know these corners exist. That these unmonumented corners were calculated corners is also known by Professional Land Surveyors.

This board is of the opinion that the code of the State of Iowa is clear in code sections 355.4 and 355.6, the parcel or tract of land referred to is the parcel or tract of land the surveyor was retained to survey.

Code section 355.6 continues;

2. Control monuments shall be placed at the following locations:
 - a. Each corner and angle point of each lot, block, or parcel of land surveyed.

This board is also of the opinion that Professional Land Surveyors in the State of Iowa understand what control monuments are. In this board's opinion, the required control monuments to survey the parcel or tract of land on the Plat of Survey the petitioner attached to the Petition for Declaratory Order are monumented.

With regard to code section 355.7 (8), this board is of the opinion that the Plat of Survey the petitioner attached to the Petition for Declaratory Order shows the United States public land survey system corners that control the land description, said corners are clearly identified, include description of the monumentation and indicate whether monuments were found or placed.

With regard to code section 355.11(1), this board is of the opinion that the Plat of Survey the petitioner attached to the Petition for Declaratory Order shows the United States public land survey system corners that control the land description. This board cannot comment on the issue of corner certificates on these control monuments, no corner certificates were included. The calculated corners were not set, are not on the boundary of the parcel or tract of land the surveyor was retained to survey, and therefore do not require corner certificates.

Note: The petitioner asked the Iowa Engineering and Land Surveying Examining Board two questions. Then the petitioner answered these two questions.

With regard to question A, this board is of the opinion that, yes, a land surveyor has the choice to not monument a quarter-quarter corner that is not on the boundary of the parcel or tract of land the surveyor was retained to survey. Code section 354.4 (4) also explains an example where monumentation of a quarter-quarter corner is not required.

With regard to question B, this board is of the opinion that showing the corner position of a United States Public Land Corner by bearing and distance on a plat may constitute use. However, the surveyor has the authority not to monument a quarter-quarter corner if such corner is not on the boundary of the parcel or tract of land the surveyor was retained to survey. This board also disagrees with the petitioner's opinion that without monumentation, a retracing surveyor has no way to check the previous survey for accuracy or a blunder. If bearings and distances are shown, the previous survey can be checked for accuracy by computation.

In the opinion of this board, the Plat of Survey the petitioner attached to the Petition for Declaratory Order depicts the common practice of Professional Land Surveyors in the state of Iowa. A declaratory ruling that supports the petitioner's strict interpretation of the code would not protect the public's interest. A declaratory ruling that supports the petitioner's strict interpretation of the code would not clear misunderstandings, it would create misunderstandings. A declaratory ruling that supports the petitioner's strict interpretation of the code would not create consistency of results for Iowa surveys. This board is of the opinion consistency already prevails in regard to the issue the petitioner asks a ruling on.

The petitioner's strict interpretation of the code sections he cited is not supported by his peers according to his own statement. Also, as stated by the petitioner, no one else has investigated the issue he asks a ruling on.

Setting permanent monuments constitutes an improvement to real property. To set all monuments according to the petitioner's strict interpretation of the code would benefit real property owned by others. Land Surveyors are not retained to monument the property of their client's neighbor, a neighbor our client could be in conflict with. How would Land Surveyor's explain to their client that they (client) are paying to improve their neighbor's property? How would we estimate any Land Surveying project if we are required to set all monuments according to the petitioner's strict interpretation of the code?

A ruling in support of the petitioner's strict interpretation of the code would affect the practice of all Professional Land Surveyors in Iowa adversely. A ruling in support of the petitioner's strict interpretation of the code would place a burden on the public, not a protection. This board's opinion is unanimous; the petitioner's strict interpretation of the code is not supported.

If the Iowa Engineering and Land Surveying Examining Board disagrees with this board's opinion of the petitioner's strict interpretation of the code, we would ask that all surveys conducted prior to their decision cannot be submitted or subjected to peer review, board review or any other scrutiny on this issue alone. The public interest would not be protected, and the Land Surveying Profession would suffer substantially.

The licensing board chose not to issue a declaratory ruling at this time and it is our understanding the board may appoint a peer review committee to come back with a recommendation to the Board.

Feel free to submit your comments back to the SLSI board at info@SLSI.org.