

MEDIATION SKILLS FOR THE  
LAND SURVEYOR  
MSPS ANNUAL MEETING \* FEBRUARY 9, 2017



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#### PRESENTERS

- **Tony Blumentritt**
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  - Trained Mediator
  - Johnson & Scofield Inc
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  - Mediator and Facilitator
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IMAGINE YOURSELF IN CONFLICT  
WITH SOMEONE CLOSE TO YOU  
ABOUT SOMETHING IMPORTANT




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## LEVELS OF CONFLICT




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## CONFLICT & DISPUTING DYNAMICS

- **Intersection of differences – potential “good”**
  - Disputes are short term disagreements which can be resolved
  - Conflicts are long-term, deeply rooted differences, often seen as “non-negotiable”
- **Multiple valid ways to experience & react to conflict**
  - Confirmation bias
- **Self awareness key to managing a difficult conversation**
- **Relationships are key to preventing conflict escalation**

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**MEDIATION**  
FACILITATED NEGOTIATIONS




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## INTEREST BASED NEGOTIATION

### ISSUES



### POSITIONS



### INTERESTS




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**"MNDOT IS ASKING FARMERS NOT TO MOW A FEW ROWS; THE STALKS REDUCE SNOW – AND SNOWPLOWING."**  
**STAR TRIBUNE 9/29/14**



**Low compliance until  
MnDOT met the farmers'  
and communities'  
interests:**

- Community – safe roads, save \$, public service
- Farmers – harvest the corn, avoid extra effort of handpicking, not get out the combine in spring, earn a living, be neighborly
- MnDOT – reduce cost, safe roads, wind break

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REDUCE MISTRUST




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**LISTENING****F**ocus**A**ttend**C**larify**E**mpathize**S**ummarize


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**"GETTING" OTHERS' PERSPECTIVES**


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**DYNAMICS OF A PROPERTY DISPUTE**

- **Boundary disputes are usually not about property boundaries**
- **Other potential causes of a dispute**
  - Family dispute
  - Rocky past relationship-
  - Revenge
  - Coping mechanism for personal issues
  - Greed
- **Information to find out before agreeing to do a survey**

Why?

Will a survey resolve the issue




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## BEFORE GOING OUT

- **Decide whether you want the job**
  - Disclose any potential conflict of interest
  - Let your client know that you will be in contact with the neighbor before going on site. It's the law.
- **Refer the job to someone else if you do not want it!**

### 505.31 ENTRY UPON LAND; NOTICE.

*It is lawful for any surveyor to enter upon any land for the purpose of locating existing survey or reference monuments or landmarks, provided, however, such surveyor shall be responsible to the landowner for any and all damages as a result of such entry, and no surveyor may enter upon any land unless first notifying the owner or occupant of the intended entry for such purpose.*

## HANDLE A SURVEY PROBLEM BEFORE IT BECOMES A DISPUTE

- **Make certain your survey is defensible**
  - Consider your options before creating a problem
  - Is there another defensible option which does not create a problem?
- **Advise your client of the problem before setting any boundaries**
  - Client may not want to make an issue of the problem
  - Problems are a problem
  - Potential problems may not be a problem
  - Take your cue from your client.
  - Bill accordingly. These things take some time



## IF YOUR CLIENT IS CONSIDERING ADDRESSING A PROBLEM

- **Make certain your client understands the issues**
- **Have a preliminary survey show the issues. Maybe not on the final.**
- **Encroachments**
- **Overlaps**
- **Occupation lines**
- **Place a note on your survey outlining the problem and how your boundary solution was determined**





## ADDRESSING A BOUNDARY PROBLEM

- **Discuss Options**
- **Property Conveyances**
  - Be careful of zoning regulations - do not make a property substandard
- **Encroachment Easements**
- **Boundary Line Agreements**




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## WORKING WITH THE NEIGHBOR WHO IS NOT YOUR CLIENT

- **They will call with questions**
  - This is a slippery slope
  - Get permission from your client to work with the neighbor
    - Confidentiality issues
    - Advise the neighbor that he is not your client
    - Advise the neighbor that they may want to retain their own surveyor
      - Doing this may actually cause the dispute to escalate. Surveys may not agree
- **Make sure to get billing for services ironed out**

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KEY IDEAS FROM MEDIATION




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### KEY IDEAS FROM MEDIATION

Listen to the parties. They want to be heard.  
 Use this to gain their confidence.  
 Let them talk. Its their dispute, not yours.  
 Focus on what they want, not what you think they should do.  
 Look for common ground.  
 If they can resolve the dispute on their own, their relationship may  
 get better and the resolution may last longer.  
 Be careful in offering advice. Give them some room.  
 Don't offer advice to the neighbor without clients permission.




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### WHAT DO YOU THINK?

What challenges have you experienced working on  
 boundary disputes?

What creates the challenge?

Any successes or failures?




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## WORLDVIEWS CONTRIBUTE TO CONFLICT



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## WORLDVIEW



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