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FROM THE PRESIDENT

Doug Turner, RPLS

How many of you enjoy working with attorneys? I, for one, do. And it doesn’t matter if it is the buyer’s attorney or the seller’s. I attended a Knud Hermansen seminar many years ago where he explained the difference between lawyers and surveyors (well, some of the differences). For those of you unfamiliar with Knud, he is a licensed surveyor, a licensed attorney, and a licensed engineer in Maine. Knud said that when asked by a fellow professional what they charged for their services, a surveyor will say to another surveyor “I... um... well... um... I charge um...mumble mumble.” However, an attorney will respond to another attorney, “Why, I charge $600 (or whatever the rate is) an hour.” And he will say it in a manner that indicates he will raise his rates if he finds another attorney that charges more.

I tell this story as a way to show that lawyers expect us to charge for our work. After all, they charge for their time.

Have you ever gotten this email or phone call?

“There has been no change to the property since you last surveyed the site” (which was three years ago) “and we are merely requesting an update to the existing survey with the new certification. In light of this information, can you improve on the pricing shown in your proposal?”

Of course, “improving the pricing” would result in the surveyor taking a smaller profit or possibly doing it for free. Would you lower your fee or not? We can’t blame the attorney for asking the question because in many cases it results in them getting the survey for nothing. Many surveyors feel that in cases like this, it’s more time consuming to write a proposal than to simply change the certification and send it to the attorney. We, as surveyors, should recognize that requests for “updates” insinuate that the price should be very low since there is so “little” work needed to produce the new survey. I realize we all call them update surveys for convenience. However, there is no TSPS category for an “update survey” and no ALTA/NSPS standard for an “update survey.” We should realize that in this case, we have signed a new certification and we have a liability for 10 years for this survey in addition to the remaining 7 years on the initial survey. Another way to look at it is that for 7 years (the overlapping years) we have a double liability for the same survey. Surely, that is worth providing a value-priced proposal.

We also receive requests by clients that could cause you a legal battle. Consider the following:

“I need you to state on the survey map whether or not each Schedule B item from the title commitment affects the surveyed property.”

We need to be careful with this one. I have been informed by attorneys that whether a Schedule B item “affects” a property or not is a question of law, and since we are not lawyers, we should not use such language on our maps. They have suggested that we indicate the item is “Shown hereon” or “Not located on subject property” or verbiage that does not include the word, “affects.”

I was told that an attorney in the north part of the state asked a surveyor to determine whether or not specific items in a title commitment affected the property. The surveyor complied with the request and denoted items on the survey as “affecting” the property. After submitting the survey to the attorney, the surveyor was sued for practicing law without a license ... by the very attorney who asked for the verification!

“You must identify and label as “ENCROACHMENT” each and every encroachment onto the surveyed property from an adjoining property and each and every encroachment onto an adjoining property from the surveyed property.”

Black’s Law Dictionary defines “encroach” as “To gain or intrude unlawfully (emphasis mine) upon the lands, property, or authority of another.” So, again, as with the term “affects” an encroachment is a question of law. We, according to those same attorneys, should be careful how we label “encroachments”.

“The following certification must be used verbatim.”

Bull. I have been licensed since many of you were zygotes and I have NEVER signed a certification in its original form. The following are actual excerpts from certifications that have been signed and sealed by surveyors.

“The subject property has never been used as a toxic waste dump or ever will be.”

Really? NEVER EVER, huh? How do you know?

“The subject property has adequate ingress and egress to a public right-of-way”.

Adequate to what; a skateboard or a 747?

“This survey correctly shows the size, location and type of all buildings, structures and other improvements, and visible items on the Property and that all buildings and improvements are within the boundary lines and applicable setback lines of the Property.”

This item is asking you to certify that you have shown all invisible improvements in addition to the visible ones. So, unless you still have your x-ray glasses you got when you were 8, I would change this wording.

“Monuments are placed (or a reference monument or witness to the corner) at all major corners of the boundary of the property, unless already marked or referenced by existing monuments or witnesses.”

That sounds fairly innocuous and is customarily standard operating procedure for most surveyors. But since words mean things, let’s look at the words a bit closer. Can any of us define...
“major” corners of a boundary? And, if there are “major” corners of a boundary then, by implication, there are minor corners of a boundary. The definition of “major” is “greater in size, extent, or importance.” Are any boundary corners of greater or lesser importance than others? Some surveyors would say yes, and some would say no. The word “major” is a subjective term and could have different meanings to different surveyors. The attorneys I have spoken to believe that the wording in this certification item means that each corner must be monumented or referenced individually and that all corners are “major.” So, according to the attorneys, since no corners are of greater or lesser importance than others, all corners must be found or set (or referenced). They must have been found or set if you have signed this certification. Attorneys suggested changing the statement to ‘Monuments are placed (or a reference monument or witness to the corner) as shown hereon.’ This brings up a question that TBPLS Board members get asked frequently. Do you have to set all property corners? The answer lies in the TBPLS Rules concerning monumentation. Contrary to popular belief, the TBPLS rules do not require that all property corners be set.

§663.17. Monumentation

(b) When delineating a property or boundary line as an integral portion of a survey (survey being defined in the Act, §1071.002(6) or (8)), the land surveyor shall set, or leave as found, an adequate quantity of monuments of a stable and reasonably permanent nature to represent or reference the property or boundary corners (emphasis mine). All survey markers shall be shown and described with sufficient evidence of the location of such markers on the land surveyors’ drawing, written description, or report.

Clearly the TBPLS rule is not requiring that EVERY property corner be set. It leaves the determination of the number of monuments to be set to the professional. However, there are certain standards and ethics that we should expect from ourselves. Monumenting our surveys is one of them. Monumentation is a proof of what we did. We, professional land surveyors, are the only people in the State of Texas that can legally set property corners. Everything else we do, that is not associated with a land boundary, can be done by non-surveyors. Why would we, then, not monument our surveys for all to see? Where we surveyors get in trouble (and many have) is when our certification says that we have set all property corners although we did not actually do so. Property corners that are referenced in our certifications MUST be set at the time we sign the certification or we are in violation of Board rules.

I offer these examples to emphasize that YOU have the power; not the attorney, title company, mortgage company, realtor, or anyone else when it comes to your seal and signature. After all, YOU have a license to survey.
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BENCHMARK
DJ Kyle, TSPS Executive Director

Many of you by now have read the SurPAC letter from Travis Tabor, RPLS, Chair of SurPAC. His letter announced the 2018 fundraising campaign for SurPAC with a goal of $40,000. Travis asked 20 members to pledge $500 each to match other member donations hoping to quickly reach a half-way mark. At this point, 11 members have donated which equals 13.7% of the total goal. The Sunset Commission is scheduled to begin reviewing the Texas Board of Professional Land Surveying (TBPLS) in August 2018. It is important for SurPAC to support the Sunset Commission members during this process both informationally and through contributions to their campaigns. I believe all TSPS members would like to see TBPLS remain an independent agency so please consider donating to SurPAC, any amount helps. For more information on How Sunset Works, visit https://www.sunset.texas.gov/how-sunset-works.

Pre-planning for the annual Strategic Planning meeting has begun and will feature Cathi Hight of Hight Performance Group, Inc. Cathi worked with TSPS in 2013 and 2014 to develop a three-year strategic plan. John Barnard, President-Elect has enlisted her services again to assist in preparing a draft plan prior to the meeting. Cathi will also be the on-site facilitator helping attendees to identify “tactics” that will accomplish the goals and objectives of the draft plan. A final document will be presented to the membership post-meeting. All TSPS members are welcome to attend and participate in the planning process. Strategic Planning will be held Friday, August 3rd at the Sheraton Georgetown Texas Hotel. Schedule, hotel reservations and RSVP details can all be found on the calendar at www.tsps.org/calendar.

Locations for the Ray Wisdom Auction & Dinner were scouted out in late April. Shane Neally, Chair of the Texas Surveyors Foundation, Inc. (TSFI) will be providing more details as they are confirmed. The auction and dinner will be held following the Strategic Planning meeting in Georgetown. This is a complimentary informal and fun event for members to enjoy. We hope you will plan to join us and support TSFI.

Convention speakers have been announced. Fourteen different speakers will present varying topics at the 67th Annual Convention & Tech Expo in Galveston. Several national speakers are returning to include Gary Kent, PS, Joe Paiva, PhD, PS PE, Jan Van Sickle, PhD, and Frank Willis, PLS, PE. The schedule of events and hotel reservation information are now live on the TSPS website; online registration will open Monday, June 4th. For the most up-to-date convention information, go to www.tsps.org/convention.

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- [linkedin.com/groups/8300367](https://www.linkedin.com/groups/8300367)

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2018 Regional Calendar

- **May 12** - Abilene 3:00 pm - Frontier Texas (Family and Friend Event!)
- **Jun 28** - Houston TBD
- **Jul 20** - Austin - TENTATIVE General Land Office Tour & Happy Hour
- **Aug 3** - Georgetown - TSFI Ray Wisdom Auction
- **Aug 4** - Georgetown - Happy Hour (following TSPS Board Meeting)
- **Sept 15** - Dallas TBD
- **Oct 4** - Galveston - Young Surveyor Social

---

2018 State/National Calendar

- **Oct 3-6** - TSPS Convention, Galveston, TX
- **Oct 17** - 3rd FIG North American YSN Meeting, Maryland
- **Oct 18** - NSPS YSN Meeting, Maryland

Be sure to follow Texas Young Surveyors on Facebook for event information and details.

Learn more about Texas Young Surveyors, visit [www.tsps.org/TYS](http://www.tsps.org/TYS).

---

October 3-6, 2018

Galveston, Texas

Registration Opens June 1

#TSPS2018

Speakers:

- Texas State Senator Larry Taylor (District 11) - Keynote Speaker
- Philip Adams | Stephen Blaskey | John Griffin | Michael Hoover
- Gary Jeffress | Gary Kent | Joe Paiva | Daniel Prouty | David Rolbiecki
- Gary Schwantz | Doug Turner | Jan Van Sickle | Frank Willis

[www.tsps.org/convention](http://www.tsps.org/convention)
**WHAT IS AN ALTA/NSPS TITLE SURVEY?**

Gary R. Kent, PS

In order to really understand what a Land Title Survey is about, one needs to understand the land tenure system in the United States and the role of title insurance. In that regard, the singular most important fact is that in the United States, there is no guarantee of ownership of real property. A deed is, in fact, *not proof* of your ownership of real property, it is only *evidence* that you might own it.

Overcoming this problem and being able to confidently buy real property, or to obtain a loan to buy or develop real property, requires some sort of assurance that one’s investment is not at risk. That is accomplished in the United States with title insurance.

There is virtually no lender in the United States that will lend money to purchase or develop real property unless it is provided a title policy in order to ensure that its investment (the real property collateral) is protected. In addition, lenders universally require that one of the standard exceptions to the coverage afforded by a title insurance policy - the “standard survey exception” - be deleted from their policy.

The exact wording of the standard survey exception varies, but an example is: an exception for any “Rights and claims of parties in possession, boundary line disputes, overlaps, encroachments and any other matters not shown by the public records which would be disclosed by an accurate survey and inspection of the property.”

This is a standard exception to title insurance coverage because of the myriad of potential problems that could be detrimental to the efficacy of a property’s title, and that will otherwise remain completely unknown unless a Land Title Survey is performed.

When the title company is provided with an acceptable Land Title Survey, it will remove that “blanket” standard survey exception and write individual exceptions for any specific conditions shown on the Land Title Survey that the title company identifies as possible title defects. Those exceptions will then appear in the title commitment which puts the buyer and lender on notice as to the fact that the title company will not provide coverage over those issues.

In order for all of this to work seamlessly, the title industry must be confident that surveyors will provide a survey that will disclose all of those potential title problems (to the extent that they can be observed by the surveyor). Hence, the Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys were developed (first in 1962 and revised 8 times since - most recently effective February 23, 2016).

The standards are jointly developed and adopted by the American Land Title Association (ALTA) and the National Society of Professional Surveyors (NSPS). This joint effort is required to assure that the needs of the title industry are addressed while necessarily taking into account what it is possible to accomplish - at a reasonable cost and in an acceptable time frame - by surveying professionals.

A Land Title Survey is *first and foremost a boundary survey.* *A plot of the deeds is not a Land Title Survey.* In addition, there are many other requirements above and beyond just simply surveying the boundary. This is because of the need to identify all of those potential title problems otherwise excepted by virtue of the standard survey exception.

The ALTA/NSPS requirements are therefore almost all aimed at having the surveyor collect and document data from the records and on the ground in order to support the needs of title companies when they are asked to insure title without the standard survey exception.

Achieving that end is, from the survey standpoint, a multi-part, multi-dimensional exercise.

First, there must be extensive research both into the public records and into relevant private and quasi-public records.

If the survey is of an existing parcel, it is a “retracement” and the surveyor’s job with respect to the boundary is to “follow in the footsteps” of the original surveyor of the parcel. Often, that original survey was decades or more in the past, and finding the relevant records may entail a lengthy search through public and quasi-public records, and what is sometimes a fruitless attempt to find information from other private surveyors relating to that original survey.

Once the necessary records have been located - or not - the survey process moves to the field investigation. A diligent search for original or subsequent survey markers is made including the controlling or reference corners and lines upon which the boundary lines and corners are dependent.

Except when the property is a lot in a platted subdivision (and even often in that case also) those reference corners and lines are typically some distance from the property. In many cases, they may be up to, or even more than, a mile away. In addition, those reference corners are very frequently buried anywhere from a...
few inches to several feet beneath roadway pavement or under or around trees, fences, walls or buildings. The relevant evidence may be very difficult to find and ascertain, like long-abandoned roads, railroads or canals (upon which the corners and lines of the boundary are dependent).

Finding the necessary evidence so the surveyor can develop a defensible opinion as to the boundary’s location is typically the most difficult and time-consuming part of the survey.

Once the essential field evidence is located and documented, the analysis of that evidence begins. Almost never is the evidence perfectly consistent with what the records say, and the surveyor must then run through an extensive and iterative process of sorting through the evidence, weighing it, conducting calculations to test it, and finally applying the appropriate boundary law principles in order to arrive at what he or she believes best represents the boundary as established by the original surveyor.

In the process of collecting the field evidence of for boundary, the surveyor will also locate the many other features required by the ALTA/NSPS standards including, but not limited to, building locations, access points, evidence of use of the property by others, possible encroachments, fences, drives, utility features, water features, and parking lots and spaces.

All of that fieldwork is conducted using a wide variety of tools at the disposal of the modern surveyor. Field conditions and other factors, like the size of the property, the amount and density of improvements, and extent of vegetation, will typically dictate the appropriate tools. They may include electronic total stations, robotic total stations, magnetic locators, GPS, ground-penetrating radar, utility locate technologies, aerial mapping, aerial photography, remote sensing, laser scanners and unmanned aerial vehicles (aka “drones”). More mundane tools like shovels and pick axes are usually required because the evidence that needs to be found and located is frequently, if not usually, beneath the surface.

After the boundary corners and lines have been retraced to the satisfaction of the surveyor, he or she will return to the field to set or reset any missing corner markers.

Then the plat/map of the survey is prepared to document those boundaries and all of the located features. The plat/map is prepared using any of a number of computed-aided drafting (CAD) programs or applications that are popular with surveyors. The drafting process can be automated to a great extent with metadata on field-collected features being used to automatically create line work, connect up the related points into lines, place the appropriate symbols, label boundary lines and even draw contour lines. Of course, presenting all of that data in a legible, readily understood form necessarily takes some manual adjustments of features like labelling locations, line types and text sizes.

The plat/map must also show any gaps or overlaps with adjoining properties as revealed in the records, and the location and extent of any easements identified in the title commitment. This provides the title company, the lender and the buyer with additional information on possible title conflicts or problems.

There are many notes required on a Land Title Survey such as those related to the depicted easements (e.g., recording information, whether shown, and, if not, why). Other notes include, but are not limited to, those identifying problems or ambiguities relating to the boundary, areas that were inaccessible, and water boundaries.

If the surveyor deems it appropriate to prepare a new property description based on the results of the survey, that effort must be undertaken with great care to not inadvertently create new title problems or confusion as to the boundaries and corners that did not exist before.

A new description may be written to indicate new corner markers that were set or to reflect higher precision in measurements and dimensioning than the old description (which may have been prepared decades or even over one hundred years earlier). It should be noted, however, that just because there are differences between measured and record dimensions, does not necessarily mean the old description is bad and needs to be rewritten. Like boundary locations, legal description interpretation is a function of legal principles, not mathematics.

Once the plat/map has been completed, and any and all issues related to boundaries and easements resolved (to the extent possible), it is sent out for review and comment by the interested parties (title company, lender and client/buyer). Any comments received will be reviewed and addressed if necessary, and the final plat/map then signed and sealed by the professional surveyor and sent to the interested parties.

It behooves surveyors and users of surveys alike to be intimately familiar with the purpose, requirements and contents of an ALTA/NSPS Land Title Survey. That way, there will be fewer surprises – which translates to happy clients, lenders, title companies … and surveyors.
2018 SkillsUSA Competition Recap

James Carr, RPLS, Chapter 12 President

On Saturday, April 7, 2018, 48 high school students competed in the surveying portion of the annual SkillsUSA Texas State Conference. The students had to complete the following tasks:

1. Measure 1 horizontal angle using the total station
2. Measure 1 vertical angle using the total station
3. Measure a distance between 2 points using either a steel tape or total station
4. Complete a small level loop
5. Draw a field sketch

A big thank you goes out to TSPS Chapter 12 - Coastal Bend volunteers and Shaun Piepkorn, RPLS, TSPS SkillsUSA Committee Chair for their time and effort at the SkillsUSA Competition.

A special thanks goes out Dr. Jeffress and GISSO from TAMUCC for donating equipment and supplies.

About SkillsUSA

SkillsUSA is a partnership of students, teachers and industry representatives working together to ensure America has a skilled workforce. SkillsUSA helps each student to excel. SkillsUSA is a national organization serving teachers and high school and college students who are preparing for careers in technical, skilled and service occupations, including health occupations and for further education. SkillsUSA was formerly known as VICA (the Vocational Industrial Clubs of America).

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Texas Real Estate Law Recent Cases

1. Foreclosures


Martin defaulted and PlainsCapital foreclosed on the deed of trust securing his loan. “The bank was the highest bidder at the foreclosure sale and bought the property for less than the secured debt. Martin sued the bank, asserting, in part, that the property’s fair market value on the date of foreclosure was in excess of the foreclosure sales price and Texas Property Code §51.003 required the bank to offset the excess against his debt. The trial court determined that §51.003 did not apply and rendered judgment for the bank on its counterclaim for damages and attorney’s fees. The court of appeals reversed and remanded to the trial court. It held that (1) §51.003 applied, and (2) the term ‘fair market value’ as used in §51.003 is the historical willing-seller/willing-buyer definition of fair market value.” Id. at 1-2.

“PlainsCapital argued that the language of §51.003(a) limits §51.003’s application to cases in which ‘the’ deficiency sought from the borrower is the precise difference between the foreclosure sale price and the outstanding secured obligations. That being so, the Bank reasoned, the statute is inapplicable to its claim against Martin because the bank was not seeking a deficiency based on ‘the’ foreclosure sale price; rather, it was seeking a deficiency based on the price for which it subsequently sold the property.” Id. at 4.

“Section 51.003, enacted in 1991, adds balance to the mortgagor-mortgagee relationship regarding deficiency judgments. It does so by circumscribing mortgagees’ rights to seek deficiency judgments and specifying rights that borrowers have regarding alleged deficiencies. . . . Section 51.003 substantively provides that when realty is foreclosed on pursuant to a contract lien and the foreclosure sales price is less than the debt secured, a suit brought against the borrower for the unpaid balance of the indebtedness secured by the real property is a suit for a deficiency judgment. The borrower in such a suit may request that the trial court make a finding as to the fair market value of the property as of the date of the foreclosure sale. . . . If the trial court finds the fair market value to be in excess of the foreclosure sales price, then the borrower is entitled to an offset against the deficiency in the amount of the excess.” Id. at 7-8.

“PlainsCapital parses the language of §51.003(a) and argues that the Legislature’s use of the word ‘the’ when referencing deficiency as opposed to ‘a’ deficiency or ‘any’ deficiency limits the application of §51.003 to deficiencies calculated using the precise foreclosure sales price. . . . The Bank reasons that use of ‘the’ in the statute makes the section inapplicable to situations such as this where deficiencies are calculated using amounts that vary to some degree from the foreclosure sales price.” Id. at 8. The supreme court disagreed.

“Read as a whole and in context with the remainder of §51.003, §51.003(a) provides that whenever a borrower is sued after real property is sold at a foreclosure sale as permitted by and described in §51.002, and judgment is sought against the borrower because the foreclosure sales price is less than the amount owed, then (1) the suit is for a ‘deficiency judgment,’ (2) the suit must be brought within two years of the foreclosure sale, and (3) the suit is governed by §51.003. But how the amount of the deficiency is calculated is not prescribed by §51.003(a); rather it is prescribed by §51.003(b) and (c). Section 51.003(b) affords a borrower the right to request the trial court to determine the fair market value of the property and sets forth how such is to be calculated. Section 51.003(c) prescribes how the amount of the deficiency judgment is to be determined. Under §51.003(c), if the trial court is not requested to determine the property’s fair market value, or if such a request is made but no competent evidence of fair market value is presented, then the foreclosure sales price must be used to calculate the deficiency for purposes of a judgment.

*PlainsCapital’s proposed interpretation requires reading one word – ‘the’ – out of context from the remainder of §51.003. It would allow lenders to bypass the carefully crafted deficiency judgment statute with its two-year limitations period and other protections for borrowers and creditors by simply suing the borrower for some amount other than the difference between the amount of the secured debt and the exact foreclosure sales price. The word ‘the’ in the statute referencing a deficiency cannot bear the burden the bank seeks to place on it. PlainsCapital’s claim against Martin falls within the provisions of §51.003.” Id. at 8-9.

“PlainsCapital contends that even if §51.003 applies to its claim, the court of appeals erred because it equated ‘fair market value’ as that term is used in §51.003 with the historic measure of fair market value, which is ‘the price the property will bring when offered for sale by one who desires to sell, but is not obliged to sell, and is bought by one who desires to buy, but is under no necessity of buying.’” Id. at 9.

“When a statute uses a word or phrase without defining it, the court presumes the Legislature intended the common meaning of the word or phrase to apply. . . . And when a statute provides a definition for or uses a word or phrase in a particular manner, then courts must apply that definition or manner of use when interpreting the statute.” Id.
“The Legislature used the phrase ‘fair market value’ in §51.003 without defining it, so [the court] would ordinarily presume the common meaning of the term applies, as did the court of appeals. However, the statute enumerates categories of evidence and clearly specifies that they may be considered by trial courts in determining fair market value. . . . For example, §51.003(b)(5) specifies that a trial court, when calculating the fair market value as of the date of the foreclosure sale, may consider evidence of ‘the necessity and amount of any discount to be applied to the future sales price.’ This factor is forward looking, allowing the trial court to consider the price for which the lender eventually sells the property and to apply a discount, if appropriate, to determine a value as of the foreclosure sale date. It may seem odd to make the price for which the property sold after foreclosure an integral component of competent evidence of the property’s fair market value on the foreclosure sale date, but that is clearly what the Legislature intended. If it were not, then the relevant part of §51.003(b)(5) would be nonsensical because an unknown fair market value, which is the value being sought, cannot mathematically be determined by applying a discount to an unknown future sales price, nor could either a prospective buyer or the seller know what the future sales price will be in order to factor it into their decision to buy or sell, regardless of whether a discount factor is applied. And [the court does] not attribute to the Legislature an intent to enact nonsensical statutes … Further, if [the court] were to rule the future sales price competent evidence, but only upon a showing of comparable market conditions between the foreclosure sale and the future sale, [it] would be adding words to §51.003. [The court refused] to do that in the absence of clear legislative intent to reach a different result from that reached by applying the plain language of the statute, or to prevent the statute from yielding an absurd or nonsensical result.” Id. at 10-11.

“Therefore, the enumerated factors in §51.003(b) will support a fair market value finding under the statute even though that type of evidence might not otherwise be competent in the common or historical fair market value construct. That being so, the term ‘fair market value’ in §51.003 does not equate precisely to the common, or historical, definition. Rather, it means the historical definition as modified by evidence §51.003(b) authorizes the trial court to consider in its discretion, to the extent such evidence is not subsumed in the historical definition.” Id. at 11.

Mark J. Hanna practices law in Austin and has served as TSPS Legal Counsel since 1992. In addition to providing legal and legislative representation for the Society, Mr. Hanna specializes in representing the interests of individual business and professional clients located throughout the State.
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Gregory “Greg” Kane - Chapter 20
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Robert Keys & Associates
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Todd Traylor - Chapter 9
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Joshua Foster - Chapter 23
Foster Land Surveying

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Matthew Carpenter - Chapter 9
Windrose Surveying & Land Services, LLC
Raymond “Ray” Carrow - Chapter 2
Lamb-Star Engineering, LP
Mark Carter - Chapter 10
LW Survey Company
Cassio Conceicao - Chapter 3
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Bobby Harrington, Jr. - Chapter 9
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An Active Shooter Situation

Joe Breaux, RPLS, TSPS Safety Committee Chair

Recently as well as numerous times over the last few years we have heard of more and more mass shootings. They have occurred in work places, large open areas such as a music festival, in a church in Texas, in elementary schools, colleges, and in other places. These tragic situations have resulted in far too many deaths and they have left the lives of the survivors forever changed. What if you find yourself in an active shooter situation? What is the recommended course of action for you and for others who are nearby?

First, what is an active shooter? The United States Department of Homeland Security defines the active shooter as “an individual actively engaged in killing or attempting to kill people in a confined and populated area; in most cases, active shooters use firearm(s) and there is no pattern or method to their selection of victims.” They usually pick soft targets or places where there is little resistance or limited security.

Many offices buildings as well as standalone offices have some form of security to prevent unwanted walk-ins or access to areas around buildings. This is especially true in larger cities and major metropolitan areas. But even security can be circumvented when someone is motivated to inflict harm. Such a person may be a disgruntled or former employee, an ex-partner or an angry spouse, or just a bad person. They may have planned ahead to inflict harm to others or may randomly drop in to do harm. These types of persons will do what it takes to get in. Sadly, violence seems to be more and more common as a response to many situations.

The odds of being involved in an active shooter situation are said to be similar to being struck by lightning which is about 1 chance in 5000. But lightning does strike and an active shooter situation can occur. According to the Advanced Law Enforcement Rapid Response Training Center™ (ALERRT) at Texas State University active shooter events have been on the rise for more than 10 years. 40% of these occurred in businesses, 29% were in schools, 19% were in public places and 12% were in other places. As a result of the growing number of these events, fire and EMS services have begun to take a different role when called upon, to respond more quickly to save lives. But still, a gap exists in the training of citizens who are already are on the scene and in the event. Up to and including 2015, average law enforcement response time from dispatch to arrival on the scene of such an event was 3 minutes, which is far for law enforcement. ALERRT research has shown that more than one half of active shooter events are over before the arrival of law enforcement. This emphasizes the importance of those on the scene having knowledge and training on what to do. Those already on the scene have the most immediate impact. History shows that the immediate action of people on the scent is the way to minimize or stop the violence. What you do matters and it could save your life and the lives of others. Randy Spivey, Executive Director of the Center for Personal Protection and Safety, noted that “a potential victim’s understanding of an active shooter or hostage event and a survival mindset are critical factors in determining whether they, and those around them, become victims or survivors of workplace aggressors.”

Regardless of how we think things should be, we must realize that violence often produces catastrophic results and we must be prepared by knowing how to deal with it.

How can we maximize our chances of survival in an active shooter situation? ALERRT has developed what has become the recommended standard for response in these situations - Avoid | Deny | Defend™. This is the civilian response that can be used regardless of the location. The program consists of three components:

Avoid. This is the preferred option which begins with your state of mind. Be aware of your surroundings before anything bad begins to happen. Create an escape plan. Look for exits. Escape if possible. Avoid the attacker by creating that escape plan and moving away from the threat quickly. The more distance between and barriers between you and the attacker, the better.

Deny. If avoidance or escape isn’t possible, find ways to keep the attacker from accessing you and others. Find or stay in a room with the least amount of access and windows, if possible close and lock all doors and windows, stay away from windows...
Active Shooter

and light. Then stack chairs, tables, desks or anything that would block the door. Turn off the lights and silence any electronic devices. Even turn off vibration. If others are in the room, spread out if possible. Hide behind objects if you can and stay quiet.

Defend. Then defend yourself against the attacker. Take action. Be aggressive and committed. You have a right to defend yourself if you believe your life is in imminent danger. According to Dr. Peter Blair, Executive Director of ALERRT and a criminal justice professor at Texas State University, when it comes to defending against an attacker, “Do not fight fairly. This is about survival.”

When you get in a safe area, call 9-1-1 and report the incident. Try to provide detailed descriptions of what you saw and heard as well as any other information that is requested.

When Law Enforcement arrives, show your hands and follow their commands. Response to an active shooter call will have multiple agencies responding. Uniformed officers, plain-clothed officers and possibly undercover officers will respond. Uniformed officers will be easily detectable, but plain clothed and undercover officers may not be so easily identifiable. Look for identification badges or identifying items. But know that law enforcement’s first priority is to move in toward the threat. All responders will be on alert and their guns will almost certainly be drawn. Chaos will abound and stress levels will be high. Responders don’t know who is the threat and they don’t know who you are, so respond appropriately. Hold your hands up in the air and visible, and avoid making sudden or threatening moves. Be prepared to quickly cooperate and do what they say. Their orders trump company or other policy.

The preceding information is only a brief description of actions to take to minimize the impact on you and others if you are faced with an active shooter situation. ALERRT also has developed extensive training, videos and information for civilians and for law enforcement. For more information on details of ALERRT or the Avoid | Deny | Defend™ civilian response program and training, or for law enforcement training, see the web pages for ALERRT at https://www.alerrt.org/, and for Avoid | Deny | Defend™ at: https://www.avoiddenydefend.org.

Remember that failure to plan is planning to fail. If you don’t have a plan for dealing with an armed intruder or active shooter in your office or in public places, then create one. And apply these active shooter preparedness recommendations when you are in open or “public” places, too. If you find yourself in the horrible situation of an active shooter, knowing what to do could save your life and the lives of others. Plan and be prepared.
SURVEY SALES SPECIALIST – AUSTIN & HOUSTON, TX

CUNNINGHAM|ALLEN, INC.

Cunningham Allen, Inc. is seeking an RPLS registered in Texas. Responsibilities include management of survey crews and survey technicians and preparation of survey products. Candidate must have knowledge in boundary, design topographic, tree and construction staking surveys.

Proficiency in the use of AutoCAD Civil 3d, Trimble Business Center, and Microsoft Office Word for creating survey products is required. You must be able to pass a background check.

Cunningham Allen, Inc. is an EOE. We offer a competitive benefit and compensation package, including medical, dental and vision insurance, 401K, paid sick and vacation leave, and paid holidays.

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PROJECT SURVEYOR – MIDLAND, TX

SURVEYING AND MAPPING, LLC (SAM)

As a Project Surveyor, you will be responsible for supervising a team of technicians and field crews to complete large-scale survey projects on schedule. You will coordinate with other project surveyors and teams to execute project scope and schedule as established by the Project Manager.

**Duties**

- Perform boundary analysis for large-scale corridor/route surveys
- Sign and seal plats and field notes
- Manage team of survey technicians and field crews
- Perform quality control check throughout the project schedule
- Serve as client contact for progress reports, etc.

**Requirements**

- Registered Professional Land Surveyor (Texas)
- New Mexico PLS preferred but not required
- Three to five years of Project Survey experience
- Strong Oil & Gas experience along with construction experience
- Demonstrated experience in project/phase management for large-scale survey projects
- Strong technical skill set, including AutoCAD Civil 3D and MS Office
- Working knowledge of Trimble Business Center is a plus; not required
- Ability to effectively communicate with all levels of office staff (written and verbal communication)
- Have the desire to want to grow and learn in the ways of a very successful company

Apply: https://careers-sam.icims.com/jobs

GEOSPATIAL TECHNICIAN – AUSTIN, TX

SURVEYING AND MAPPING, LLC (SAM)

SAM is currently searching for an organized and task-driven, Geospatial Technician I, II or III to join our Geospatial Department.

**Duties**

- Daily processing of geospatial data, including evaluating accuracy and sufficiency, and ensuring compliance to applicable project and industry standards related to aerial/mobile mapping products.
- Classification of LiDAR point clouds
- Mapping features from LiDAR point clouds and aerial imagery
- Quality Control
- DTM and Contour generation
- Other duties as assigned

**Requirements**

- Experience working with airborne and/or mobile LiDAR datasets
- 1+ years of progressive experience in CAD, spreadsheets or GIS tools, and LiDAR classification
- 1+ years of experience with compilation from LiDAR or stereo imagery
- Excellent computer and technical skills, including Auto CAD and/or MicroStation and MS Office Suite
- Strong listening, writing and verbal communication skills
- Proven work history, strong work ethic and team-player attitude

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Current job listings can be found online: www.tsps.org/networking
SURVEY CAD TECHNICIAN – AUSTIN, TX
SURVEYING AND MAPPING, LLC (SAM)
SAM is looking for Survey CAD Technicians in our Austin office.

Duties
• Daily processing of survey data, including evaluating accuracy and sufficiency, and ensuring compliance to applicable regulations and professional and industry standards related to boundary calculations, legal descriptions, etc.
• Perform deed research, deed plotting and map checks
• Prepare survey plats and drawings, legal descriptions and alignment drawings.
• Provide technical office support (brief & de-brief) for field crews
• Perform quality control checks of plats and drawings prepared by other technicians
• Ensure schedules and productivity objectives set by supervisor for survey deliverables are achieved

Requirements
• Excellent computer and technical skills, including Auto CAD Civil 3D and/or MicroStation
• Proficient in technical math, including geometry and trigonometry
• Strong listening, writing and verbal communication skills
• Proven work history, strong work ethic and team-player attitude
• 2 or 4 yr degree, CAD or MicroStation experience a plus but not required

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MULTIPLE POSITIONS – EL PASO & HOUSTON, TX
FRANK X. SPENCER & ASSOCIATES, INC.
FXSA is hiring in our El Paso office:
• RPLS: 5+ years’ experience
• Survey Technician: 3+ years’ experience
FXSA is hiring in our Houston office:
• Survey Technician: 3+ years’ experience

Please send resumes to davila@fxsa.com

RPLS – BUDA, TX
ZAMORA, LLC (ZWA)
Zamora, LLC (ZWA) is seeking a qualified individual for an RPLS position in our Buda office location.

Survey Operations Manager: Must be a Registered Professional Land Surveyor in the State of Texas to Plan, Prepare and Execute all aspects of surveying operations, primarily as a Project Manager: coordinating, client management and billing for multiple surveying projects. Candidate(s) will be responsible for coordinating and supervising field and office protocol for Transportation, Electric, Federal, Communications, Water, Civic and Oil/ Gas projects. Strong written and oral communication skills. TxDOT Pre-Certifications and proficiency in GEOPAK MicroStation/AutoCAD Civil 3D and HDS is a plus. We offer excellent compensation, with benefits to include vacation, sick leave, retirement plan, health and dental insurance, holidays and bonus plan. ZWA is an EOE and Participates in the Federal E-Verify Program.

Please email resume to Rene Zamora at grzamora@zwa-texas.com

DIRECTOR OF SURVEYING – RICHARDSON, TX
BASELINE CORPORATION
Baseline Corporation is a Professional Land Surveying Firm headquartered in Houston, Texas, which has been in business for over 40 years. With regional offices in Richardson and College Station, we have built our practice by providing quality land surveying for numerous clients throughout Texas, including the Texas Department of Transportation (TxDOT), other public sector clients to include cities, counties, special districts, as well as private developers. Baseline Corporation is a wholly owned subsidiary of Binkley & Barfield, Inc., a multi-disciplined engineering consulting firm with a focus on regional and state surface transportation, public infrastructure and utility projects. As a part of The Binkley & Barfield Family of Companies, we are an employee-owned firm who gains recognition from publications such as the Alfred P. Sloan Awards for Business, Houston Business Journal and Engineering News Record, as we continue to enhance our flexible professional environment by providing our employees with work/life balance.

The Director of Surveying for the DFW Regional Office will report to the President of Baseline Corporation and will assist Baseline through responsibilities, which include but are not limited to the following:
• Texas Registered Professional Land Surveyor (RPLS)
• Extensive experience with TxDOT, public sector work (cities, counties, utility districts, other agencies) and private land development
• Responsible for financial aspects of regional office
• Experience in Business Development to manage, grow and refine our DFW Regional office
• A passion for land surveying
• Detail oriented, can adapt to/focus on new technology and fit into our company culture
• Manage, train and mentor field and office employees
• Computer literate with a knowledge of MicroStation, GeoPAK, Civil3D, Carlson, Microsoft Office and other associated software
• GIS experience is a plus
• Read, write and speak fluent English
• Minimum Years of Experience Required: Ten (10)

Baseline Corporation currently offers a competitive benefit and compensation package, which includes medical, dental, vision, life insurance, long term disability plans, 401k match and ESOP.

Please send resume & salary requirements to info@baselinesurveyors.net.

MULTIPLE POSITIONS – CONROE, TX
JEFFREY MOON & ASSOCIATES, INC.
Jeffrey Moon and Associates, Inc., a full service Professional Land Surveying Firm is currently accepting resumes from motivated, dependable and qualified applicants for multiple positions:
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• Instrument Man: 1 year minimum experience
• Survey Tech/Draftsman: Experience in AutoCad, Civil Three D and Carlson, knowledge in Land Surveying preferred

Send Resumes to: jeff@moonsurveying.com
FIELD CREW – MIDLAND, TX
SURVEYING AND MAPPING, LLC (SAM)
SAM is currently searching for a field crew for our Midland, TX office.

Duties
• Determine most efficient plan of action for data acquisition for field surveys
• Professional interaction with client representative and land owners.
• Proficient with documentation of work performed and sketches
• Communicate daily with Project Surveyor and technician regarding project schedule and work progress
• Interact professionally with client representative and land owners
• Read and interpret construction drawings/specifications and understand all aspects of the project specifications and tolerances
• Prepare daily reports, time sheets, and other required paperwork
• Maintain vehicle and field equipment
• Other duties as assigned

Requirements
• Strong computer and technical skills
• Experience with Trimble Total Stations, Trimble R7 & R8 GNSS GPS Receivers and Trimble TSC2 hand held data collectors preferred, but not required
• Strong communication skills (listening, writing and verbal)
• Proven work history, strong work ethic, and team-player attitude
• Valid driver’s license, clean background check and drug screening
• Ability to travel for extended periods
• Ability to work in all-weather climates

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MULTIPLE POSITIONS – AUSTIN, TX
RAMSEY LAND SURVEYING
• Party Chief
• Instrument Man
Experience with Trimble Robotic Total Stations and Trimble GPS strongly preferred for all positions.
Must be available to work minimum of 40 hours per week (M-F), valid driver’s license, clean background check and drug screen. Full benefits including healthcare, 401k, and paid holidays.
Email resume or application request to hiring@rlsurveying.com.

RPLS – WEATHERFORD, TX
JACOB & MARTIN, LLC
Civil Engineering & Surveying Firm Opening for an RPLS in our Weatherford, TX office.
Interested parties may call 817-565-7623 or email to adt@jacobmartin.com.

STAFF SURVEYOR – AUSTIN, TX
SURVEYING AND MAPPING, LLC (SAM)
SAM is looking for a Staff Surveyor. This position is responsible for supervising a team of technicians and field crews to complete large-scale survey projects on schedule. Will coordinate with other Project Surveyors and teams to execute project scope and schedule as established by the Project Manager.

Duties
• Perform property boundary resolutions; property deed plots
• Prepare and/or review easement documents
• Review CAD drawings prepared by Survey Technicians

Requirements
• A.S or B.S. in Land Surveying preferred (not required)
• Five plus years’ experience as a licensed surveyor preferred
• Proficient user of AutoCAD Civil 3D or MicroStation

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SURVEY DEPARTMENT MANAGER – SAN ANTONIO, TX
SURVEYING AND MAPPING, LLC (SAM)
As the Survey Department Manager for SAM, you will plan, direct and coordinate all aspects of survey operations, including management of project managers, staff surveyors, technicians and field operations. Additionally, you will be involved in business development and sales of all SAM services and coordination with senior management for company operations. We are looking for a dynamic leader with a unique mix of technical depth and business acumen to foster and lead the growth of a major office location.

Duties
• Establish operational plans and staffing levels to develop an office capable of performing multiple large-scale projects
• Plan and implement procedures and systems to maximize operating efficiency
• Review performance data (financial, budgets, sales and activity reports) to monitor and measure productivity, goal progress and activity levels
• Establish plans and strategies to expand the customer base in the market area
• Develop and maintain positive client relationships
• Serve as Company representative at all levels of operations

Requirements
• 7+ years of progressive surveying and management experience
• Texas Registered Professional Land Surveyor license
• Demonstrated leadership skills to manage operations and staffing in delivering multi-disciplinary projects
• Demonstrated success in business development, marketing, and networking
• Successful experience in contract negotiations, budgets, and fee estimates

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COMING EVENTS

View more details and register for coming events at www.tsps.org/calendar.

AUGUST

Aug 3-4  3rd Quarterly Board & Strategic Meeting
Sheraton Georgetown Texas Hotel & Conference Center
1101 Woodlawn Avenue | Georgetown, TX 78628

OCTOBER

Oct 3-6  67th Annual TSPS Convention & Tech Expo
Galveston Island Convention Center at The San Luis Resort
5600 Seawall Blvd. | Galveston, TX 77554
Oct 4  Annual TSPS Business Meeting
Galveston Island Convention Center at The San Luis Resort
5600 Seawall Blvd. | Galveston, TX 77554

DECEMBER

Dec 1  TSPS December Seminar
Omni Hotels SouthPark
4140 Governor’s Row | Austin, TX 78744

ON SALE!
TSPS Convention Course Proceedings
2000-2006 - $10 each
www.tsps.org/onsale

SurveyAustin.com
Austin, TX - October 18-21, 2000

Building the Years - A Golden Celebration
Galveston, TX - October 17-20, 2001
The Law of Contracts ● Surveying in the Valley of the Kings ● Subsidence in Houston ● Remote Sensing and GIS of Wetlands ● Preparation for Court and Mock Trial ● Surveying and Positioning in the Marine Environment ● Coastal Boundaries ● Texas GIS and Spatial Technology

Cast Off for Corpus Christi!
Corpus Christi, TX - October 16-19, 2002

Capture the Spirit!
Fort Worth, TX - October 15-18, 2003
Land Title Interests ● Developments in Machine Guidance Technology ● Public and Private Real Property Rights ● The Licensed State Land Surveyor Defined ● Introduction to CORS ● Texas Tree Identification Workshop ● Common Business Issues Including Maintaining Receivables ● Digital 3D Survey with CYRAX ● Contract Law and Risk Management Issues

San Antonio...A River of Possibilities
San Antonio, TX - October 6-9, 2004
Identifying, Understanding and Using Trees ● The Surveyor and Marketing ● How to Protect Your Business by Working Safely ● Scanners, Digital Cameras and 3D Models ● Boundary Decisions: Case Law Building Blocks ● ALTA/ACSM Land Title Surveys ● The Paraprofessional Meets the Public ● Practical GPS for Surveyors ● CAD and CAE with Surveying Mapping Standards

Get Connected
Austin, TX - October 19-22, 2005
The Dignity of Calls and Other Surveying Basics ● GIS for Surveyors Workshop ● Surveying in Early Texas ● Court Case Preparation and Testimony ● LASER Scanning and the Land Surveyor ● Tour of General Land Office Records in Surveying Division ● Surveying with GPS: It’s Just Surveying, Don’t Make it Hard! ● Using State Plane Coordinates

Explore, Experience, Exclaim
The Woodlands, TX - October 11-14, 2006
The Pincushion Effect or The Multiple Monument Dilemma ● Surveying Technology 1996-2016 ● Law Enforcement Forensics and Reconstruction ● Writing Legal Descriptions ● ALTA/ACSM Standards - 2005 Update ● Basic Tree Identification and Biology ● GPS Processing - It's Now Free on the Web ● History and Application of Surveying Instruments ● Eminent Domain - The State’s Taking Power ● TSARP Panel Discussion

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