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SIDE SHOTS

Professional Land Surveyors of Colorado

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Statute of the Month

C.R.S. 18-4-515, Trespass

By Earl Henderson, PLS

As a Professional Land Surveyor it is our responsibility to know the law and to obey the law when it comes to how we complete our boundary surveys. We all hopefully already know that. But it's also our responsibility to know the laws of access to properties that govern how we complete those boundary surveys. And beyond the law, it is our professional responsibility to act in a respectful, polite and professional manner when dealing with the property owners.

C.R.S. 18-4-515 describes what is commonly called our "Right of Reasonable Access". Please take some time to look it up and read it and remind yourselves of the requirements to access properties, especially if you don't deal with this on a regular basis. We do have the right to access, investigate and utilize boundary evidence even if the property owners don't want us there. But let's be clear, we do NOT have the right to trespass on anyone's property at will. There are definite notification requirements and procedures that must be met before we can access that boundary evidence.

Moreover, by acting in a respectful and professional manner with the property owners, we promote an image for our profession worthy of respect. Common courtesy apparently isn't as common as one might think. And often it's very difficult when dealing with an uncooperative property owner to maintain a manner of respect and professionalism. But to do so leaves that property owner with a long lasting impression and does a service to that property owner and our profession. Even if that property owner doesn't want us accessing their property, or acts in a belligerent manner toward us, if we respond politely and with respect, they will remember that experience and hopefully respond differently to the next surveyor that knocks on their door. To act otherwise causes harm to the image of our profession that may never be recoverable. The property owner who is poorly treated is much more likely to pass on that experience to others while possibly exaggerating the actions of the surveyor than the property owner treated courteously. Unfortunately that's human nature. But we as a profession will have to work 10 times as hard for 10 times as long to recover from the word of mouth spread about a bad experience.

I personally don't work on projects which require the notification process as a regular aspect of my work. But I know several PLS's that do. But for my practice it's usually enough to knock on someone's door, introduce myself, describe why I'm there, and ask politely for

access through their property (and just a tip here, it helps to be wearing your safety vest as the property owners will realize that you're there on some sort of official business rather than soliciting). In all my years I've only been turned down once and that time I was able to find an alternate route to the evidence I needed. I try to always keep in mind how I would feel and how I would want to be treated if I were the owner of this particular property and to then treat that property owner how I would want to be treated. It's not hard to conceptualize and it's not hard to do. On rare occasion I've even gotten more work out of it.

I recently experienced something related to access that was quite disconcerting. I was contacted by a property owner about a situation that I won't go into too much detail about in order to protect the guilty. But suffice it to say that a survey crew trespassed onto someone's property. In the end it was discovered that the crew, the PLS and the client's representative (an oil and gas company) all conveyed to the property owner, at different times, and in adamant tones no less, that "surveyors have the right to trespass". Not only is this not true, but I realized that this untruth is being passed on to the subordinates under our responsible control and to our clients.

I ended up as a mediator/referee in the situation trying to soothe the property owner and prevent the perps from being arrested. Photos, video and audio were all involved. I was relieved when apologies were offered and accepted and the situation was de-fused. I felt lucky to have accomplished that much. But we as a collective profession may never be able to repair the harm that those actions caused to our professional image. That's done. That story will be told and retold adding to the damage. What's worse is that I found out that a simple knock on the door with a polite request would have been enough to gain allowable access.

It is always so much more difficult to repair a tarnished reputation than to maintain a good one. We are all professionals and so we should all already know that. We will all be working that much harder to repair the damage done to our great profession because of these actions when we shouldn't have to. Please, be professional out there. Act respectfully and politely and treat others as you would want to be treated if it was your property.

Be safe out there.