

November 2019

SIDE SHOTS

Professional Land Surveyors of Colorado

Volume 50, Issue 4

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Rocky Mountain
Surveyors Summit
February 26-28
2020

JUST A SIMPLE COMPASS

- page 7

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Rule of the Month

Board Rule 6.1-Seal and Signature requirements

By Earl Henderson, PLS

You would think that a Professional LS would understand sealing and signature requirements and that those requirements would be second nature to them. But if that were the case, then I wouldn't be writing this article. To me, this is one of the most basic and simple acts we perform, yet it is also the act that shows the public and our fellow professionals that we are, in fact, professionals ourselves. And once again, as in many previous examples, I would suspect that the DORA Board is unlikely to suspend or revoke your license for this type of infraction. But if you find yourself facing discipline for a survey in front of the Board, or possibly worse than that, you find yourself defending your survey in front of a judge, infractions such as the ones discussed below can add up and define the level of professionalism of your plat and your work in general. How likely is the judge to accept your interpretation of a boundary line location when it becomes known to them that you aren't even capable of correctly sealing and signing the survey plat? In fact, not correctly sealing and signing your plat can invalidate it for those proceedings and result in your client losing the case from lack of a properly executed survey. I know I don't want to find myself in that embarrassing situation. So, let's review the requirements.

Board Rule 6.1.1 defines the specifications of your seal. I'm not going to get into any details or descriptions about this rule as I've never seen a seal for which I would question the specs. But it's a good idea to double check your seal to make sure that it does meet the specs.

Board Rule 6.1.2 describes the application of your seal. It must be applied, either manually or electronically, to the final record document you produce. Up to this point I don't think I've ever seen an infraction I'd bring attention to. But that's about to change.

Board Rule 6.1.2(a) indicates that your seal must be applied to "Each sheet of documents and plats resulting from the practice of land surveying." I see infractions of this rule often. It is quite surprising, if you start to pay attention, how often a multi-page Land Survey Plat has the seal and signature on the first page and no subsequent pages. Come on son. And what's even scarier is that this happens a lot on ALTA/NSPS Land Title Surveys for which we carry significantly larger risk

and liability. It is also a frequent violation on Subdivision plats. If a legal proceeding were to develop based on a survey you completed and you hadn't sealed and signed every sheet, the consequences could have a significant effect on your insurance, your reputation, your client and possibly your ability to continue to practice when the Board finds out. And all because of a simple lack of understanding this simple rule. So, seal and sign every sheet of every plat. It makes it easy to avoid the consequences. And since we're on the subject, we also apply certifications to our plats when we seal and sign them. I recommend using that certification on each sheet of your plat as well. The certification limits your liability so why would you want to take the risk that your liability is limited only with regard to Sheet 1 of your plat and not the other sheets? Your liability may or may not be extended on the subsequent sheets without a certification statement, but why take the chance? Why not make certain that your liability is limited on each and every sheet?

While we're at it, I also recommend to review the definition of Professional Land Surveying, Land Survey and Professional Land Surveyor found in CRS 12-25-202, CRS 38-51-102 and CRS 38-53-103 (and possibly elsewhere) to make sure you understand the meaning of the "practice of land surveying" as written in this rule. The definition far exceeds a LSP, ISP, ALTA/NSPS Land Title Survey and ILC. Your stamp is required on a great many types of documents other than those just listed. CRS 12-25-202(6)(c) is the blanket that allows for interpretation of the definition of Professional Land Surveying to be made by someone other than you (i.e. The DORA Board or the judge). So once again, why take the chance? If in doubt, seal it. You're likely to be liable for it anyway.

Board Rule 6.1.2(b) excepts reports from the requirement to seal and sign every page (thank goodness), because some of those reports can get pretty long. But note that you can seal and sign either the title page or the signature page. I tend to seal and sign the signature page, but that's just me.

Board Rule 6.1.3 baffles me quite often too when I review plats. The first part just says that the signature and date of the licensee must be affixed to the

document. I think we all know that. But unfortunately, we don't all understand the second sentence, "The signature of the licensee and date of the signature shall appear through the seal." You would think this is common knowledge. But apparently, it's not. I often see signatures and/or dates that are set aside from the seal. Really? But don't feel too bad because I see this on Architectural and Engineering plans too. So surveyors aren't the only ones without that common knowledge. Make sure your signature-and the date-both appear through the seal. It's more common to see signatures in the seal and the date off to the side than to see both off to the side. But as I said, it's frightening how often you'll see this once you start to take notice.

Board Rule 6.1.3.1 is a rule I've never encountered, but one that you may want to be aware of just in case. I'll let you read it for yourself.

Board Rule 6.1.4 deals with sealing documents that are not yet final. Notice it doesn't say anything about signing documents that are not yet final. I don't think I would ever sign a document that wasn't final but again, that's just me. But I do leave my seal on documents that are not yet final occasionally. After all, a preliminary LSP is a document you're releasing as a result of the practice of land surveying as discussed above (BR 6.1.2(a)) so it requires your seal but not your signature. And this rule states that if and when that's done, we must identify the document as being "Preliminary". IMHO this is a good policy when releasing a document that is not yet final even if your seal is not affixed. But I have occasionally seen documents with seals and no signature that were obviously intended to be preliminary but that had no mention on them that they were preliminary. Not only is this a Board Rule violation, but it's also a neck exposure violation.

Board Rule 6.1.5 deals with limiting the scope of the licensee's responsibilities with regard to the survey and plat. I think this is a good rule, but I also think it can be wrongly applied to some situations. It's part of a pet peeve of mine that I think would take up too much space for this one issue, so I'll leave it for another time, maybe even next time. But I would caution you to be very careful how you apply this rule, if you choose to apply it. Remember, the Board and the courts are not obligated to interpret this rule the way you interpret it and apply it to your situation. Just as the Board and the courts aren't obligated to interpret your survey as an ILC just because it's labeled an Improvement Location Certificate. You may be held responsible for aspects of a survey that you claim not to be responsible for in a limiting statement for other reasons. So, be careful with this one.

Board Rule 6.1.7 deals with record retention, which is defined as 3 years from the date you tender the document to the client, not the date you record or deposit the survey or document, nor the date you sign the survey.

I recommend starting to take notice of the seals and signatures on the documents you see when conducting research, or reviewing plans, or wherever you run into them. You too will be shockingly surprised at how often you'll notice that someone doesn't understand the very basics of what being a professional is all about. It's disappointing. If we're going to be accepted as professionals, then we have to act in a professional manner. And that applies to everything we do from the most advanced and complicated matters to the most basic and simple. The documents you release to the public by means of recording or depositing into the public record will be on file and available, possibly for eternity, or maybe just the next 3 billion years or so until the sun explodes and destroys the Earth, whichever comes first. So, for quite some time, well after we've all moved on to our Elysian Fields, those documents will be providing future folks with an insight into your competency and professionalism. I know that when I notice a document that isn't sealed and signed correctly it immediately instills in me a sense of the person's understanding and knowledge of this wonderful profession of which we are so privileged to be a part. And that sense of doubt and concern continues with each aspect of the survey I'm studying to try to determine if they did a reasonable job. If that PLS didn't understand how to seal and sign their work, what other aspects of the profession did they not understand? I'm already looking for them and expecting them, rather than defaulting to the position of accepting their work as is.

When you're dead and gone, and some future PLS, possibly even a protégé, happens upon your plat while conducting research, do you want them to feel a sense of hesitancy or relief? I know what I want them to feel. But I hesitate to expand on that thought.

Be safe out there.