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PRACTICE ADVISORY BULLETIN

January 23, 1997

NUMBER 97-1

PART OF CL1/97

BYLAW 10(m):

“A member knowingly working on a project for which another member has not been paid or his account discharged or without his consent, is guilty of unprofessional conduct. Such consent shall not be unreasonably withheld. Where consent is withheld, an interested party may appeal to the board for adjudication of the matter.”

In the worst case scenario, a statement of claim was made against the Corporation in the amount of \$50,153 by a private developer for what he considered were his delay costs. He claimed this delay was directly caused by our member’s use of this bylaw. Although the account has been rejected, members must use caution when dealing with matters relevant to Bylaw 10(m).

This is a members’ bylaw, intended to be used as a communication tool only. Under no circumstances is this bylaw to be used as a lever to extract payment or to restrict trade.

Your Board of Management considered proposing amendments to this bylaw at the recent Annual General Meeting, but instead would like to monitor its use over the coming year. In order to accomplish this task, we need your help. Would you please provide a copy of any notice under this bylaw, to the secretary, at the same time you provide notice to another member. Thank you for your cooperation.

OFFICIAL MONUMENTATION AT LOT CORNERS:

A member posed the following question to the board; “Should B. C. Land Surveyors be allowed to set anything less than official monumentation to mark property lines or property corners, and prepare Plans showing the same?” In the opinion of the board, property corners should be monumented or witnessed with official posts only, while property lines that have official posts at each end may be marked with non standard posts. Plan requirements are according to existing regulations. This advisory does not apply to “Block Outline Surveys”.

Practice Advisory Bulletin - 97/2 (Red - Group reference 5.2) - Enclosed to practising members

An advisory from your board on concerns under the City of Burnaby Tree Bylaw(1996) and Tree Tagging.

PRACTICE ADVISORY BULLETIN

March 3, 1997

NUMBER 97-2 PART OF CL2/97

TREE TAGGING: City of Burnaby Tree Bylaw (1996)

Members should be aware of the requirements under a new bylaw recently enacted within the City of Burnaby, known as the Burnaby Tree Bylaw 1996. This bylaw calls for the preparation of a tree plan, based on a site survey by a B.C.L.S. showing the parcel limits and certain trees about the site for which either a demolition or building permit application is being processed. Trees on the site or within two meters of a boundary must be shown and tagged if the tree meets the definition of a protected tree, i.e. any tree which is greater than twenty centimeters in diameter at a height of 1.3 meters from the ground. The trees are to be identified by type and species, and your client as well must file information on the protected trees being retained, or any to be cut down and how a replacement is proposed.

The city is issuing numbered tags to be nailed to each protected tree identified by a B.C.L.S.; these are similar to hub tags and are required to be spiked into the tree with the tag number and location cross-referenced when the plan is submitted to Burnaby.

The board is concerned on the liability that may accrue, by this spiking, to a land surveyor in the event of an accident if the tree were to be felled and/or milled. Aluminum nails may be used to reduce future risk, but the board advises members to use care in attaching any tag by a spike to a tree - to keep it as low as possible in a stump or root area - and that members speak to their local municipality wherever this matter may be an issue.

PRACTICE ADVISORY BULLETIN

May 6, 1997

NUMBER 97-3

PART OF CL3/97

PROFESSIONAL SUPERVISION

Pursuant to Section 7(a) of the Land Surveyors Act **and Corporation Bylaw 10(h)**

It has come to the attention of the Board of Management of the Corporation of Land Surveyors of the province of British Columbia (the Board) that some of our members may be >selling their signature= to other agencies and could thereby be in breach of the bylaws of the corporation and subject to a charge of unprofessional conduct. This advisory is to remind the members that in accordance with Bylaw 10(h) A No member of the corporation shall act as the servant or agent of any person who is not duly qualified to practise as a British Columbia land surveyor, so as to enable that unauthorized person (including a corporation) to practice as a land surveyor indirectly≡.

Any complaints received by the corporation office in this regard will be forwarded to the Discipline Inquiry Committee for their immediate review.

Board of Management

PRACTICE ADVISORY BULLETIN

August, 1998

Number 98-1

Part of CL4/98

Survey Evidence Shown on Plans

A British Columbia Land Surveyor is mandated to act as a public officer whose obligations are first to the Crown and the cadastral fabric of the province and secondly to his client. A surveyor=s duties include, but are not limited, searching for the best evidence possible, evaluating the evidence found and applying that evidence to fit the cadastral fabric. The surveyor must determine the relevance of the evidence found and whether such evidence would be admissible in a court of law. A surveyor=s plan is only a statement of his opinion, which may be subject to objections from those holding contrary views, and a surveyor must, therefore, in performing his duties, conduct himself with the degree of care equivalent to preparation for a trial in court. The surveyor=s work must meet the burden of proof required by the standards of evidence, statute law, regulations and bylaws.

The Board of Management has been made aware that some surveyors are preparing plans showing only the minimum amount of evidence that they feel supports their opinion. This practice does not meet the legal obligations required for surveyors to show all pertinent evidence regarding the survey including all posts found.

The Board of Management reminds you that all posts should be searched for and, if found, shown on your plan whether it supports your solution or not.

PRACTICE ADVISORY BULLETIN

August, 1998

Number 98-1

Part of CL4/98

Re-Posting Subdivisions

The process of land development usually involves preparing subdivisions plans prior to the construction of roads and services. After construction many posts may be destroyed or disturbed, and the client or contractor may wish to have the subdivision re-posted. It has come to the attention of the Board of Management that some surveyors are re-posting these subdivisions without filing a Posting Plan. Section 68 of the *Land Title Act* is very clear that any time a post is set to re-define or define an existing property line, a Posting Plan shall be filed in the Land Title Office.

There is provision in the acts and regulations to do Block Outline surveys, however many developers prefer to avoid this course of action and insist on traditional subdivision plans. Other than advising our clients on the options, we must accommodate our clients= wishes in this matter.

There are instances where a surveyor may be asked to re-post some corners in a new subdivision which the same surveyor has recently completed. If the subdivision plan is not yet registered and can be updated to reflect the re-posting , there is no need to file a posting plan, however once the Subdivision Plan has been registered, there may have been some reliance by others on the posts in place.

The Board of Management reminds all surveyors that when any survey monument post is set a Posting Plan must be filed in the Land Title Office.

M E M O R A N D U M

To: Vancouver Island Group of B. C. Land Surveyors Ref.: Item 97/6.1(3)

From: Corporation of Land Surveyors of the Province of British Columbia
All firms immediate communication by e-mail or facsimile

Subject: Regional District of Nanaimo, Bylaw 500.206 - Rural 4 Zoning

Date: July 21st, 1997

ALERT NOTICE

It has recently come to the attention of the Corporation office and your Board of Management that the Nanaimo Regional District passed an amendment to its minimum parcel size, under RU4 zoning in the Cedar/South Wellington electoral area, which reads as follows:

Minimum parcel area subject to Section 7.4.4, "no parcel having an area less than 2.0 hectares may be created by subdivision, and for the purpose of this subsection, parcel includes a lot created by the deposit of a strata plan under the Condominium Act of British Columbia."

The intent of this bylaw amendment clause according to the district, is to eliminate the practice of strata subdivision of rural properties pursuant to the Condominium Act, which may result in the creation of title(s) in extent less than the required 2.0 hectare minimum. This includes the stratification of buildings, as well as bareland. A problem exists in part from the permitted uses under the Rural 4 zoning where two dwelling units may be constructed on a parcel having an area greater than 2 hectares.

The Board of Management, by transmission of this communication, advises all British Columbia Land Surveyors on Vancouver Island of this bylaw in the Nanaimo Regional District. Please assure that you carry out appropriate research and advice to your client(s) in this regard, keeping in mind that British Columbia Land Surveyors are the only people who may execute a strata plan without municipal approval. There is not only duty and responsibility to the general public but also to public officials in the conduct of your practice.

Where there is express notice such as in this case where strata subdivision would contravene a municipal bylaw, proceedings by a B.C.L.S. to stratify such parcels may constitute unprofessional conduct.

Yours very truly,



Gordon M. Thomson, B.C.L.S.
Secretary

GMT/tmc

Practice Advisory

January 2001

To all British Columbia Land Surveyors

Recently several cases of concern have come before the Board with respect to strata plans. None of these cases have resulted in specific disciplinary action but they have generated discussion between certain members and Land Title Office staff. The purpose of this advisory is to remind the members of some basic fundamental regarding the preparation of strata plans.

Building Strata – State of construction

When preparing a strata plan of a building it is your obligation to ensure that the walls, floors and ceilings that you represent on the plan are in fact constructed and in place at the time you sign the plan. In effect a wall, floor and ceiling of a strata development acts much like a survey post on a subdivision plan.

New Development – The Role of the Surveyor

The Board wishes to remind all land surveyors that in the case of 'new development strata plans' there is no approval process beyond that of depositing the plan in the Land Title Office. Consequently the land surveyor has an additional responsibility to ensure that a strata plan is prepared in such a way so that the general public is served and that the strata lot is a reasonable vehicle for tenure in the Land Title system.

If you have any doubt that the entity your client is asking you to define as a strata lot will be a reasonable entity for the Land Title system then you are advised to consult with your lawyer and the local Registrar. Other references may include land surveyors and the Corporation office.

Circular Letter - 4/94

May 8th, 1994

Condominium Act - Sections 8(1) and 9(1)

Re: New Development Certificates by a BCLS.

Your Board wishes to alert all practising members to a concern about defining or determining "previously occupied" when surveying buildings for strata units and for your plan. If you are not certain a structure is 100% a new development, you are advised to ensure the status with an appropriate approving or building permit authority.