



By Gary Kent, LS

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Recertifications and Revisions

First of all, I would like to go on record saying that I abhor the terms “recertification” and “update” because they imply something less than a “new” survey. Any time there is a new signature and/or date of certification, it is a new survey, regardless of what you want to call it (unless that new certification is qualified as being only to a specific issue or specific issues).

In my terminology, a “revision” is something less than a “recertification” or “update.” It does not necessarily involve a new signature or certification date, but rather some change to the survey that perhaps does not require a new certification.

title commitment, depicted easements”) and revision date shown, but without a new certification date.

As an aside, if anyone involved insisted on a new certification date as a result of adding the easements, the client would have to pay for that as being outside the scope of our original contract (which is an excellent reason to use a written contract).

These situations can become complicated when the initial surveyor is no longer with the firm. Please note that I am not an attorney, so there may well be legal issues and ramifications of which I am unaware, but here are my opinions related to these issues:

I believe a firm “owns” the survey, assuming the contractual arrangements

a revision if that surveyor is no longer employed there and assuming there was no legal agreement to provide such.

If that is the case, how is this issue handled? Let’s take the two cases separately – using my terms “revision” and “recertification” (“update”). First let’s discuss “recertifications.”

If a second surveyor recertifies the survey without qualification, he (she) is taking full professional responsibility for the entire survey; and the effort that the second surveyor should put into that recertification is a matter of professional judgment. Does he need to redo the entire survey? I would suggest the answer to that depends on a variety of factors, such as:

- How long ago was the survey first conducted?
- Who did the fieldwork?
- Is he (she) still with the firm and considered competent?
- How competent was the initial surveyor?
- How well is the work documented in the field notes?
- Is the boundary resolution clearly documented in the file?
- What may have changed in the chain of title or with the adjoiners?

Careful thought needs to be given, whether you are the initial surveyor or not.

For example, if a surveyor initially certified a Land Title Survey prior to having been provided the title commitment (a fact that, incidentally, would have been noted on the face of the survey), and then was provided the commitment a couple of weeks later – assuming the title company, client and lender were all okay with it – the title commitment could be reviewed, the related easements shown, and a revision (*e.g.*, “Reviewed

did not give ownership to the client (yet *another* reason for a written contract). It is not owned by the surveyor who signed it (unless the firm is a simple sole proprietorship, in which case the surveyor and the firm are essentially one and the same), even though that surveyor is the one professionally responsible for the survey. If a “revision” or “recertification” to the survey is required, a firm cannot obligate the initial surveyor to certify

No matter what the answers to those questions are, the second surveyor had better understand that, unless qualified, he is accepting full professional responsibility for the first surveyor’s work. Therefore, he had better do whatever it takes to be comfortable with that fact; there will be no dodging it.

On the other hand, if the recertification is qualified as to being related to

a specific issue or specific issues, the second surveyor may be able to avoid responsibility for the first surveyor's work, although the firm would certainly still have the liability either way. As a practical matter, any lawsuit resulting from the first surveyor's work would name the second surveyor anyway, even though it is up in the air as to what a judge might decide. Either way, it would be financially painful proving the second

surveyor to be not responsible, and actually somewhat irrelevant since the firm will probably have to accept the financial ramifications anyway.

What about a "revision" when the initial surveyor is no longer with the firm? This is somewhat problematic, perhaps more so than with a recertification. With a recertification, it is clear who is taking responsibility for the survey – whether a qualified recertification or not. With

a "revision," if the initial surveyor is no longer employed at the firm, then someone else in the firm may be making revisions to a survey that was signed by someone who has no knowledge of those revisions. This is a problem, and the way around it is to avoid simple "revisions" when the initial surveyor is no longer with the firm.

Rather, have the second surveyor recertify the survey unqualified. Yes, the second surveyor will be taking full professional responsibility for the entire survey (and as such may feel the need to redo all or parts of the survey as discussed above), but that way, he will have avoided making revisions to someone else's survey without their permission or knowledge.

Of course, if the firm is able to contact and gain the permission of the first surveyor, then there should be no problem with a simple revision, although getting that permission may not be practical (depending on the situation of the separation of employment) or even possible (e.g., if the surveyor is deceased).

What about these issues as related to an ALTA/ACSM Land Title Survey? The new 2005 requirements state in paragraph 2, "The plat or map of such survey shall bear the name, address, telephone number, and signature of the professional land surveyor who performed the survey, his or her official seal and registration number, the date the survey was completed, the dates of all of the surveyor's revisions and the caption "ALTA/ACSM Land Title Survey" with the certification set forth in paragraph 8." [emphasis added]

The intent of the underlined clause is to eliminate revisions by one surveyor to a survey prepared by another. To make such revisions is, at best, misleading and ethically questionable when the first surveyor is not aware of the revisions.

The solution, assuming permission of the first surveyor cannot be obtained, is that the second surveyor should basically treat the survey as a new survey either with a completely new certificate or a by an unqualified recertification. I would add that I believe the recertification or revision of the physical plat or map of survey of another surveyor is, unethical without that surveyor's (or at least the firm's) permission.

The bottom line is that a surveyor needs to give careful thought to the issue of revisions and recertifications – whether he is the initial surveyor or not. *AS*

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