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## Minimum Level of Competency

**W**e turn now to a subject that has annoyed me for years, and shortly you shall see why. Discourse is, by its very nature, most useful when the language used moves the conversation in a helpful direction. But we have a term in licensing that (to me) seems calculated to truncate that conversation, smothering debate with a meaningless platitude. Of course I am referring to the phrase, “minimum level of competency.”

On the surface, and to the dimmer bulbs among us, the phrase seems innocent enough. It usually is heard in response to whether someone was qualified enough to be issued a license. “Oh, well licensing is only designed to ensure a minimum level of competency.” Ah yes, but what exactly is that? Confronted with that question, nearly all responses begin (and end) with a shrug of the shoulders or perhaps a long pause. You see, not only is the term undefined, it will always remain so, for it is undefinable. The vast number of situations potentially confronting the licensed surveyor (and every other licensed professional, for that matter) prevent anyone from compiling an accurate laundry list comprising minimum competence. Indeed, what may seem trivial to some, and therefore appropriate for dispatch by our less competent brethren, may well hide complexities that dwarf that of other projects.

From a distance it might seem as if some situations could be relegated to less experienced people (and codified as such), but how would that play out exactly? (We are entitled to exactness in this

discussion, for in most every case where the phrase under consideration is tossed into the conversation, it is in response to a question over licensing efficacy. When licensing itself is examined, exactness is mandatory as livelihoods are at stake.)

### **Inexpensive**

I once had an attorney bravely try to answer my “what exactly does that mean” question by saying that perhaps it meant (in the realm of surveying) only working on inexpensive property. Now, there is so much idiocy wrapped up in

any of this. But let’s address these two possibilities. Inexpensive properties are no less prone to expensive mistakes, because the seriousness of mistakes does not correlate to the property value. If the survey was a boundary survey, the work necessarily affects all of the adjoining as well as the property itself. Are the adjoining properties to be considered inexpensive as well? In fact, the level of effort required to adequately survey a property has never depended on its value. It depends instead on the property’s age (speaking of boundaries here),

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this definition that I am tempted here to let it twist in the wind for a while and accumulate its own ridicule, but as others may stumble upon that definition in the absence of any other, we’ll examine it.

What are we assuming by saying that inexpensive property requires less competence to survey? Perhaps because the property is inexpensive, mistakes, even if serious, would not require expensive remedies. Or perhaps inexpensive generally means small, and smaller projects are easier to control (both administratively and by traverse) than larger projects. This is all speculation, of course, as no one has the answers to

on its accessibility and on the quality of the written and field evidence defining its boundaries. This is true whether it is appraised at \$1,000 or at \$1,000,000. Indeed, I wish the market allowed us to structure our fees based on the value of the property in question. I’d be considerably better off, that’s for sure.

The notion that small properties are usually less expensive than large properties is also silly. Some of the most expensive real estate in the world comprises less than a city block *because it is part of a city block*. Skyscrapers tend to live on small parcels like that, and have

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some of the highest property valuations anywhere. Swatting arguments down like this is almost too easy.

Enough picking on that poor attorney's argument. At least she proffered an idea, flawed as it was. Rarely does anyone even go that far.

### **Task Analysis**

NCEES has expended some effort in trying to identify the tasks confronting newly licensed surveyors through its periodic task analyses. Basically, the idea is to poll newly licensed surveyors about the kinds of tasks they are facing, and then structure the NCEES test accordingly. Am I the only one who sees the circular logic in this? Are we to assume that because newly licensed surveyors are engaging in certain tasks that those tasks are the ones in which newly licensed surveyors are *supposed* to be engaged? This is a wild stab at the minimum competence issue. Wild stabs at something are okay when nothing else is available, and as long as everyone involved remembers the attempt is, in fact, a wild stab. The danger comes when everyone forgets the tenuous nature of the underlying theory. A former boss of mine used to talk of a SWAG (Scientific Wild-A\*\* Guess). That seems to fit here.

### **Deep Roots and Long Tails**

We would be foolish to assume that all newly licensed people are as competent as they will ever be. Experience is an effective teacher, and even old hands can be surprised. (I was shocked recently by a title doctrine that is both pervasive and well argued by jurists across the country, but unknown to me despite 30 years of practice. I haven't decided yet whether I know enough about its effects across the country to write about it or not. Stay tuned.) Ours is a complex playground with deep roots and long tails. Although every state recognizes that experience is essential prior to licensure, clearly the presumption is that the surveyor will continue to grow subsequent to getting his green light. Thus, we presume varying levels of competence among the licensed ranks.

*But what is the minimum?* I honestly cannot say. And I'm fairly sure no one else can articulate it convincingly either.

Thanks in advance for never using the term with me. *A*