



angle points

Land Surveyor Liability

A recent article by Geneau Thames, a brilliant attorney with the law firm of Niles, Barton & Wilmer, LLP out of Baltimore, Maryland, raises some troubling issues with regards to an increase in activity for real estate professionals.

Ms. Thames notes that with the increase in real estate activity, “there has also been an increase in litigation against real

and he was informed that his tactics were illegal, he withdrew the complaint. That didn’t matter to the board as they continued to pursue the complaint, arguing that if it was filed, there must be a reason.

Ms. Thames identified what she calls “emerging trends” in suits against real estate professionals. Although she does not specifically identify Land Surveyors, they run the same risks and this increased exposure. Her list includes such things as:

the features in a property or if they exaggerate the qualities of a property, in an effort to justify a higher valuation.

4. Discovering or overlooking property damage is a growing problem for licensed home inspectors who can also find themselves involved in a charge of professional negligence. Typical claims usually center on allegations that the home inspector failed to conduct the inspection in a thorough or workman-like manner or to report defective conditions in the property.

“More troubling, and as I have observed in my own practice, practitioners not only have to defend themselves in a lawsuit, they may also have to defend their license before their state licensing agency.”

estate agents, brokers, appraisers, home inspectors, mortgage specialists and other real estate professionals across the country.”

More troubling and as I have observed in my own practice, practitioners not only have to defend themselves in a lawsuit, they may also have to defend their license before their state licensing agency. Over the years I have provided expert witness services, I have had numerous complaints filed with the State Licensing Board along with a few threats. In one instance, a disgruntled client, unhappy that the city didn’t approve his project didn’t want to pay my bill. He told me that if I did not abandon my fees, he would file a complaint with the licensing board and that is what he did. When we went into arbitration

1. Failing to Advise on a Contract with regards to problems *before* contracts are signed. Needless to say, if a problem is observed and not noted, if it surfaces, there is an increased likelihood that the buyer or seller will sue to recoup and loss associated with the damages.
2. Misrepresenting the Value of a Property, a growing area of liability for real estate appraisers, particularly if they fail to adhere to the Uniform Standards of Professional Appraisal Practice (USPAP).
3. Exaggerating the Features of a Property becomes a problem when, in an effort to close the deal, some agents and brokers are not honest about the features of a property as they tend to overinflate

As more Land Surveyors find themselves involved in various aspects of the modern real estate transaction, their exposure similarly broadens. If there is need for conflict resolution, typically memorialized by easements and embodied in settlement agreements, the level of participation becomes more sophisticated. Indeed, if the modern Land Surveyor is going to survive, he/she needs to adapt and become more involved in land use matters.

Needless to say, the classic problems associated with boundary line determination still exist. What is an encroachment and what are the elements of adverse uses? In many instances, the Land Surveyor may be the most knowledgeable person associated with the transaction and it for this reason that his/her advice is sought and considered.

All in all, we live in a litigious society and we should always be mindful of this fact. ■

Michael Pallamary, PS, is the author of several books and numerous articles. He is a frequent lecturer at conferences and seminars and he teaches real property to attorneys and other members of the legal profession. He has been in the surveying profession since 1971.