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RULE ADOPTION
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
CORNER MARKERS

Adopted Amendment: N.J.A.C. 13:40-5.1

Proposed: September 17, 2001 at 33 N.J.R. 3241(a) (see also 34 N.J.R. 1768(a)).

Adopted: June 20, 2002 by New Jersey State Board of Professional Engineers and Land Surveyors, Pravin H. Patel, President.

Filed: September 6, 2002 as R.2002 d.321, without change.

Authority: N.J.S.A. 45:8-27 et seq., specifically 45:8-29 and 45:1-15.1.

Effective Date: February 3, 2003.

Expiration Date: August 1, 2005.

Summary of Hearing Officer's Report and Agency Responses:

Due to the number of comments received during the comment period on this aspect of the proposal, on April 18, 2002, the Board decided not to adopt at that time, but to leave pending, the proposed amendment to N.J.A.C. 13:40- 5.1(d) to delete the waiver of corner markers provision. To further elicit public comment on the matter, the Board held a public hearing on May 22, 2002 at 124 Halsey Street, Newark, NJ. Joseph R. Read, PE, PP, presided over the hearing. A copy of the transcript of the public hearing is available by contacting the Board office at Post Office Box 45015, Newark, NJ 07101, (973) 504-4567. The Hearing Officer considered all written and oral testimony on the proposed amendment and made the following conclusions and recommendation:

1. Opponents of the proposal believe that the consumer should have the right to choose the type of survey needed. They cite additional costs associated with the actual setting of the corner markers, and possible time delays in closing real estate transactions. Supporters consist of professionals who have experienced difficulty in obtaining the written waiver from the ultimate user and those who believe that a survey is really not complete unless the actual corners are set.
2. The argument concerning boundary disputes, and whether or not the survey waiver option has any influence is not settled. The matter is speculative and can only be determined from experience. In the hearing officer's opinion, boundary disputes will always occur due to deed overlaps, gores, and differences in survey technique. The hearing officer believes that these matters will be settled by agreement or the courts.
3. It is agreed that setting corner markers on all surveys will increase the cost by some amount, probably more minimally than substantially, at least in the short run. However, the hearing officer believes that, over time as more markers are set, costs will decrease, consumers will know their property boundaries, and the best interest of the public will be served.
4. The hearing officer does not believe the time delay issue to be valid. It seems from the testimony of those dealing with obtaining the written waiver that more time is wasted waiting for the waiver from the proper party, and perhaps having to return to the property a second time.
5. The existence of the waiver option has allowed a less than complete boundary survey to be performed to the detriment of the public and to the surveying profession.

6. For all of the above reasons, the hearing officer recommended that the Board adopt the amendment and eliminate the survey waiver option.

The Board considered the hearing officers' conclusions and recommendations and voted to adopt the amendment on June 20, 2002.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendment is subject to State statutory requirements and there are no Federal standards or requirements applicable to the adopted amendment.

Full text of the adoption follows:

<<**NJ ADC 13:40-5.1** >>

13:40-5.1 Land surveyors; preparation of land surveys

(a)-(c) (No change.)

(d) Appropriate corner markers, such as stakes, iron pipes, cut crosses, monuments, and such other markers as may be authorized by (d)2 below, shall be set either by the licensed land surveyor or under the supervision of the licensed land surveyor. Such markers shall be set at each property corner not previously marked by a property marker, unless the actual corner is not accessible.

1.-10. (No change.)

(e)-(n) (No change.)