



BOARD OF REGISTRATION FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS

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October 17, 1996

Mr. Michael L. Quartaroli
Quartaroli & Associates
310 Sun West Place, Suite A
Manteca, CA 95337

Re: Response to Your Letter of August 1, 1996

Dear Mr. Quartaroli,

We have received your letter of August 1, 1996 wherein you ask the question " Does Section 8771 of the Business and Professions Code Professional Land Surveyors Act (B&P, PLSA), infer a distinction between re-surfacing and re-construction of roads.?" Our response is as follows:

Section 8771 of the B&P, PLSA states:

Monuments set shall be sufficient in number and durability and efficiently placed so as not to be readily disturbed, to assure, together with monuments already existing, the perpetuation or facile re-establishment of any point or line of the survey.

When monuments exist which control the location of subdivisions, tracts, streets, or highways or provide survey control, the monuments shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer prior to the time when any streets or highways are reconstructed or relocated and a corner record of the references shall be filed with the county surveyor. They shall be reset in the surface of the new construction, a suitable monument box placed thereon, or permanent witness monuments set to perpetuate their location and a corner record filed with the county surveyor prior to the recording of a certificate of completion for the project. Sufficient controlling monuments shall be retained or replaced in their original positions to enable land lines, property corners, and tract boundaries to be re-established without devious surveys necessarily originating on monuments differing from those that currently control the area. It shall be the responsibility of the governmental agency or others performing construction work to provide for the monumentation required by this section. It shall be the duty of every land surveyor or civil engineer to cooperate with the governmental agency in matters of maps, field notes, and other pertinent records. Monuments set to mark the limiting lines of highways, roads, or streets shall not be deemed adequate for this purpose unless specifically noted on the records of the improvement works with direct ties in bearing or azimuth and distance between these and other monuments of record.

Section 605 of the Penal Code states:

REMOVING, DEFACING, OR ALTERING LANDMARKS. Every person who either:

1. Maliciously removes any monument erected for the purpose of designating any point in the boundary of any lot or tract of land, or place where a subaqueous telegraph cable lies; or,
2. Maliciously defaces or alters the marks upon any such monument; or,
3. Maliciously cuts down or removes any tree upon which any such marks have been made for such purpose, with intent to destroy such marks;

---Is guilty of a misdemeanor. (*Enacted 1872*)

Blacks Law Dictionary, Sixth Edition defines Monument as follows:

Monument. Anything.....

In real-property law and surveying, monuments are visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey. Any physical object on ground which helps to establish location of boundary line called for; it may be either natural (*e.g.* trees, rivers, and other land features) or artificial (*e.g.* fences, stones, stakes, or the like placed by human hands) *Delphey v. Savage*, 227 Md. 373, 177 A.2d 249, 251. *See also* Natural monument

Based on Section 8771 of the B&P, PLSA existing monuments are required to be located and referenced by, or under the direction of, a licensed land surveyor or registered civil engineer authorized to practice land surveying. These individuals have the knowledge and experience to determine the type of mark which may have been set for the purpose of marking survey control points or lines, subdivision points or lines, tracts points or lines, streets or highways points or lines, land lines, property corners and tract boundaries. Monuments are not defined in Section 8771 of the B&P, PLSA because it is left to the duly licensed or registered professional to make the determination of what constitutes a monument which is required to be referenced, documented on a Corner Record, and be filed with the county surveyor. Also, monuments reset and again documented on a Corner Record, and filed with the county surveyor indicating the character of the replacement or reference monuments and information in the form of direct ties in bearing or azimuth and distance from said reference monuments are performed and prepared by these licensed or registered professionals.

Penal Code Section 605 also states that the malicious removal, destruction or alteration of a monument erected for the purpose of designating any point in the boundary of any lot or tract of land is guilty of a misdemeanor. Other than trees, other monuments or marks are not defined.

Blacks Law Dictionary, Sixth Edition defines a monument as indicated above. Examples are given for such monuments, but as defined a monument can be anything placed by human hands.

Furthermore, a letter from the Board of Registration for Professional Engineers and Land Surveyors dated December 2, 1996, signed by G. Harrison Hilt, P.E., Executive Officer, was written "To all County Surveyors and City Engineers" stating in the second paragraph of that letter " Re-surfacing of streets and highways resulting in monuments being covered with paving material instead of being preserved will be considered a violation of the Land Surveyors Act by the Board." A copy of that letter is attached for your information. This is still the policy of the Board at this time. We are also aware of even more modifications to the language contained in Section 8771 (B & P, PLSA) such

as AB 3472, 1996, which will further define and state the purpose, responsibility and procedures to accomplish monument preservation.

If you or others have specific information regarding instances where a City or County has not met the requirements of Section 8771 of the B&P, PLSA, and documentation of the Agency's lack of cooperation in this effort, then a complaint should be filed with this Board for appropriate action.

I trust that this information answers your questions and addresses your concerns. If you have any further questions, contact the Board at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "H.W. Brunner", written in a cursive style.

Howard W. Brunner, P.L.S.

Land Surveyor Consultant, Registrar