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RULE §663.13

Introduction

The Board establishes these minimum standards of practice to better serve the general public in regulating the practice of professional surveying in Texas. Professional surveying performed in Texas, unless otherwise specifically exempted herein, shall meet or exceed the requirements of these standards. The Board considers any survey, the purpose of which is to delineate, segregate, separate, or partition any interest in real property of any kind, under these standards.

Source Note: The provisions of this §663.13 adopted to be effective September 1, 1992, 17 TexReg 5544; amended to be effective May 9, 1999, 24 TexReg 3348

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RULE §663.15

Precision

(a) The actual relative location of corner monuments found or set within the corporate limits of any cities in Texas shall be reported within a positional tolerance of 1:10,000 + 0.10 feet.

(b) The actual relative location of corner monuments found or set within the extraterritorial jurisdiction (ETJ) of any cities in Texas shall be reported within a positional tolerance of 1:7,500 + 0.10 feet.

(c) The actual relative location of corner monuments found or set in all rural areas outside extraterritorial jurisdiction areas of all cities in Texas shall be reported within a positional tolerance of 1:5,000 + 0.10 feet.

(d) Areas, if reported, shall be produced, recited, and/or shown only to the least significant number compatible with the precision of closure.

(e) Survey measurement shall be made with equipment and methods of practice capable of attaining the tolerances specified by these standards.

(f) Positional tolerance of any monument is the distance that any monument may be mislocated in relation to any other monument cited in the survey.

Source Note: The provisions of this §663.15 adopted to be effective September 1, 1992, 17 TexReg 5544.

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RULE §663.16

Boundary Construction

(a) When delineating a property or boundary line as an integral portion of a survey, the land surveyor shall respect junior/senior property rights, footsteps of the original land surveyor, the record, the intent as evidenced by the record, the proper application of the rules of dignity or the priority of calls, and applicable statutory and case law of Texas.

(b) Appropriate deeds and/or other documents including those for adjoining parcels shall be relied upon for the location of the boundaries of the subject parcel(s).

(c) A land surveyor assuming the responsibility of performing a land survey also assumes the responsibility for such research of adequate thoroughness to support the determination of the location of intended boundaries of the land parcel surveyed. The land surveyor may rely on record data related to the determination of boundaries furnished for the registrants' use by a qualified provider, provided the registrant reasonably believes such data to be sufficient and notes, references, or credits the documentation by which it is furnished.

(d) All boundaries shall be connected to identifiable physical monuments related to corners of record dignity. In the absence of such monumentation the land surveyor's opinion of the boundary location shall be supported by other appropriate physical evidence which shall be explained in a land surveyor's report.

Source Note: The provisions of this §663.16 adopted to be effective September 1, 1992, 17 TexReg 5544; amended to be effective September 20, 1998, 23 TexReg 9343; amended to be effective July 1, 2008, 33 TexReg 5008

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RULE §663.17

Monumentation

(a) All monuments set by registered professional land surveyors shall be set at sufficient depth to retain a stable and distinctive location and be of sufficient size to withstand the deteriorating forces of nature and shall be of such material that in the land surveyor's judgment will best achieve this goal.

(b) When delineating a property or boundary line as an integral portion of a survey (survey being defined in the Act, §1071.002(6) or (8)), the land surveyor shall set, or leave as found, sufficient, stable and reasonably permanent survey markers to represent or reference the property or boundary corners, angle points, and points of curvature or tangency.

(1) All survey markers shall be shown and described with sufficient evidence of the location of such markers on the land surveyors' plat. If the land surveyor shall prepare a written description of the surveyed premise, he/she shall include in that written description:

(A) reference to and a description of the survey markers as shown on the plat; and

(B) the seal and signature of a registered or licensed land surveyor.

(2) In addition, the land surveyor may furnish an electronic copy of a written description provided that the text is verbatim to that on the certified document retained in the land surveyor's file.

(c) All metes and bounds description prepared for easements shall be tied to physical monuments of record related to the boundary of the affected tract.

(d) Where practical, all monuments set by Professional Land Surveyors to delineate or witness a boundary corner shall be marked in a way that is traceable to the responsible registrant or associated employer.

Source Note: The provisions of this §663.17 adopted to be effective September 1, 1992, 17 TexReg 5544; amended to be effective September 20, 1998, 23 TexReg 9343; amended to be effective January 10, 1999, 24 TexReg 139; amended to be effective January 27, 2004, 29 TexReg 636; amended to be effective July 1, 2008, 33 TexReg 5009; amended to be effective November 17, 2008, 33 TexReg 9249

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RULE §663.18

Certification

(a) The registered professional land surveyor shall apply his/her seal to all documents representing professional surveying as defined in the Act.

(b) If the land surveyor certifies, or otherwise indicates, that his/her product or service meets a standard of practice in addition to that promulgated by the Texas Board of Professional Land Surveying, then the failure to so meet both standards may be considered by the board, for disciplinary purposes, to be misleading the public.

(c) Preliminary documents released from a land surveyor's control shall identify the purpose of the document, the land surveyor of record and the land surveyor's registration number, and the release date. Such preliminary documents shall not be signed or sealed and shall bear the following statement in the signature space: "Preliminary, this document shall not be recorded for any purpose." Preliminary documents released from the land surveyor's control which include this text in place of the land surveyor's signature need not comply with the other minimum standards promulgated in this chapter.

(d) A land surveyor shall certify only to factual information that the land surveyor has personal knowledge of or to information within his professional expertise as a land surveyor unless otherwise qualified.

(e) Registered professional land surveyors may certify, using the registrant's signature and official seal, services which are not within the definition of professional land surveying as defined in the Act, provided that such certification does not violate any Texas or federal law.

Source Note: The provisions of this §663.18 adopted to be effective September 1, 1992, 17 TexReg 5544; amended to be effective March 13, 2002, 27 TexReg 1789; amended to be effective July 16, 2006, 31 TexReg 5622; amended to be effective September 14, 2008, 33 TexReg 7519

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For the purposes of these rules the word "report" shall mean any or all of the following survey plat, descriptions, or written narratives.

(1) All reports shall delineate the relationship between record monuments and the location of boundaries surveyed, such relationship shall be shown on the survey plat, if a plat is prepared, and/or separate report and recited in the description with the appropriate record references recited thereon and therein.

(2) Every description prepared for the purpose of defining boundaries shall provide a definite and unambiguous identification of the location of such boundaries and shall describe all pertinent monuments found or placed.

(3) Every survey plat prepared shall be to a convenient scale and shall provide a definite and unambiguous representation of the location of the surveyed land according to its record description. Where material discrepancies are found between the record and the conditions discovered, the land surveyor shall apprise his/her client in the following manner.

(A) If a plat of survey is prepared, the land surveyor shall:

(i) make specific reference to the discrepancy on the plat of survey; or

(ii) make a general reference to the discrepancy on the plat of survey and a specific reference to a report of survey which more specifically describes the discrepancy.

(B) If a survey plat is not prepared, the land surveyor shall notify his/her client of any material discrepancy by report of survey or other written notice.

(4) Courses shall be referenced to an existing physically monumented line for directional control or oriented to a valid published reference datum and shall be clearly noted upon any report, survey plat or other written instrument.

(5) The survey plat shall bear the firm name, land surveyor's name, address, and phone number of the land surveyor responsible for the land survey, his/her official seal, his/her original signature (see §661.46 of this title (relating to Seal and Stamps)), and date surveyed.

(6) Boundary monuments found or placed by the land surveyor shall be described upon the survey plat, including those controlling monuments to which the survey may be referenced. The land surveyor shall note upon the survey plat which monuments were found and which monuments were placed as a result of his/her survey.

(7) A reference shall be cited on the plat to the record instrument that defines the location of adjoining boundaries. The cited instrument need not be the current ownership, but shall be the document containing the description of the boundaries being re-established.

(8) When appropriate, reference shall be cited in the prepared description to the record instrument that defines the location of adjoining boundaries. The cited instrument need not be the current ownership, but shall be the document containing the description of the boundaries being re-established.

(9) If any report consists of more than one part, each part shall note the existence of the other part or parts.

(10) If a land surveyor provides a written narrative in lieu of a Plat/sketch/drawing to report the results of a survey, the written narrative shall contain sufficient information to demonstrate the survey was conducted in compliance with the Act and rules of the Board.

Source Note: The provisions of this §663.19 adopted to be effective September 1, 1992, 17 TexReg 5544; amended to be effective September 20, 1998, 23 TexReg 9343; amended to be effective March 20, 2008, 33 TexReg 2312; amended to be effective July 1, 2008, 33 TexReg 5009; amended to be effective May 4, 2010, 35 TexReg 3500

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RULE §663.20

Criminal Convictions

(a) Pursuant to Title 2, Occupations Code, Chapter 53, the following apply for registered professional land surveyors and applicants.

(1) The registrant shall notify the Board in writing within 90 days of any conviction of any crime under the laws of the "United States, or any state, territory or country thereof, which is a felony or a misdemeanor, whether related to the practice of surveying or not.

(2) The applicant will be required to state on a form provided by the board, whether he or she has ever been convicted of a felony or a misdemeanor.

(3) Registrants or applicants are required to provide a summary of the conviction in sufficient detail to allow the Board to determine if it is applicable to the practice of professional land surveying or application for registration.

(4) If the Board determines the conviction is applicable, the Board staff will obtain sufficient details of the conviction to allow the Board to determine the effect of the conviction on the registrant's practice of surveying or the applicant's eligibility for registration.

(b) In determining whether a criminal conviction is applicable to a registrant's surveying practice or an applicant's application, the Board will consider the following:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for practicing surveying;

(3) the extent to which a registrant might offer an opportunity to engage in further criminal activity of the same type as that which the individual had been previously involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a professional land surveyor.

(c) In addition to the factors that may be considered under subsection (b) of this section, the Board shall consider the following:

(1) extent and nature of the individual's past criminal activity;

(2) the age of the individual at the time the crime was committed, and the amount of time that has elapsed since the last criminal activity;

- (3) the conduct and work activity of the individual prior to the following the criminal activity;
 - (4) evidence of rehabilitation; and
 - (5) other evidence of fitness to practice as a professional land surveyor.
- (d) Crimes relating to the practice of surveying include, but are not limited to the following:
- (1) criminal negligence in the practice of surveying;
 - (2) soliciting, offering, giving or receiving any form of bribe in the practice of surveying;
 - (3) the unauthorized use of property, funds or proprietary information belonging to another in the practice of surveying;
 - (4) acts relating to the acquisition, use or dissemination of confidential information related to surveying; and
 - (5) any violation as an individual or as a consenting party of any provision of the Professional Land Surveying Practices Act (Title 6, Occupations Code, Subtitle C).
- (e) The application of any applicant deemed ineligible for registration because of a prior criminal conviction will be proposed for rejection and the applicant will be provided the following information in writing:
- (1) the reason for rejecting the application;
 - (2) notice of the administrative procedure used to conduct an informal conference and contested case hearing to show compliance with all requirements of the law for registration as a professional surveyor; and
 - (3) notice that upon exhausting of the administrative appeal, an action may be filed in a district court of Travis County for review of the evidence presented to the Board and its decision. The person must begin the judicial review by filing a petition with the court within 30 days after the Board's decision is final.
- (f) The Board shall revoke the certificate of registration of any registrant incarcerated or jailed as a result of conviction for a felony. The certificate of registration of any registrant shall also be revoked for felony probation revocation, revocation of parole, or revocation of mandatory supervision regardless of the date of the original conviction.
- (g) The Board may revoke the certificate of registration of any registrant convicted of a misdemeanor or a felony if the crime directly relates to the duties and responsibilities as a professional surveyor.
- (1) Any registrant whose certificate of registration has been revoked under the provisions of this subsection will be advised in writing of the right to apply for registration. The application criteria are established in subsections (b) and (c) of this section.
 - (2) Any registrant whose certificate of registration has been revoked under the provisions of this subsection and who has exhausted administrative appeals, may file an action in a district court of Travis

County for review of the evidence presented to the Board and its decision. The person must begin the judicial review by filing a petition with the court within 30 days after the Board's decision or the decision is not subject to appeal.

(h) A person is convicted when an adjudication of guilt on an offense is entered against that person by a court of competent jurisdiction whether or not:

(1) the sentence is subsequently probated and the person is discharged from probation or community supervision; or

(2) the accusation, complaint, information or indictment against the person is dismissed and the person is released from all penalties and disabilities resulting from the offense.

(i) Imposition of deferred adjudication community supervision is not a conviction.

(j) Persons enrolled or planning to enroll in an educational program in preparation for applying to become a Registered Professional Land Surveyor may request a history evaluation to determine their eligibility for registration. It is the responsibility of the petitioner to obtain and send to the Board for each criminal offense in his or her criminal history (the entire court record), including final court orders noting sentencing information, conditions of probation, revocation of or release from probation, and any other information relating to the petitioner's criminal history, or requested by the Board, along with any recommendations of the prosecution, and/or law enforcement and/or correctional authorities regarding the offense(s). The petitioner shall also furnish documentation acceptable to the Board of prior/current employment status, evidence of court-ordered and/or voluntary rehabilitation, evidence of good conduct in their community, and evidence of payment of all outstanding court costs, supervision fees, fines, and restitution as ordered in the criminal cases in which they have been convicted, placed on deferred adjudication, community supervision and/or deferred disposition. The petitioner shall submit a fee of \$50 for the purpose of responding to the request.

Source Note: The provisions of this §663.20 adopted to be effective March 22, 1996, 21 TexReg 2078; amended to be effective January 27, 2004, 29 TexReg 636; amended to be effective February 24, 2005, 30 TexReg 849; amended to be effective July 6, 2010, 35 TexReg 5834

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RULE §663.21

Descriptions Prepared for Political Subdivisions

A registrant or licensee may prepare, sign, and seal a metes and bounds description from public land title records upon satisfying all of the following minimum conditions:

(1) The description is prepared for a political subdivision of the State (which is defined as a county, city, district, or other body politic of the State having a jurisdiction over only a portion of the State) for the sole purpose of defining or modifying the boundaries of the political subdivision.

(2) The description must be unambiguous and locatable on the ground by ordinary surveying procedures;

(3) Any record monument or physical monumentation called for in the description must be in place at the time the surveyor prepares the description and the surveyor must have personal knowledge of such monument sufficient to give a proper current description for the monument and its accessories;

(4) The surveyor signing the work must have performed an on the ground survey to support any course and distance recited in the description, except that the description may quote courses and distances from recorded documents (such as deeds) as long as the recording reference for any recited document is also quoted in the description; and

(5) Any survey document prepared under this rule shall bear a note as follows: "This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

Source Note: The provisions of this §663.21 adopted to be effective July 18, 1999, 24 TexReg 5195

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