



INTERNATIONAL RIGHT OF WAY ASSOCIATION

Kachina Chapter 28 Phoenix, Arizona

Newsletter

www.irwaaz.com

FEBRUARY, 2006

2006 Kachina Chapter Executive Board

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Region 1 Chair:

Mark Keller, SR/WA
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February 2006 Luncheon

Date: February 7, 2006

Place: Doubletree @ 44th Street & Van Buren


Cost: \$18 (Please have exact change or your check made out)


Menu: Pasta Pomadora, Fresh Garden Salad with Assorted Dressings, Fresh Baked Rolls and Butter, Chef's Selection of Dessert, Freshly Brewed iced Tea, Coffee, Decaf and Hot Tea


Speaker: Troy Bennett of Landiscor

RSVP Deadline: February 2, 2006

FEBRUARY BOARD MEETING

 Wednesday, Feb. 1, 2006

 4:45pm

 3rd Floor Conference Room

 Az State Land

Confirm your attendance with Doc Sterling at docs@mwdaz.com

February Luncheon Guest Speaker

Troy Bennett is a Marketing Consultant for Landiscor Aerial Information and has been with the company since 2003. Landiscor is a 50 year old company that specializes in aerial photography. Landiscor is known for such products as the large wall murals, digital products such as the aerial navigator, real estate photo books and atlas sets. Landiscor prides itself for providing solutions to clients that in turn, help the clients business prosper.

DISCUSSION ITEMS

Wall Murals

Aerial Navigator (Digital product)

Real Estate Photo Books

Atlas Set

PRESIDENT'S MESSAGE

Michael "Doc" Sterling, Chapter President

A fresh word from your new President...

2006 is upon us. I hope to work with the Chapter Executive Board of Directors and the membership to see that, once again, Kachina Chapter 28 has another very productive, very stimulating and very satisfying year.

Many of the Chapter's Executive Board Members are carry-overs from past years, but we do have 2 new Board Officers, some new Committee Chairpersons and new Committee Members!

Please welcome:

Kachina Chapter 28 Secretary - Cate Chamberlain (yet another hat to wear!)

Kachina Chapter 28 Treasurer - Doug Estes

Education Committee Member - Vance Tuttle

Job Bank Committee Member - Chris Banks, SR/WA

Local Public Agency Chair - Vance Tuttle

Membership Committee Chair - Carol Rempel-Bear

Newsletter Committee Member - Mary Carson

PDC Committee Chair - Mike Wilson

PDC Committee Member - Ray Warriner

Property Management Chair - Mary Carson

Valuation Committee Chair - Al Dickie

If I have omitted anyone or mis-titled anyone, please correct me so that we may correct or otherwise update our list.

We have reserved the Phoenix Airport Sheraton Hotel Tempe again for our annual Educational Seminar in September. We are exploring some variations on the overall performance of the affair and hope to introduce a few new wrinkles.

We are exploring the possibility of a Saturday afternoon/evening outing for members and their spouses or significant others the first weekend in May. This will probably take the form of an outdoor barbeque and some western themed activities: horseshoes, country swing or line dancing, & etc. There will be a facility limit of 100 persons. The facility we are currently looking into is known as the Hank Raymond Lodge – a professional meeting center and recreational center owned by the Maricopa Water District. It has its own small private lake below the dam at Lake Pleasant. We are working out the pricing per couple and the menu items. If you have any suggestions or would like to help, please contact our Luncheon Coordinator Gayle Leonard: GayleLeonard@mail.maricopa.gov.

I am open to all suggestions for improving the performance and satisfaction index of our Chapter. We are a recognized leader in IRWA Region 1 – thanks in a very large part to the efforts put forth by Mark Keller, SR/WA and current Region 1 Chairperson. He will be stepping down from that position later on this year, but our beloved Chris Banks is being nominated to succeed the current Vice-Chair, Carolyn Carrica, who will be succeeding to the Chair for Region 1.

We also have been the beneficiary of a plethora of services from Cate Chamberlain. I hope all of the membership becomes more knowledgeable of her vast services to the Chapter and grows to appreciate her presence as much as I do. Thanks again for all of the great work Cate!

If any of you have any comments or concerns, I may be reached at: docs@mwdaz.com

Again, thank you all for your participation in the past OR welcome to recent new members! 2006 should be a great year for us all – individually and collectively!

EDUCATION

Rebekah Louis, Education Chair

Following is the list of 2006 classes. Rebekah is still looking for coordinators for some of the classes. Please contact her if you are interested.

February 6th & 7th

Course 800 – Principles of Real Estate Law
Instructed by Ralph Brown
Coordinator – Rebekah Louis

February 8th & 9th

Course 205 – Bargaining Negotiations
Instructed by Ralph Brown
Coordinator – Pam Hicks

February 10th

Course 103 – Ethics and the R/W Profession
Instructed by Ralph Brown
Coordinator – Cate Chamberlain

February 13th

Course 500 - Uniform Relocation Assistance - Executive Summary
Instructed by Coral Sheehan
Coordinator –

February 14th

Course 505 – Advanced Relocation Assistance I - (Residential)
Instructed by Bev Francy
Coordinator –

February 15th & 16th

Course 506 - Advanced Relocation Assistance II - (Business)
Instructed by Cecilia Melanson
Coordinator –

September 8th

Course 603 – Understanding Environmental Contamination – Real Estate
Instructor – TBD
Coordinator –

Course 213 – Conflict Management
Instructor – TBD
Coordinator –

SR/WA Corner

Budd Rodgers—Chapter 28's newest SR/WA.



Budd Rodgers & Mike Wilson (PDC Chair) at the February 7th Luncheon



Surveyor's Corner

Gregg Tuttle, Manager
SRP Land Department
Surveys Division

Question: What is the professional standard of care for an Arizona Registered Land Surveyor?

First, please be advised as to what follows is NOT Legal Advice, and is only the author's personal opinion, based on experience and knowledge of statutory and regulatory requirements and being involved in past decisions dealing with similar issues. Note that current and future regulatory bodies may interpret codes and rules differently.

In Arizona, Registered Land Surveyors (AZ/RLS) are regulated by the Arizona Board of Technical Registration (AZ/BTR), see the website at: <http://www.btr.state.az.us/>

Under the authority documented in the Arizona Administrative Code (A.A.C.) in the Regulatory Provisions (RULES) R4-30-301, Rules of Professional Conduct at Section 6, it states:

"A registrant shall apply the technical knowledge and skill that would be applied by other qualified registrants who practice the same profession in the same area and at the same time."

Also, R4-30-301.13 it states:

"To the extent applicable to the professional engagement, a registrant shall conduct a land survey engagement in accordance with the April 12, 2001 Arizona Professional Lands Surveyors Association (APLS) Arizona Boundary Survey Minimum Standards, as adopted by the Board on June 15, 2001, the provisions of which are incorporated in this subsection by reference and on file with the Office of the Secretary of State. This incorporation by reference does not include any later amendments or editions."

So, two of the codified standards of care for AZ/RLS's are R4-30-301-6 & R4-30-301.13. We have previously discussed the MINIMUM STANDARDS in this monthly column and those standards are rather straight forward when compared to the more amorphous R4-30-301.6.

It has been said many times that:

The single most important factor in determining whether a 'design' professional is liable in negligence case is the question of the standard of care —

"The law of professional negligence restates the usual reasonable care standard.

A professional must exercise the degree of skill and specialized knowledge as expected of a member of that profession acting under similar circumstances."

That is very similar to the wording in 301.6.

Surprisingly, (or not), professional surveyor are not expected to be perfect. Avoiding being found negligence simply requires "reasonable and prudent" conduct. Courts, (being mostly ignorant of the particulars about technical subjects), require only that the behavior under consideration be at least an average job. In other words, was the conduct consistent with that of the average surveyor in a similar situation?

The question then becomes what is "average" surveying? One place to search is in the published writings of learned professionals. Published treatises and periodicals provide valuable insights about the principles of the profession. Treatises and books address well-established doctrines of the professional practice of land boundary surveying. Periodicals for professionals cover new developments and provide forums for discussion of the issues. In addition to these more traditional examples of discussion media, we now have the national, state, and local electronic discussion forums in which issues, such as the standards of care are discussed at length and in detail.

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Surveyor's Corner...continued

Much discussion has centered on local versus regional versus national standards of care. Some courts have recently held that “*some*” professions are not constrained by location and should be expected to conform to the same (national) standards. However, for the most part, land boundary surveying has seemed to have evaded that conclusion. But there are some national standards related to boundary surveying, the ALTA/ACSM/NSPS Minimum Standard Detail Requirements begin one example. And, in the future we may see a court case that holds that there is a ‘national’ standard of care for land boundary surveying.

However, such a view may fail to fully grasp the ‘local’ situations confronting land boundary surveyors. The statutory laws and regulatory rules governing the practice of land boundary surveying vary from state to state (and, to a certain extent, they may differ between the various political subdivisions within individual states.) These are a “states’ rights” and “home-rule” scenarios.

Also, boundary retracement has a local, historic tenure. Knowledge and insights about the practices and capabilities of previous (historic) surveys and surveyors mandates this “local area” center of attention focus. Surveyors talk about “following in the footsteps” of the prior surveyors when performing boundary retracement surveys. This is the historical aspect. All of these ‘local’ factors can and do cause the actions which constitute reasonable and prudent retracements to vary.

Also, please realize that standards of care are NOT static. They evolve over time, morphing with our changing cultural and technological environments in which surveyors practice. As a result, what was appropriate a decade ago might be borderline professional misconduct today. Technology, regulatory environments and judicial pronouncements all are constantly effecting the definitions and understanding and insights about what are the appropriate standards of care, (when and where).

How do Professional surveyors stay informed about the envelope called standard-of-care which is ever changing? Professional surveyors need to be aware of, and monitor the collective standards of their peer professionals. National and State professional surveying societies serve a very useful purpose in this regard, providing professional journals and periodicals, along with annual convention / conferences and professional level training sessions throughout the year. Also, there are also opportunities at LOCAL (chapter) meetings to discuss and monitor the standards of care issues, in which the organizations can encourage informal dialogues between professional surveyors, and, as noted above, both national, regions, and states now a number of electronic based forums to post one’s thoughts and to read the ideas of others. Many states have also mandated “continuing-education” in which the study of standards of care issues are routinely reviewed and documented.

(Arizona is not (yet) such a state. The AZ/BTR only mandates such continuing education for those registrants who are deemed to be in need of such mandates. The AZ/BTR presumes in good faith that all Professional registrants already practice continuing education as part a due diligence and prudent business practice to stay current on such issues as standards-of-care. Also, Professional registrant would most likely have professional insurance, and, as such, have the opportunity to receive education and training on this subject through the professional insurance providers.)

What does the Arizona standard of care demand? It merely requires that the professional act in a manner consistent with how his/her peers would act in a similar situation. Notice that the standard does not require perfection or absolute correctness, but action in conformity with that of one’s peers. This underscores the public’s presumption that all professionals will conduct themselves similarly. How does the professional know how her/his peer would act in a similar situation? He or she does it by staying informed, as note above, about the standard of care, in each geographic and temporal area of a professional’s practice. Each situation is decided on a “case by case basis” and the standard in one case may or may apply in another case.

*Until next time, Thanks for reading about land surveying & land surveyors. –
Gregg Tuttle, AZ/RLS # 11121; Manager, SRP LAND-Surveys Division*