

MALSCE Surveyor is a Quarterly Publication of the Massachusetts Association of Land Surveyors and Civil Engineers

Look Inside for :

- Legal and regulator matters impacting the Land Surveying and Civil Engineering professions
- An examination of the doctrine of Practical Location
- News briefs on local and national occurrences of interest to surveyors and engineers
- Information about MALSCE programs and activities

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New Massachusetts “Prompt-Pay” Law Governs Private Construction Contracts

By Amanda Sirk, Donovan Hatem LLP

September 2010 – Massachusetts recently inserted a new Section 29E into Chapter 149 of its general laws requiring construction payments to be paid promptly. The law, Chapter 293 of the Acts of 2010, will significantly affect payment provisions in private construction contracts. The prompt-pay law becomes effective on November 8, 2010. It governs all prime construction contracts entered into on or after November 8 for private projects greater than \$3 Million (except 1-4 unit residential projects). Although primarily directed at general contractors and their subs, the

law will have an impact on design professionals performing construction phase services. The primary elements of the new law are:

Pay Applications: The prompt pay law creates a timetable for periodic progress payments. Periodic pay requests must be accepted every 30 days, and the law provides a 15-day deadline for approval or rejection after the submission of the pay request. An additional seven days is added to the approval deadline for every tier below the prime. Payment must then be made within 45 days of approval. If a

payment application is not approved within the required time period, it is deemed approved (conditionally) unless it is rejected prior to the date for payment. Therefore, even if a payment application is deemed approved, there is still an opportunity to reverse payment approval if problems are discovered before the payment is due. The law requires that any rejection be made in writing, with an explanation of the “factual and contractual basis” for the rejection, and be “certified as made in good faith.”

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MALSCE President’s Report: What the Heck Have I Done?

By David W. Humphrey, PLS, 2010-2012 MALSCE President



What the heck have I done? I seem to have gotten myself into a two year commitment as MALSCE President. I am a strong proponent of my chosen profession, Land Surveying, and I wanted to support our state association by volunteering to

help out. But I did not realize how much work it was going to be.

Now that I have been president for a few months, I am seeing the reality of my choice and it is a bit overwhelming. There are constant issues, big and small, to be dealt with. Letters of inquiry, budget issues, last minute contacts to legislators, convention speaker bios, abutting state association conventions, lost pencils, committee prodding, ethics, meetings, phone calls, support for college level surveying programs, questions from the Society of Land Surveyors of

Iowa, national issues, TrigStar, and so much more.

I thought Scott Cameron was crazy to step down from the MALSCE presidency to fill the vacant position on the Board of Registration of Professional Engineers and Land Surveyors. Now I see that giving up only 20 to 30 days a year is going to be fairly relaxing for him.

Most MALSCE members probably do not appreciate the breadth and scope of involvement of the association. First of all, there is a lot of effort just to keep the

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MALSCCE President's Report

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association running; membership database, dues, meetings, and endless phone calls. But the programs, chapters, and committees are really where the meat of the association lies. Our stated purpose is to promote the Land Surveying profession in Massachusetts.

To this end, we hold many programs and events. Most of our chapters are active and hold social and informational meetings on a regular basis. Our annual Convention is something to look forward to throughout the year and having it move around the state keeps it interesting. Thadd Eldredge and the whole Cape Cod Chapter have big plans for the 2011 Convention in Hyannis (September 23 & 24). Under Gary Gauquier and Ken Strom, the Professional Development committee constantly offers seminars and continuing education for our members. Our government affairs committee works closely with ACEC/MA and BSCES to monitor, sponsor, oppose, and support legislation affecting our profession. Although currently on sabbatical, Dave Gosselin took over editorship of the newsletter, *The Surveyor*, and was doing a fabulous job. Greg Gould has revived the lost art of liaisoning with the Board of Registration. With Don Poole's help, the TrigStar program (the NSPS program targeting high school juniors) is seeing pockets of activism throughout the state. Our sustaining members continue to support us in many ways including exhibiting at our Convention and with the Eastern Topographics' seminar scholarships for unemployed members. Affiliations with abutting state surveying associations yield ideas to help us all improve. The Education Trust annually gives out thousands of dollars in scholarships to future land surveyors. Paul Tyrell has reinvigorated the Proprietor's Council and I invite everyone to

attend the luncheons for some lively intercourse. And so much more: MassGIS, monumenting the Population Center, NSPS, Engineers Week, Construction Career Days, the Podunk Pike Baseline, Land Court, Design Professionals Day, the Borden Books, MALSCCE's website (<http://www.malsce.org/>), Future Cities, UMO, Wentworth, NSPS Surveying USA, and PLS/SIT refresher. MALSCCE is a significant part of The Engineering Center and the historic building at One Walnut Street in Boston. I also appreciate the hard work by The Engineering Center staff on issues, programs and membership for MALSCCE. And did I mention the seminars by our Professional Development Committee?

More recently, MALSCCE has been involved with the Board of Registration and the update of the 250 CMR Rules and Regulations we all operate under. Mass Highway and the Mass Turnpike have merged into MassDOT and new legislation requires them to select Land Surveying services by a Qualifications Based Selection (QBS) process. MALSCCE has an active sub-committee currently soliciting input from membership on this issue and we worked with MassDOT as they develop specific selection criteria.

And then there are areas where we can improve our activity. Relationships with other professional associations deserving additional attention include REBA - Real Estate Bar Association, AIA - American Institute of Architects, NELTA - New England Land Title Association, MBCIA - Massachusetts Building Commissioners and Inspectors Association, the Registers of Deeds, MMA - Massachusetts Municipal Association, and NESS - the North East Surveying Societies. Our Standards and Professional Practice Committee is starting to assist people with complaints and questions of ethics.

And yes, there is more.

But, in the end, most of this work is being done by very few people. We are in desperate need of more active volunteers. There are many commitments large and small. We should each look inside ourselves and see how much we are willing to give.

So my question for you is, ***"What the Heck Have You Done?"*** MALSCCE can sure use your help. The economy will improve and I want MALSCCE to do the same. The time of opportunity is upon us. Join and commit. Let me know what interests you at: dhumphrey@schofieldbros.com

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Practical Location

By Knud E. Hermansen, University of Maine, and Robert A. Liimakka, Michigan Technological University

Practical location is an equitable doctrine allowing parties-in-interest (e.g., adjoining neighbors) to fix the location of their common boundary in a location that may differ from the location where a surveyor would place the common boundary.

Equity jurisdiction permits courts to recognize a boundary location where certain elements exist. Equity has long recognized that a line of peaceful possession or occupation, in certain circumstances, established without fraud or deceit should not be disturbed.

The first element generally required for practical location is that the record boundary be vague or unknown. Some states require that this boundary be vague after examination by a competent surveyor. The remaining states only require that the boundary be vague or unknown to the parties-in-interest. The purpose for this element is to prevent parties from usurping the legal requirement that parties alter the location of their record boundaries by written instrument. By requiring the boundaries be vague or unknown, the legal fiction is created that the parties-in-interest have not altered the location of their deed boundaries. Rather, the parties-in-interest have fixed a definite location for the boundaries described in their respective deeds.

The second element is that the parties-in-interest by their acts fix the boundary by definite monumentation. While corner monuments are sufficient, also acceptable are fences, walls, building lines, etc. This element is to insure the boundary location does not continue to migrate and be a source of dispute. It also provides actual notice of where the parties-in-interest have fixed the location of the common boundary. The parties-in-interest can not claim to have been misled as to the

location they have fixed.

The third element required for practical location is that the parties-in-interests' conduct and actions (or in some cases lack thereof) show recognition that the boundary so located by the parties-in-interest is recognized and accepted by the parties-in-interest as their boundary.

Finally, most courts have further required that there be either: 1) recognition for some length of time (usually the statute of limitations) or 2) some loss would be suffered by a reliant party if the deed boundary were upheld or 3) the practical location falls within the realm of possibility for the location of the deed boundary (though maybe not the location chosen by a competent surveyor). Without this last element, most courts would be reluctant to change the location of the record boundary fixed by a surveyor since there is no compelling reason to adopt a location other than the record location.

Consider the following example where practical location may be recognized:

John and Jim are adjoining lot owners. One summer day while both are doing yard work they begin discussing where their common boundary is located. Neither is sure. After drinking a couple of beers they decide that the best and least expensive way to determine their common boundary is to split the frontage (after all, they believe, they have the same size lots). John goes to get his plastic tape and Jim goes to get some old metal posts he has. Together they split the front and back distance and place the metal posts in the ground to mark their corners. For the next ten years they each respect the metal posts they set. Jim builds a new garage based on the

metal posts marking his boundary. John passes away and his daughter obtains the property upon John's death. She has the property surveyed and discovers the metal posts are three feet on her (deceased father's) property. She demands Jim respect the surveyor's monuments rather than the metal posts. Jim's garage would be in violation of the set back distance required by municipal zoning if the surveyor's opinion is determined to be the correct location of the common boundary.

In the example, the surveyor hired by the daughter should locate the record boundaries based on a complete and comprehensive evaluation of the evidence within the framework of the rules of construction. It is not the duty of the surveyor to determine if a location by practical location has been fixed by the parties-in-interest. However, the surveyor would have been wise to inform the daughter that the metal posts established by her father and Jim may now be the ownership boundary based on the doctrine of practical location or equity. Of course, it would be up to Jim to prove each of the elements of practical location in order to have the metal posts recognized as the location of the common corner.

The daughter's surveyor may want to consider wording such as the following in a letter or report to the daughter:

I have established the location of your common corner based on the best available evidence with due consideration to the rules of construction established by the court through precedence (*stare decisis*). My opinion conflicts with metal posts that appear to have existed in its location for some time and have been

Practical location is an equitable doctrine allowing parties-in-interest (e.g., adjoining neighbors) to fix the location of their common boundary in a location that may differ from the location where a surveyor would place the common boundary.

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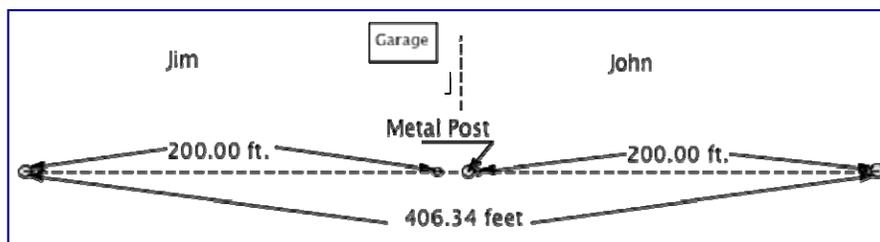
Practical Location

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recognized as a monument to the corner. I do not know the history of the metal posts or how long the posts have existed. Under certain circumstances a court would recognize these posts as the corners even though it is not cited as a monument to your deed or is located where your deed description would place the common corner. Much like a person that makes a mistake on their taxes ten years ago, the court is often reluctant to unsettle what has appeared to have been an innocent mistake in the past. Seeking the counsel of an attorney will give you a better explanation of the law and your chances of success should a dispute ensue.

The doctrine of practical location can be useful foundation for the surveyor's opinion in the situation where the location made by the parties would reasonably coincide within the realm of possibilities for the location of the record boundary.

Consider the previous example and assume that Jim's deed called for a frontage of "200 feet more or less" and John's deed called for a frontage of "200 feet more or less" and the situation the surveyor discovered was the following:



As the diagram shows, the metal post falls within the realm of possibilities given the vague deed description (though not an equal allotment of the excess). While the post may not be where a surveyor would place the common corner, the post does fall within the realm of possible locations fixed by the deed description. As such, the

courts would tend to favor the position of the post as the deed corner simply because the parties-in-interest have historically done so.

In this situation the contents of the letter or report may state the following:

I have determined your common corner is the location fixed by an existing metal post. There are three factors that support this decision. First, the metal post has existed for some time without apparent dispute or disagreement as to its location. Second, predecessors in title have appeared to recognize the post as marking the location of the common corner. Finally, there is reasonable compliance between the position of the post and with the deed description given the loose and imperfect description (e.g., "200 feet more or less"). Under the circumstances, the courts often presume that the post location is a practical and reasonable location monumenting the common corner location intended by the original grantor.

Practical location is similar to the equitable doctrine of

Some commentators equate practical location to a boundary by unwritten agreement. The difference between practical location and agreement is subtle and not always clear (some courts do equate the two doctrines). For an agreement the law requires an offer, acceptance, and consideration. In other words, an agreement requires a bargain fairly reached where each party derives some real or imagined benefit from their bargain. These elements are not required for a boundary by practical location. As a consequence, an unwritten agreement is appropriate where the parties are placing the boundary in a location different from what they know or perceive to be a location fixed by their respective deeds.

Knud is a professor in the Surveying Engineering Technology program at the University of Maine. He is also a consultant on boundary disputes, alternate dispute resolution, land development, real property law, and access law.

Rob is a professor in the Surveying Engineering Program at Michigan Technological University. He is a professional surveyor and holds a MS in Spatial Information Science and Engineering from the University of Maine, Orono and is currently working on a doctorate in civil engineering.

acquiescence. The major difference is that practical location requires the parties-in-interest all participate, while acquiescence requires only one party act while the other parties-in-interest acquiesce to the acts of the one party.

MALSCE Government Affairs Update

By Abbie Goodman, Executive Director, MALSCE

In January 2011, the 2011-2012 Formal Sessions of the Massachusetts Legislature started. At the end of the 2009-2010 legislative session, MALSCE had a major victory, with the passed of the Lien Law for design professionals. See Page 8 for more on this new law. Below are some highlights on issues of interest from the 2009-2010 Session:

Support for Treatment of Chronic Lyme Disease: This passed at the end of the formal session in Chapter 131 of the Acts of 2010, Sec. 67, effective July 1, 2010. The new law can be found in MGL Chapter 112, Section 12dd: <http://www.malegislature.gov/laws/generallaws/parti/titlexvi/chapter112/section12dd>. For a variety of reasons, the medical community and insurance companies in Massachusetts have been reluctant to diagnose and treat chronic Lyme

disease. Fortunately, this bill did pass as part of the FY2011 budget process, enabling the administration of long-term antibiotic therapy upon diagnosis of Lyme disease. This is a victory for MALSCE and one of the bills for which we advocated during Design Professionals Day at the State House.

Permit Extension Act: On August 6, 2010, Governor Deval Patrick signed a sweeping Economic Development law, which included the Permit Extension Act. See Page 7 for more on this issue.

SB 765 – An Act Relative to Land Use (LUPA) <http://www.malegislature.gov/bills/billtext/4656> LUPA would provide incentives to promote new housing and other development and to protect natural resources. It would also give municipalities modernized

regulatory tools to manage growth. Under the act, the amount of land zoned for higher density development would be increased to help meet the Commonwealth's need for housing and economic development and it would focus development in areas where infrastructure can support growth. While MALSCE did not take a position on this bill, it was one we tracked. This bill did not pass during the session and was re-filed in January. At press time, we have not seen a new bill number for this bill.

The Legislature launched a new web site at: <http://www.malegislature.gov/> Old web links to session laws or other legislative actions are no longer working, including some links on the MALSCE web site. If you see one on our site that no longer works, please let us know.

New Massachusetts “Prompt-Pay” Law

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Change Orders: The prompt pay law creates a 30-day time limit for approval or rejection of a request for an increase in the contract price. Similar to pay applications, if a change order request is neither approved nor rejected within 30 days of submittal, it is deemed approved.

If approved or deemed approved, the change-order may be submitted for payment in the following pay request. Any rejection must be made in writing, with a “factual and contractual basis”, and be “certified as made in good faith.”

Other Provisions: The prompt pay law invalidates pay-if-paid clauses as void and unenforceable. However, the law allows the following exceptions:

- If money has not been paid due to non-performance by the party seeking payment, and, after receiving written notice, the party seeking payment failed to cure the non-performance within the time limit required by the contract or, if not specified in the contract, within 14 days; or
- The payer is insolvent or becomes insolvent within 90 days after the requisition of payment, provided that the party seeking to enforce the pay-if- paid clause files a notice of contract and “pursues all reasonable legal remedies to obtain payment” unless there is a reasonable likelihood that the action will not result in obtaining payment.

These limitations must be stated in any contract, which includes a pay-if-paid clause.

Other requirements: The prompt pay law provides that any contract provision requiring a party to continue performance when a payment is overdue by at least 30 days is “void and unenforceable” except for disputes regarding quality of work or notices of default.

Design Professionals: Design professionals will need to exercise increased diligence in their timely review and approval of contractor invoices and proposed change orders. They will need to provide a reasonable written explanation for their rejection. An invoice may be deemed approved if a design professional fails to review invoices

Design professionals will need to exercise increased diligence in their timely review and approval of contractor invoices and proposed change orders

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ACSM on Web Radio

Gaithersburg, February 7, 2011

For more information on the "ACSM Radio Hour" contact Ilse Genovese, ACSM, ilse.genovese@acsm.net, 240/632-9716

The American Congress on Surveying and Mapping (ACSM) announced in late January a new program for surveyors and mappers across the U.S. The program, "ACSM Radio Hour," airs on America's web radio (www.americaswebradio.com) every Monday at 11:00 AM EST.

Sponsored by Parker-Davis Quik Stakes, the hour-long show is hosted by ACSM Executive Director Curt Sumner. Interviews with individuals connected with surveying in some way will be emphasized. Topics relevant to the surveying and mapping profession in the U.S. are welcome as suggestions for discussion, and can be e-mailed to the host at

curtis.sumner@acsm.net.

The introductory show aired on January 24, 2011. The following week, Jack Breed, PLS, discussed matters of concern in Florida, including a challenge to the definition of surveying and mapping and the Qualifications Based Selection (QBS) process for procuring the services of professional surveyors. The February 7 ACSM Radio Hour featured Gary Kent discussing the 2011 ALTA/ACSM Land Title Survey Standards which went into effect on February 23, 2011.

Sumner's guests for shows in February included: Sarah Ice (with the consulting firm Dewberry) who will be discussing FEMA issues and

Letters of Map Amendment (LOMA); David Doyle with National Geodetic Survey (NOAA/NGS) who will be discussing geodesy from its origins to its present-day use in daily life; and Don Falken with the Washington Metropolitan Area Transit Authority (WMATA) who will be discussing the importance of survey technicians to the surveying profession, and the NSPS Certified Survey Technician (CST) program.

To listen in live to the forthcoming shows, visit www.americaswebradio.com and select "Listen." An archive of past shows can be accessed by those who cannot listen live, at <http://www.radiosandysprings.com/showpages/ACSM.php>.

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The screenshot displays the 'Interactive AERIAL PHOTO INDEX (beta 2.2*)' interface. It features a map on the left with a 'Request Proposal (RFP)' button and a 'Terrain' dropdown menu. The map shows a location in Wolfeboro, NH, with a red crosshair and a green crosshair. A detailed aerial photo is shown on the right. The interface includes navigation controls, a search bar, and a 'Choose State' dropdown. A 'Low Price Guarantee' badge is visible at the bottom.

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Chapter 424 of the Acts of 2010 Signed Into Law: Lien Law for Design Professionals

By Abbie Goodman, Executive Director, MALSCE

On January 5, 2011, Governor Deval Patrick signed into law S2512, which is now [Chapter 424 of the Acts of 2010](#). This was a major legislative priority for MALSCE, working in coalition with ACEC/MA, BSCES and AIA/Massachusetts and other design professional organizations during the most recent legislative session. This was one of our priorities at both the 2009 and 2010 Design Professionals Day at the State House.

We thank our members and coalition partners who have worked tirelessly to help win passage of this legislation, especially our Legislative sponsors: Senator Karen Spilka and Majority Leader Jim Vallee and their staffers: Erin Souza (Majority Leader Vallee's office) and Michael Wright (Senator Spilka's office). We worked closely with AIA/Massachusetts (American Institute of Architects/MA) to advocate for passage of this legislation. The new law takes effect on July 1, 2011. It will provide additional legal protection to Engineers, Land Surveyors, Architects and related licensed design professionals.

About this new law:

Design Professionals-engineers, architects, land surveyors, LSPs and others who provide services that create substantial value for property owners. Planning and feasibility studies set out the general scope and configuration of potential development, either as an as-of-right project, or through a process of applying for a zoning variance. Design plans establish the full extent and character of the prospective investment. Construction documents (drawings and specifications) provide a complete technical description of the project, and are the necessary tools for soliciting bids to construct the project. Each of these

document types brings a tangible, elevated financial value to the Owner's land – they establish, with an increasing level of detail, what is possible in a physical regulatory context of a particular parcel, and they facilitate – are an essential element of - the Owner's application/receipt of government permission to execute the project.

For a variety of reasons, some land owners regularly don't pay all or portions of the fees that have been promised to the design professional, often as a normal course of business. Some owners make a habit of hiring a designer for a limited scope of services, don't pay that designer's invoices, but instead hire another designer for the next phase of the project, leaving the first with no payments and no prospects for future work on the project. Other owners simply

owed. Unscrupulous developers know this and have often arranged to withhold payments just below the threshold that would make a lawsuit viable.

This law enables designers to file a lien on the property so that any sale would be encumbered by the obligation to pay the fee owed. Builders have long had this right, and filing a lien – or the threat of a filing – has been shown to be an effective way to prevent this abusive business practice. Additionally, this long history demonstrates that the right to file liens has not harmed anyone unjustly; the only individuals or companies who would bear any costs under this new law are those who would abuse the firms they engage.

- *Chapter 424 of the Acts of 2010 allows licensed design professionals: architects, engineers, land surveyors and licensed site professionals, to lien property when the owner and/or developer fails to pay for agreed-upon services.*
- *This law leaves unchanged the current process for general contractors and subcontractors, such as plumbing and electrical trades, to place a lien on property when the owner/ developer has not paid for their work.*
- *There would be no impact on owners/ developers who pay their bills.*
- *Nothing in this statute or in this amendment would affect public properties or projects in any way.*
- *This law brings Massachusetts in line with the majority of other states which allow licensed design professionals to place a lien on property when owners and developers fail to pay the invoices.*

don't pay the last few invoices after design services are complete – essentially taking a unilateral discount. Some owners ignore the designer's invoices until enough value has been created, and then sell the project to another developer ("flipping" the project). In all of these cases, a designer's only recourse has been to sue – an expensive and protracted process that often costs more than the fees

New Massachusetts “Prompt-Pay” Law

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in a timely manner, or fails to provide an explanation for rejecting the invoice. The Owner may also require design professionals to specifically provide the factual and contractual basis for rejecting an invoice. If a design professional facilitates the general contractor's over payment to a subcontractor by failing to review and appropriately reject unwarranted items of work, it

could generate a cause of action by the general contractor against the design professional. Similar scenarios can be envisioned where an Owner claims to have overpaid a general contractor for an invoice that should have been rejected.

If you are involved in private construction contracts, you will want to carefully review this new law, which can be found as Chapter

293 of the Acts of 2010: <http://www.malegislature.gov/Laws/SessionLaws/Acts/2010/Chapter293>.

If you have any questions, please feel free to call Amanda Sirk at Donovan Hatem LLP at 617/406-4573.

2010 Economic Development Law Extends Many Permits for Two Years

On August 6, 2010, Governor Deval Patrick signed a sweeping Economic Development law, which included the Permit Extension Act, automatically extending for two years most local, regional, and state land use permits. This new law is Chapter 240 of the Acts of 2010; <http://www.malegislature.gov/Laws/SessionLaws/Acts/2010/Chapter240> is the link to the text of new law. The Permit Extension Act is Section 173. See *Approvals* for the definitions of permits extended by the law.

In November 2010, the Executive Office of Housing and Economic Development issued a document on frequently asked questions about the Permit Extension Act: <http://www.mass.gov/Ehed/docs/permitting/Permit%20Extension%20Act%20FAQ%2011-8-10%20FINAL.pdf>

The new law provides relief to owners and developers who have been unable to proceed with residential, commercial, or industrial projects due to the lack of available financing caused by the recent recession and sub-prime mortgage crisis.

Section 173, commonly referred to as the Permit Extension Act, extends for two years beyond their original term most state, regional, and local permits that were effective during the period of August 15, 2008 to August 15, 2010. If your permit expired on August 15, 2008, it is now in effect until August 15, 2010. If it is first issued on August 15, 2010, and would have expired on August 15, 2013, it will now expire on August 15, 2015.

The Act covers permits and approvals issued under the Massachusetts Environmental Policy Act, Zoning Act, Subdivision Control Act, Wetlands Protection Act and many other pieces of land use legislation. Comprehensive Permits issued under G.L. c. 40B are one of several notable exceptions to the Act as Chapter 40B was the subject of a repeal petition that was on the ballot in November 2010. The ballot question subsequently failed to pass in that election.

In addition to excluding permits and licenses issued by the Division of Fisheries and Wildlife for hunting, fishing, or aquaculture, the Permit Extension Act also places some

restrictions on extensions related to sewer connection permits and the transfer of permits. To the extent an approval based on a connection to a sanitary sewer system is extended by the Permit Extension Act, the extension is contingent on the availability of capacity in the sewer system. In addition, if an owner of property or holder of the permit transfers the property or a project, an extension is only valid if the new owner or permittee upholds all the terms of the permit as would have been required of the original owner or holder of the permit.

TrigStar 2011

By Donald T. Poole, PLS, Outermost Land Survey, Inc, MALSCE TrigStar Coordinator

As the new TrigStar Coordinator for Massachusetts I am going to take this opportunity to explain the process, the time involved in presenting the exam and the fun that you can have with the process.

For the past three years I have participated in the NSPS TrigStar program at our local High School, Nauset Regional High School. The fact that this is my alma mater makes this even more enjoyable to me.

The first year that I presented the TrigStar exam I met with the Math Department at their regular staff meeting. The response from the teachers was outstanding! They showed enthusiasm for the project! The department head, Steve Grubiak, was extremely supportive of the exam and said, "The math department will finally get a field trip!" (Even though the field trip would only be to the lunchroom for the exam.)

The math department teachers showed me some of the old TrigStar exams that they still used for homework, even though it had been over ten years since the last exam!

The first year we had 45 students take the exam. I knew several of the students since my son was attending NRHS at the time, but he didn't participate since math is not his strong suit.

Let me take a moment to explain the involvement required by the sponsoring surveyor or engineer. First contact the Math Department Head at your local high school and determine the extent of interest and schedule a date, sometime in April or late March. Offer to drop off sample exams for their use. Next make the number of copies and

assemble the test packets. Spend a little time at the NSPS website and review the TrigStar section and especially the suggested speaking points.

Then you get to administer the exam. My wife has been gracious enough to help with timing the tests as they are completed. The exam is 60 minutes so figure about an hour and a half. Grade the exams and notify the State Administrator of your winner. You are done, unless you have the State winner in your group! We did in our second year. This requires that you give the State winner an additional exam for the National prize.

Your total time involved can be as little as about 3 hours spread out over several months. Or you can spend more time if you want to visit the school and make a presentation about land surveying to the math classes.

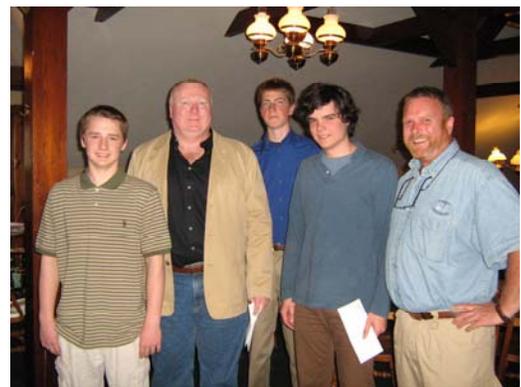
When our student won the State prize the Math Department head made a wonderful speech at the High School awards night. He gave a brief history and explained the purpose of the exam.

Our chapter sponsors a Cape and Islands competition and awards 1st, 2nd and 3rd place at our June meeting, inviting the recipients and their parents. We challenge the other chapters to do the same!

I have found the TrigStar program to be the simplest method to get involved with promoting the Profession. You can take a few minutes at the beginning to explain the Profession, bring some surveying magazines to distribute afterwards, and talk to the students after they complete the exam. Bring some equipment to pique the interest and explain the use of the



Brian Drake, 2nd from right, was MALSCE's 2009 State winner



2009 TrigStar Winners from Nauset High School and Harwich High School Cape Cod with Reggie Donabue and Don Poole of MALSCE's Cape Cod Chapter

GPS or Total Station that you brought. Bring an old transit and explain the changes in the profession.

Most of all have fun!

NSPS and ALTA Boards Approve 2011 ALTA/ACSM Land Title Survey Standards

MALSCE's Professional Development Committee is planning an April 29, 2011 seminar with Gary Kent on the changes--details to be announced.

December 31, 2010— The Board of Directors of the National Society of Professional Surveyors approved the new 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys during its meeting in Orlando on November 15, 2010. The new requirements were previously approved by the Board of Governors of the American Land Title Association at its October 13, 2010 meeting in San Diego.

The 2011 Minimum Standards represent the latest and 8th version of the Standards which were last revised in 2005. It is also the first

major rewrite of the Standards since their initial adoption in 1962. The new Standards will become effective on February 23, 2011, at which time all previous versions will be superseded.

The ALTA/ACSM Standards are nationally recognized by title companies, surveyors, lenders and attorneys as the survey standard to rely upon in conveyances of real property when extended title insurance coverage is required by one or more of the parties. The final, approved version of the 2011 Standards may be downloaded

from the ACSM Web site at www.acsm.net under the "Standards" section, or from the ALTA Web site at www.alta.org/forms under the "Recently Approved for Final Publication" section.

MALSCE's Professional Development Committee is planning an April 29, 2011 seminar with Gary Kent on the changes.

Have You Heard About the National Museum of Surveying in Springfield, Illinois?

Launched in 1989 in Lansing, Michigan, the new National Museum of Surveying (NMoS) will open its doors in downtown Springfield, Illinois in 2009. As the first and only museum dedicated to preserving and interpreting the nation's history of mapping and surveying, NMoS will present the innovation of the profession on a grand scale by displaying exhibits

that inspire, amaze and surprise.

The 10,000 square foot museum, located in the former Roberts Brothers Building, will include a permanent collection of more than 2,000 pieces and feature exhibits about Washington, Jefferson, Lincoln and Lewis and Clark in addition to its most notable feature, Science On A Sphere. NMoS will also house traveling exhibits, an

extensive archives, library and meeting spaces for classes and private events.

For more information on the Museum, see: <http://www.nationalmuseumofsurveying.org>.

Special NSPS Surveying USA Activities Planned for March 19, 2011

NSPS decided by a motion at its 2010 convention in Orlando to commemorate National Surveyors Week in 2011 with NSPS Surveying USA. This will be a one day (Saturday, March 19, 2011) simultaneous nationwide GPS observance of as many monuments as we can populate with NSPS members, MALSCE members (and members of other State

Affiliates) and members of any other organization we would like to include.

This will be a marvelous opportunity to both gather data nationwide and to increase the public's awareness of the survey profession. We are planning and hoping for multiple stations manned in each and every state, preceded by press releases to attract as much media attention

as possible. The NSPS Surveying USA Committee will help with the press releases and assist with other ideas leading up to the event.

For questions, ideas, or offers of help, contact our MALSCE Chair for NSPS Surveying USA: Donald T. Poole PLS, 508/255-0477, dpoole@outermostlandsurvey.com.

Small Claims Limit Raised to \$7,000

August 2010

On August 1, 2010, Massachusetts General Law (MGL c.218, s.21-25) was amended raising limit for small claims to \$7,000 and changing entry fees. For detail, see St. 2010, c.240, sec.156-157.

Land Court Moves to Three Pemberton Square

December 2010

Massachusetts Land Court Chief Justice Karyn F. Scheier and Recorder Deborah J. Patterson, announced that the Land Court has relocated to the high-rise courthouse at Three Pemberton Square, effective December 13, 2010.

MALSCE included news about the move in its email updates this fall and TEC staff tweeted about it on [@TEC Tweets](#). When MALSCE Executive Director Abbie Goodman reported back to Judge Scheier about the high number of clicks on the tweet, the Judge replied, "That's the first time anyone ever tweeted about the Land Court."

MassDOT Updates the Consultant Final Cost Claim and Reconciliation Form

January 2011

MassDOT Audit has updated the Consultant Final Cost Claim and Reconciliation Form. Consultants needs to submit this form upon completion of their contract. This requirement is part of MassDOT's consultant contract's specific provisions. The updated Form is be posted on the Highway Division internet site under "Doing Business with Us" under the Quick Link Tab under Audit requirements.

MassDOT Highway Division Prequalification Categories Changes Announced

February 2011

Effective February 11, 2011, MassDOT established the following Architectural and Engineering (A&E) prequalification categories for Surveyor Services:

- S1 - Engineering Field Survey
- S2 - Total Station AutoCAD Base Plan Services
- S3 - Layout Document Preparation
- S4 - Photogrammetry

S1, S2, and S3 are new categories for the A&E Board. There are currently no firms prequalified in categories "S1" and "S3". Forty (40) firms are prequalified in category "S2". These forty firms were automatically rolled into this category after previously being prequalified by the MassDOT Survey Prequalification Committee under their category with a similar definition.

All prequalification ratings for Surveyor Services shall be assigned by the Architects and Engineers Review Board as part of the normal prequalification process for all A&E Services.

For more information: <http://www.malsce.org/index.cfm?cid=10645&pid=10386>

MALSCE Members to Gather at State House for Design Professionals Day on May 10

By Abbie Goodman, MALSCE Executive Director

*To participate
in Design
Professionals Day
at the State
House, on
Tuesday,
May 10, 2011
you must register
by Friday,
April 29, 2011*

The passage of the new Mechanic's Lien Law for Design Professionals in January 2011 demonstrates once again the power of our grassroots advocacy at the state level. MALSCE members, working with coalition partners from the state's other industry organizations, strongly advocated for passage of the law during Design Professionals Day at the State House for two consecutive years.

When we advocate for issues, like the lien law that affect our engineering businesses, public leaders really do listen. They may not always agree with our views on specific laws or regulations, but they are always interested in hearing what professionals from their home districts have to say. This is how legislators educate themselves—and they truly want to hear from us.

You can help educate legislators by participating in the upcoming Design Professionals Day at the State House on Tuesday, May 10, 2011. MALSCE cosponsors the annual Design Professionals Day at the State House with leaders from other engineering and design-related associations, including the

American Council of Engineering Companies of Massachusetts (ACEC/MA) and the Boston Society of Civil Engineers Section/ASCE (BSCES). At press time, we are still determining the priority bills for this year, but our advocacy will generally focus on infrastructure funding, dam safety, and harnessing private sector innovation.

To participate in Design Professionals Day, register by April 29 at www.surveymonkey.com/s/DesignProfessionalsDay2011.

You will need to list your State Senator and State Representative in the online registration form; find their names by inserting your home address at:

www.wheredoivotema.com/bal/myelectioninfo.php

We will arrange meetings between representatives of member firms and their respective Massachusetts State Representatives and State Senators. If you are new to the event and want to partner with others who have done this before, we'll pair you up with engineers and land surveyors and you'll join them for their legislative appointments.

We hold advance issue briefing sessions to help you prepare to

discuss the issues. You can participate in an issue briefing session at The Engineering Center or by conference call on the following dates:

Wednesday, May 4
10:00–11:00 AM
Thursday, May 5
2:30–3:30 PM
Friday, May 6
10:30–11:30 AM

MALSCE will post and email the briefing sheets we will be using in the meetings with State Representatives and State Senators in early May. If you have any questions, contact Susan D'Olimpio at 617/305-4111 or sdolimpio@engineers.org, or Bailey Boykan at 617/227-5551 or bboykan@engineers.org.

Abbie Goodman is the MALSCE Executive Director at The Engineering Center. She can be reached at agoodman@engineers.org or 617/305-4112.

PD Committee Announces Upcoming Seminar

The MALSCE Professional Development Committee is pleased to announce the following professional development seminars that are scheduled for the months of March and early April, 2011:

Surveyor-in-Training and Professional Land Surveyor Refresher Courses

Saturday, March 12, 2011
The Engineering Center, Boston, MA

Prequalifying for MassDOT Survey Work

Friday, March 25, 2011
New England Water Works Association, Holliston, MA

How to Get Paid and Limit Your Liability

Friday, April 8, 2011
DoubleTree Hotel, Westborough, MA

More information is available at: www.malsce.org

SAVE THE DATES

2011 MALSCE Convention

Friday and Saturday
September 23&24, 2011

Cape Codder Resort & Spa
1225 Iyannough Road
Hyannis, MA 02601

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MALSCE
The Engineering Center
One Walnut Street
Boston, MA 02108-3616
T: 617/227-5551
F: 617/227-6783
E: malsce@engineers.org

We are on the Web!
Visit us at: www.malsce.org for the latest news and upcoming events
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The Massachusetts Association of Land Surveyors and Civil Engineers (MALSCCE) promotes professional land surveying registration and provides professional development programs for surveyors, engineers and related professionals throughout the state. We have over 600 individual members in five chapters throughout Massachusetts. In cooperation with The Engineering Center, MALSCCE enhances the land surveying and engineering professions.

FY 2011 MALSCCE Sustaining Members

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800/336-3375
www.microdesk.com