

SURVEYORS:



A person who is not registered with the state board of registration for architects and professional engineers as a land surveyor may not lawfully practice, advertise or indicate to the public that he is engaged, or will engage, in land surveying; such a person may offer for recordation any papers relating to land surveying prepared by him prior to the effective date of the act; a paper prepared, signed and sealed by a person registered as a "registered professional engineer" may not be accepted for recordation, unless such person is an employee of the state.

May 31, 1956

Honorable W. H. S. O'Brien
Prosecuting Attorney
Jefferson County
Hillsboro, Missouri

Dear Sir:

Your recent request for an official opinion reads:

"I am requested by Mr. Richard M. King, Recorder within and for Jefferson County, State of Missouri to request of your office an opinion concerning the following:

"Mr. King poses three specific questions all of which arise by reason of Chapter 344 Revised Statutes of Missouri 1949 entitled Land Surveyors (New).

"1. The instant statute became effective as of August 29, 1955, but persons eligible were given one year next following the effective date to qualify (Section 344.050); Section 344.120 prohibits the Recorder of Deeds and other governmental officials to file or record any map, plat, survey or other documents which does not have impressed thereon the seal and signature of the registered land surveyor. Query, how can Section 344.050 and 344.120 be rationalized; in other words may the recorder of Deeds except plats, and similar instruments without the prescribed seal and signature during the pendency of the one year grace period?

"2. Suppose, by hypothesis that a plat was prepared prior to August 29, 1955 but not presented for recordation until after said date, but within one year thereafter. Query, can the recorder of deeds record same?

Honorable W. H. S. O'Brien

"3. Assume a plat is prepared, seal and signed by a person registered as a "Registered Professional Engineer". Query, does such person necessarily have to be registered as a land surveyor?"

All statutory references are to RSMo Cum. Supp. 1955.

Section 344.020 RSMo Cum. Supp. 1955, prohibits a person from acting as a land surveyor who has not registered with the state board of registration for architects and professional engineers as a land surveyor.

Section 344.020 RSMo Cum. Supp. 1955, sets forth the qualifications for registration.

Section 344.050 reads:

"Any person who within one year next following the effective date of this chapter, shall show to the professional engineering division of the state board of registration for architects and professional engineers that within the time, he was a duly qualified and acting county surveyor, shall be eligible for registration as a land surveyor, without examination, and without delay, and shall be so registered by the board on the certificate of the division showing that he has complied with the provisions of this section. This section shall expire and be of no effect on and after one year next following the effective date of this chapter."

Section 344.120 reads:

"It shall be unlawful for the recorder of deeds of any county, or the clerk of any city or town, or the clerk or other proper officer of any school, road, drainage, or levee district, or other civil subdivision of this state, to file or record any map, plat, survey, or other document prepared by any land surveyor, which does not have impressed thereon, and affixed thereto, the personal seal and signature of the registered land surveyor by whom, or under whose authority and direction, the map, plat, survey, or other document was prepared."

Section 344.110 reads:

"Every registered land surveyor shall procure a personal seal, in form approved by the professional engineering division of the board, and shall

Honorable W. H. S. O'Brien

affix the seal, and his signature upon all maps, plats, surveys, or other documents, before the delivery thereof to any client, or before offering to file or record any such map, plat, survey, or other document, in the office of the recorder of deeds of any county, or in the office of the city clerk of any city or town, or with the clerk or other proper officer of any school, road, drainage, or levee district, or other civil sub-division of this state."

We do not believe that Section 344.050 constitutes an exception to the law plainly set forth in Sections 344.110 and 344.120, the first of which is that a surveyor is forbidden under penalty of law from offering for registration papers prepared for him unless he is registered, as is set forth in Section 344.020, supra, and the second of which prohibits under penalty of law any recorder from receiving and recording papers, which do not have impressed upon them the matters set forth in Section 344.120, showing that the offeror is a land surveyor within the meaning of Section 344.020, supra.

We believe that Section 344.050 is merely a "grace" which enables the surveyor to become registered without an examination. We do not believe that during this period he may lawfully offer for recordation any papers prepared by him.

In answer to your second question, it is to be noted that Section 344.120 prohibits the recordation of documents prepared by any "land surveyor" which does not meet certain qualifications. Inasmuch as this is a new law and there was no definition of "land surveyor" prior to the effective date of this law, it seems clear that persons who legally prepared a document before the effective date of this law would not come within the prohibition against recording the document of a "land surveyor", and that the document so prepared would be eligible for recordation at the present time. To hold otherwise would violate the constitutional provisions prohibiting the enactment of laws retrospective in their operation.

In answer to your third question, we believe that a plat prepared by a person registered as a "registered professional engineer" should not be offered or accepted since Section 344.020 clearly states that before a person practices land surveying in the state he must be registered as a "land surveyor", unless such person is an employee of the state. On May 22, 1956, this office rendered an opinion, a copy of which is enclosed, to Robert L. Hyder, General Counsel, State Highway Department, which opinion so holds.

Honorable W. H. S. O'Brien

CONCLUSION

It is the opinion of this department that a person who is not registered with the state board of registration for architects and professional engineers as a land surveyor may not lawfully practice, advertise or indicate to the public that he is engaged in, or will engage in, land surveying; that such a person may offer for recordation any paper relating to land surveying prepared by him prior to the effective date of the act; that a paper prepared, signed and sealed by a person registered as a "Registered Professional Engineer" may not be accepted for recordation, unless such person is an employee of the state.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh F. Williamson.

Very truly yours,

John M. Dalton
Attorney General

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