

STATE OF FLORIDA
BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS

DS 2005-037

Final Order No. BPR-2005-05423

Date: **9-28-05**

FILED

IN RE: PETITION FOR DECLARATORY
STATEMENT BY ACADEMIC SERVICES
CORPORATION

Department of Business and Professional Regulation
AGENCY CLERK

Sarah Wachman, Agency Clerk

By *Brandon M. Nichols*

ORDER DENYING PETITION FOR DECLARATORY STATEMENT

This matter came before the Board of Professional Surveyors and Mappers (hereinafter the "Board") on September 6, 2005, at a general business teleconference for consideration of the above-referenced Petition for Declaratory Statement. The Notice of Petition for Declaratory Statement was published on August 26, 2005, in Vol. 31, No. 34, Florida Administrative Weekly.

The petition filed by Academic Services Corporation seeks the Board's opinion on the following issue: (1) Whether or not a boundary survey and a record plat boundary, which must meet the requirements of Chapter 177 of the Florida Statutes, should both be in the same format?

Upon considering the above-referenced petition and accompanying materials, the Board declined to issue a declaratory statement because the Board determined that it does not have jurisdiction to issue a declaratory statement regarding the provisions of Chapter 177 of the Florida Statutes.

THEREFORE, the Board declines to issue a declaratory statement in response to this petition, and the petition is **HEREBY DISMISSED**.


Pursuant to Section 120.569, Florida Statutes, the Petitioner is hereby notified that he may appeal this Final Order by filing one copy of a notice of appeal with the Clerk of the Department of Business and Professional Regulation and the filing fee and one copy

of a notice of appeal with the District Court of Appeal within 30 days of the date this Final Order is filed.

This Final Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 19th day of September, 2005.

**BOARD OF PROFESSIONAL
SURVEYORS AND MAPPERS**



JOHN KNAP, Executive Director
on behalf of the Florida Board of
Professional Surveyors and Mappers

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail to Academic Services Corporation, c/o Harley C. Gilmore, 900 Lithia Pinecrest Road, Brandon, Florida 33511-6121; and to Brian J. Stabley, Assistant Attorney General, Office of the Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050, this _____ day of _____, 2005.

FILED

Department of Business and Professional Regulation
AGENCY CLERK

DS 2005-037

PETITION FOR DECLARATORY STATEMENTBefore the Board of Professional Surveyors and Mappers *Gerald L. Washburn*DATE August 12, 2005

Name of Petitioner: Academic Services Corporation

Address of Petitioner: 900 Lithia Pinecrest Road, Brandon, FL 33511-6121
Phone: (813) 657-4110 Fax: (813) 657-4430

Name of Agency involved: Board of Professional Surveyors and Mappers

Agency Provision on which declaratory statement is sought:
Florida Statute 177, Part 1**Substantial affect on Petitioners circumstances:**

We are an approved provider No. 0001367 for continuing education courses for professional surveyors and mappers.

We are in the process of preparing course manuals pertaining to Chapter 177, Part 1, Florida Statutes. The proper interpolation of the specific portions of the subject statute as addressed in the following paragraphs is critical to our proper teaching of the statute. In addition, there are many surveyors reviewing Record Plats submitted for recording. The manner in which we as a provider address this issue will directly affect their approach to the issue.

Specific subject of Declaratory Statement request:

Florida Statute 177.041 Boundary survey and title certification required. This statute sets forth the requirements for the boundary survey and the title certification.

I have always been of the opinion that the boundary survey is being made for the documentation of the legal description and boundary which is to be shown on the record plat. The title opinion is required to be as described and shown on the plat. Based on this concept it has been my understanding that the bearing system and dimensions of the boundary survey must be identical to that shown on the record plat. In addition the title opinion must be based on the information furnished in the boundary survey as well as that shown on the record plat.

In addition, 177.091 (11) and (14) Plats made for recording, also requires that the legal description shall be the same as the title certification.

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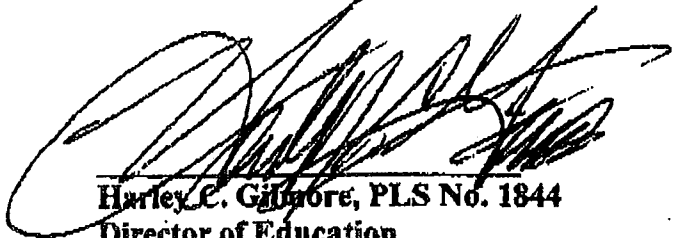
Page 2, Petition for Declaratory Statement

I have found that there is a difference of opinion by some regarding what format the boundary survey is required to be in. I have always understood that the legal description and the bearing system and dimensions of the boundary survey should represent the exact format to be used for the title certificate and boundary of the record plat.

The surveyor reviewing the plat for recording, and who must certify that the requirements of Chapter 177 have been met, can not do this if the boundary survey is different than the record plat boundary. To correlate the two would require the reviewing surveyor to perform computations to try and relate the two. I do not believe the reviewing surveyor has this authority. This should not be required.

The basic question is this: Should the boundary survey, on which the title certificate and record plat boundary are based, be in the same format?

Respectfully requested by:



**Harley C. Gilmore, PLS No. 1844
Director of Education
June 10, 2005**