

IN RE: The Petition for
Declaratory Statement of:
M. A. GUTIERREZ, P.L.S.
DS-PLS-88-02
FINAL ORDER

Pursuant to Section 120.565, F.S. and Rule 28-4, Florida Administrative Code, the above referenced petition of Manuel A. Gutierrez, a registered land surveyor, came before the Board of Professional Land Surveyors for consideration on November 17, 1988. Upon consideration of the petition and being otherwise fully advised in the premises, the Board makes the following findings and conclusions.

FINDINGS OF FACT

1. Petitioner, Manuel A. Gutierrez, is a licensed land surveyor in the State of Florida, having been issued License No. 4102.

2. Petitioner, as of the filing of the Petition for Declaratory Statement, was President of Survey South Inc., a business entity engaging in the practice of land surveying, located at 101 S.E. 6th Avenue, Suite E, Delray Beach, Florida 33483.

3. Petitioner states that he is in doubt as to the application of Rules 21HH-6.003(19)(e) and 6.006(4), Florida Administrative Code to the procedures for preparation of surveys. Specifically, he is unable to ascertain: Whether Rule 21HH-6.003(19)(e) allows building corners to be accepted as monumentation on a boundary survey; and whether a boundary survey updating a previous survey made by the same surveyor or survey firm locating completed new improvements needs to have the property corners reset.

4. Petitioner, Manuel A. Gutierrez, states that his company is in the process of performing surveys involving the above questions.

5. The Petition was noticed in the *Florida Administrative Weekly*, Vol. 14, No. 47, page 4766, on November 23, 1988.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Section 120.565, F.S. and Rule Chapter 28-4, Florida Administrative Code.

2. The Board concludes that Petitioner has the requisite substantial interest to bring this petition, and further concludes that the petition is in substantial compliance with Rule 28-4, Florida Administrative Code.

3. With regard to Petitioner's first question, Rule 21HH-6.003(16)(e) in pertinent part provides:¹

(e) when a case arises due to physical obstruction so that neither a boundary monument nor a witness monument can practicably be set in accordance with (a)-(e), then alternative monumentation which is durable and identifiable shall be established for this particular situation.

¹Although Petitioner's question referenced Rule 21HH-6.003(19)(e), recently filed amendments to the minimum technical standards which took effect December 18, 1988 have renumbered this subsection as 21HH-6.003(16)(e).

4. Upon consideration, the Board answers Petitioner's first question in the affirmative and concludes that building corners are acceptable as monumentation so long as use of the building corners as monumentation is clearly noted on the survey drawing.

5. With regard to Petitioner's second question, Rule 21HH-6.006(4) provides:

(4) A boundary survey updating a previous survey made by the same surveyor or survey firm, and which is performed for the purpose of locating non-completed new improvements by measurements to the property lines or related offset lines placed on the property since the previous survey, need not have the property corners reset.

6. Petitioner asks whether the inverse holds true; i.e., do property corners need to be reset for location of completed new improvements on a boundary survey.

7. Upon consideration, the Board answers Petitioner's question in the affirmative and concludes that: If a boundary survey updating a previous survey is made by the same surveyor or survey firm for the purpose of locating noncompleted new improvements, the property corners need not be reset; however, if a boundary survey is updating a previous survey made by the same surveyor or survey firm and is performed for the purpose of locating *completed* new improvements, the property corners must be reset. The Board would also note that when a boundary survey is updating a previous survey made by a different surveyor or survey firm, for the purpose of locating either non-completed or completed new improvements, the property corners must be reset.

WHEREFORE, the Board concludes Petitioner's questions are answered in the affirmative as more fully explained in the paragraphs above. Specifically, the Board concludes that building corners are acceptable as monumentation on boundary surveys so long as use of the building corner as monumentation is clearly noted on the survey drawing, and that a boundary survey updating a previous survey made by the same surveyor or survey firm which is performed for the purpose of locating completed new improvements requires that the property corners be reset.

BOARD OF PROFESSIONAL
LAND SURVEYORS
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Executive Director