

# 25<sup>th</sup> Annual MSPS Minimum Standards Workshop

Session 1:

## *LAWS AND RULES For Missouri Land Surveyors*



# TODAYS DISCUSSION

- RSMo 327: The licensing Board makeup and operation.
- Certificate of Authority
- Definition of Surveying
- Complaints process
- Licensing Exams

# Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects

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- **Board Chair**

Vacant

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Kathy W. Achelpohl, A.I.A.,  
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# Mission Statement

To Protect the inhabitants of the State of Missouri in the enjoyment of life, health, peace and safety, and to protect their property from damage or destruction through dangerous, dishonest, incompetent or unlawful architectural, professional engineering, land surveying or landscape architectural practice and generally to conserve the public welfare.

# How Laws are Made

- **Statutes:** Enacted by the legislature, signed by the governor.
- **Codes of State Regulations:** Define and clarify the Statute. Enacted by administrative departments of the government.
- **Case Law – Court Decisions**



# MISSOURI REVISED STATUTES - CHAPTER 327

- Defines 4 related professions:

Architects

Engineers

Land Surveyors

Landscape Architects

- Creates a Board to:

Issue Licenses

Promulgate Rules

Assure Compliance

# 327.272 Defines the Practice of Land Surveying:



## Activities that involve

- The Location of land boundaries
- Monumentation of land boundaries, land boundary corners and corners of the USPLSS
- The Subdivision of land into smaller tracts.

[327.281] MUST BE LICENSED

# Certificate of Authority

RSMo 327.401(2): ANY domestic corporation formed under the corporate law of this state or any foreign corporation, now or hereafter organized and having as one of its purposes the practicing of...land surveying...shall obtain a Certificate of Authority...from the Board....

This includes Professional Corporations (PC) and Limited Liability Companies (LC/LLC)

The requirement for a Certificates of Authority is **NOT** a new concept. It has been with us since the last revision of the Missouri Statutes in 1969, a time span of 44 years!

The requirements for Certificates of Authority are not the same across the country. Not all states have a requirement for a Certificate of Authority. For those states that do, violations can result in monetary fines running into the thousands of dollars.

It is **YOUR** responsibility to know the Statutes and Rules. Ignorance of the law is not an acceptable excuse or defense.

The Board has encouraged voluntary compliance with this Statute, unfortunately many of our licensees are still not listening. Corporations (including LLC) operating without a Certificate of Authority are in violation of Chapter 327.076. Employees who assist this illegal act are in violation of the Code of Conduct (20 CSR 2030-2.010(7)). Future violators are on notice that the Board will be taking them to task for their actions.

If you work for a Corporation or LLC it is your responsibility to assure that they are in compliance with the law...YOUR ticket can be on the line too.

# COMPLAINTS



# The Complaint Form:

1. THIS COMPLAINT IS AGAINST THE FOLLOWING (FIRM) (PERSON):

Section 327.011 RSMo defines "person" as any person, corporation, firm, partnership, association or other entity.

NAME	TELEPHONE
ADDRESS	

2. THE COMPLAINT DEALS WITH THE PRACTICE OF:

- ARCHITECTURE
- ENGINEERING
- LAND SURVEYING
- LANDSCAPE ARCHITECTURE

3. TO MY KNOWLEDGE THE PERSON COMPLAINED AGAINST  IS  IS NOT REGISTERED TO PRACTICE IN THE PROFESSION OR PROFESSIONS SHOWN IN NO. 2 ABOVE.

4. THE NATURE OF THE COMPLAINT IS:

- PRACTICE OF UNLICENSED PERSON
- INCOMPETENCY
- MISCONDUCT
- GROSS NEGLIGENCE
- FRAUD
- DISHONESTY
- OTHER (MUST INCLUDE FULL DESCRIPTION)

# Complaint/Disciplinary Process

- Complaint may be filed by others or initiated by the Board
- Investigation
- After investigation, Board may:
  - Dismiss Charges
  - Seek Formal or Informal Agreement
  - File for Injunction
  - File Complaint with Administrative Hearing Commission (AHC)

# Disciplinary Process (Con't.)

- AHC decides if there is cause for discipline
- The Board may use any or a combination of the following:
  - Censure
  - Probation for not more than 5 years
  - Suspend for not more than 3 years
  - Revocation
  - Civil penalties
  - Seek Injunctive Relief



# Timeline:

- Processing initial complaint 30-90 days
- Investigation process 30-90 days
- Schedule meeting with Licensee 30-90 days
- Refer case to AG's office for filing with AHC 90-120 days
- Schedule case at AHC 90-180 days
- Decision by AHC 60-90 days
- Disciplinary hearing 30-90 days
  
- Appeal to Circuit Court 180-360 days
- Appeal to Court of Appeals 180-360 days
- Appeal to Supreme Court 180-360 days

## **Breakdown of Complaints files**

<b>closed:</b>	<b>2011</b>	<b>2012</b>
<b>Formal censure based on cause of discipline</b>	<b>0</b>	<b>0</b>
<b>Placed on Probation</b>	<b>8</b>	<b>2</b>
<b>Suspension followed by Probation</b>	<b>0</b>	<b>0</b>
<b>House Bill 600 Suspensions</b>	<b>11</b>	<b>3</b>
<b>Injunctions obtained</b>	<b>0</b>	<b>1</b>
<b>Licenses Revoked</b>	<b>3</b>	<b>5</b>
<b>Insufficient evidence of violation, no action taken</b>	<b>25</b>	<b>18</b>
<b>Not within the jurisdiction of the Board</b>	<b>8</b>	<b>4</b>

<b>Satisfactory completion of probation</b>	<b>16</b>	<b>12</b>
<b>Voluntary surrender of license</b>	<b>1</b>	<b>3</b>
<b>Complaint was withdrawn by complainant</b>	<b>0</b>	<b>1</b>
<b>Certificate of Authority was obtained w/civil penalty</b>	<b>8</b>	<b>9</b>
<b>Written assurances to either Cease &amp; Desist or to comply w/Chapter 327 received</b>	<b>9</b>	<b>16</b>
<b>Board letter (violation did not warrant further action)</b>	<b>0</b>	<b>6</b>
<b>Corrective Action was taken</b>	<b>19</b>	<b>10</b>
<b>Other Action</b>	<b>17</b>	<b>26</b>
<b>Civil Penalties for Unlicensed Surveying</b>	<b>6</b>	<b>2</b>
<b>Total number of Pending Complaints Beginning year</b>	<b>98</b>	<b>83</b>
<b>Number of new complaints received:</b>	<b>120</b>	<b>81</b>
<b>Number of Complaints closed</b>	<b>138</b>	<b>121</b>

# Breakdown of New Complaints

- Unlicensed persons practicing Land Surveying -- 1
- Land Surveyors charged with incompetent surveys, inaccurate surveys or Surveyors who do not meet Minimum Standards -- 5
- Offering Land Surveying services without a Corporate Certificate of Authority – 2
- Failure to provide Immediate Personal Supervision – 1
- Disciplined in another State – 0
- Unprofessional Conduct -- 1

# Examinations:

Over the past 5 years we have seen an alarming downward trend of the passing rate for the State Specific Exam. Since the 2008 Minimum Standards workshop the Survey Division has commissioned the development of a ‘State Specific sample test’ to give prospective licensees an idea of what to expect on the examination. This test is available on our website. We monitor its usage and continue to chart the test scores to see if this additional tool is having an effect on test results.

# LS Examinations Administered

	2011		2012		
<b>Fundamentals of Land Surveying</b>	<b>16</b>		<b>25</b>		<b>Candidates</b>
	<b>8</b>	<b>50%</b>	<b>16</b>	<b>64%</b>	<b>Passed</b>
<b>Principles and Practice of Land Surveying</b>	<b>12</b>		<b>20</b>		<b>Candidates</b>
	<b>6</b>	<b>50%</b>	<b>14</b>	<b>70%</b>	<b>Passed</b>
<b>Missouri Specifics of Land Surveying</b>	<b>57</b>		<b>42</b>		<b>Candidates</b>
	<b>27</b>	<b>47%</b>	<b>17</b>	<b>40%</b>	<b>Passed</b>

# EXAMINATIONS ADMINISTERED

<u>Test</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
FS	37	31	39	16	25
PS	21	14	13	12	20
MO	68	50	46	57	42
<b>Number Passing</b>					
FS	19	20	20	8	16
PS	13	6	6	6	14
MO	22	18	14	27	17
<b>Percent Passing</b>					
FS	50	65	51	50	64
PS	62	43	46	50	70
MO	32	36	30	47	40

Of the 42 people taking the 2012 Missouri Specific exam, 19 were in-state applicants and 23 were comity applicants. Of the 17 passing the exam, 13 were comity applicants—**ONLY** 4 of 19 in-state applicants passed! **That's only 21% folks!**

## **Of those Passing the Missouri Specific test#1 : (23)**

**10 passed on 1<sup>st</sup> attempt**

**9 passed on 2<sup>nd</sup> attempt**

**2 passed on 3<sup>rd</sup> attempt**

**2 passed on 4<sup>th</sup> attempt**

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## **Of those Failing: (8)**

**6 on 1st attempt**

**2 on 2<sup>nd</sup> attempt**

## **Of those Passing the Missouri Specific test #2 : (9)**

**2            passed on 1<sup>st</sup> attempt**

**5            passed on 2<sup>nd</sup> attempt**

**2            passed on 4<sup>th</sup> attempt**

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## **Of those Failing: (22)\*\***

**14 Failed on 1st attempt**

**6 Failed on 2<sup>nd</sup> attempt**

**2 Failed on 3<sup>rd</sup> attempt**

**\*\* This is the First (1<sup>st</sup>) time the test has been given in 2-part and the number of attempts include all previous tests.**

# Missouri Specific Exam

	<b>#Exams Taken</b>	<b>%Pass</b>	<b>%Comity Passing</b>	<b>%Non Comity Passing</b>	<b>Of those passing % Correct USPLSS</b>
<b>10/12</b>	<b>23</b>	<b>39</b>	<b>42</b>	<b>36</b>	<b>58</b>
<b>4/12</b>	<b>19</b>	<b>42</b>	<b>32</b>	<b>33</b>	<b>55</b>
<b>10/11</b>	<b>32</b>	<b>53</b>	<b>63</b>	<b>55</b>	<b>64</b>
<b>4/11</b>	<b>25</b>	<b>40</b>	<b>52</b>	<b>46</b>	<b>71</b>
<b>10/10</b>	<b>22</b>	<b>23</b>	<b>64</b>	<b>7</b>	<b>60</b>

**Based on the test results over the past 3 years (6 cycles), it appears that we have two basic causes for the low pass rates on the MO Spec Exam:**

**#1: Inadequate instruction within the 12 credit hours now required for licensure. The students are completing the course without fully grasping the proper procedures for subdivision within the USPLSS.**

**#2: Inadequate mentoring by the PLS in responsible charge.**

**Until there are positive changes in these fundamentals, major improvement is unlikely.**

# 2013 April Examination

<u>Test</u>	<u>Candidates</u>	<u>Pass</u>	<u>Percentage</u>
FS	9	4	44%
PS	10	4	40%
MO-1	31	23	74%
MO-2	31	9	29%
USPLSS			

## Year End Report

### Number of Registrations granted by Comity

	2011	2012
Land Surveying	8	13

### Total Missouri Licenses as of:

Architects	4,417	4,475
Professional Engineers	14,955	15290
Land Surveyors	905	890
Landscape Architects	235	343
<b>Total Individual Licenses</b>	<b>20,602</b>	<b>20,998</b>

**Total Missouri Corporation**

**Licenses as of:**

**2011**

**2012**

**Architectural Corporations**

**758**

**791**

**Engineering Corporations**

**1,546**

**1,640**

**Land Surveying Corporations**

**286**

**289**

**Landscape Architectural  
Corporations**

**81**

**89**

**Total Corporate Licenses**

**2,671**

**2,809**

Questions?