

Monument Removal and Plats

Questions about when or if it may be legally permissible to remove monuments which were set in anticipation of filing of partitions or subdivisions have been presented to OSBEELS.

The concern regarding the removal of monuments that have been set along the perimeter of anticipated plat boundaries, relates to the potential that adjoining property owners may have come to rely on these monuments, even though they are not of record in county offices.

Given the timelines and requirements of Oregon Revised Statutes (ORSs) 92.50, 209.250, and Oregon Administration Rule (OAR) 820-030-0060, how can professional land surveyors address monuments set in plats that have been submitted to the county surveyor's office for review and the professional land surveyor is subsequently told by their client that the development is not going to move forward? Or in the case of the plat being held up in a city or county office under some type of review or permitting process?

One option may be to convert the plat into a survey and file it as such. If the project has been dropped and is not going to move forward there are a couple of scenarios the professional land surveyor needs to consider. Prior to the 45th day after setting the monuments, nothing in statute specifically prohibits the removal of these monuments by the professional land surveyor. However, beyond the 45th day, the plat perimeter monuments may not be legally removed and may have gained a local recognition by the adjoining property owners as to the location of their boundaries at that position on the line.

Some timelines and requirements to keep in mind:

1. If monuments have been set, but the plat has **not** been submitted to the

county surveyor for review, up to the 45th day after the setting of the first monument, all monuments set **may be removed**, and no further action is legally required.

2. If monuments have been set, and the plat is submitted for filing within 45 days of the setting of the first monument, the monuments **may be removed** within the 45 days, inclusive of the review period granted the county surveyor, so long as notice is provided to the county surveyor that there is no longer an intent to file the survey (or plat).
3. If monuments have been set and the plat has been submitted for review, and if the 45th day has passed, the monuments **may not be removed**, unless they are interior and exterior lot corners not defining the perimeter boundary.

ORS 92.050 (1) prohibits the filing of plats until "all the requirements of ORS 209.250 and the plat requirements of the subdivision or partition have been met."

OAR 820-030-0060, relating to the filing of survey records, states, "The registered professional land surveyors making a survey pursuant to ORS 209.250 shall submit for filing a complete record that contains all the elements listed in ORS 209.250(2)(3) in all affected counties within 45 days of establishment or reestablishment of any boundary monument or boundary reference monument." This requirement relates to the date of the setting of the first monument on the survey or plat.

ORS 209.250 subsection (1) states, "If the surveyor is unable to complete the survey and submit a permanent map within 45 days, the surveyor shall, within 45 days of establishing or reestablishing a boundary monument, provide written notice to the county surveyor containing the reasons for the delay, an estimate

of the amount of time reasonably necessary to complete the survey but not exceeding 180 days, and a temporary map showing the position of monuments established or reestablished."

ORS 209.250 subsection (4)(a) states, "Within 30 days of receiving a permanent map under this section, the county surveyor shall review the map to determine if it complies with subsections (1), (2) and (3) of this section and applicable local ordinances. A map must be indexed by the county surveyor within 30 days following a determination that the map is in compliance with this section."

ORS 209.250 Subsection (4)(b) states "A survey map found not to be in compliance with subsection (1), (2) or (3) of this section must be returned within 30 days of receipt for correction to the surveyor who prepared the map. The surveyor shall return the corrected survey map to the county surveyor within 30 days of receipt of the survey map from the county surveyor."

ORS 209.250 Subsection (4)(c) states "A map that is not corrected within the specified time period must be forwarded to the State Board of Examiners for Engineering and Land Surveying for action, as provided in subsection (11) of this section."

ORS 209.250 Subsection (11) states "A registered professional land surveyor failing to comply with the provisions of subsections (1) to (9) of this section, ORS 92.050 to 92.080 or a county ordinance establishing standards for surveys or plats is subject to disciplinary action by the State Board of Examiners for Engineering and Land Surveying. ■