

The Law Regarding Monument Preservation

The Board has received an overwhelming number of complaints from civil engineers and land surveyors who can't find monuments because they've been removed or paved over. Many cases have been opened against the engineers or surveyors in responsible charge of construction and improvement projects in which monuments have been removed or obliterated. As the economy has improved, road maintenance, improvements, and new road construction by private developers and by state and local jurisdictions has increased dramatically. The good news — it shows no signs of slowing down. The bad news — some developers, state agencies, cities, and counties are failing to conform to the requirements of Business and Professions Code section 8771 (see below), which requires that monuments that are destroyed must be reset or new corners must be set and records must be filed to document their locations.

Agencies are responsible for preserving existing monumentation whether they do the work themselves or contract that work out. The Board's land surveyor consultant, Howard Brunner, P.L.S., has prepared sample language that developers, cities, counties and other agencies can use when contracting out work that might destroy monuments (see sidebar). Many jurisdictions the Board has worked with have also included these provisions in their encroachment and permit processes. ♦

8771. Record of survey - monumentation

(a) Monuments set shall be sufficient in number and durability and efficiently placed so as not to be readily disturbed, to assure, together with monuments already existing, the perpetuation or facile reestablishment of any point or line of the survey.

(b) When monuments exist that control the location of subdivisions, tracts, boundaries, roads, streets, or highways, or provide survey control, the monuments shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer prior to the time when any streets, highways, other rights-of-way, or easements are improved, constructed, reconstructed, or relocated and a corner record or record of survey of the references shall be filed with the county surveyor. They shall be reset in the surface of the new construction, a suitable monument box placed thereon, or permanent witness monuments set to perpetuate their location and a corner record or record of survey filed with the county surveyor prior to the recording of a certificate of completion for the project. Sufficient controlling monuments shall be retained or replaced in their original positions to enable property, right-of-way and easement lines, property corners, and subdivision and tract boundaries to be reestablished without devious surveys necessarily originating on monuments differing from those that currently control the area. **It shall be the responsibility of the governmental agency or others performing construction work to provide for the monumentation required by this section.** It shall be the duty of every land surveyor or civil engineer to cooperate with the governmental agency in matters of maps, field notes, and other pertinent records. Monuments set to mark the limiting lines of highways, roads, streets or right-of-way or easement lines shall not be deemed adequate for this purpose unless specifically noted on the corner record or record of survey of the improvement works with direct ties in bearing or azimuth and distance between these and other monuments of record.

(c) The decision to file a corner record or a record of survey shall be at the election of the licensed land surveyor or registered civil engineer submitting the document. [emphasis added]

Sample Contract, Permit, and/or Plans Language

Contractor is responsible for preservation and/or perpetuation of all existing monuments which control subdivisions, tracts, boundaries, streets, highways, or other rights-of-way, easements, or provide survey control which will be disturbed or removed due to contractor's work. Contractor shall provide a minimum of 10 working days notice to project engineer/surveyor prior to disturbance or removal of existing monuments. Project engineer/surveyor shall coordinate with contractor to reset monuments or provide permanent witness monuments and file the required documentation with the County Surveyor pursuant Business and Professions Code section 8771.