



A. Devereux, Wise County Surveyor (1890s)

Owen Funk (1930 – 1950)

Jeff Fox, Wise County Surveyor (1960 – 1970)

Tommy Edwards, RPLS (1975-)

Wm. Davey Edwards, PhD, RPLS LSLS CFedS (2002-)

To the Sunset Advisory Commission,

I would like to thank the commission for allowing me to address some of the issues that were brought forward in the Sunset report of the Texas Board of Professional Land Surveying (TBPLS). I appreciate the Sunset Advisory staff for their thoroughness in their report. Their statistical analysis of the efficiency of an agency brings to light some areas of work our agency can use as constructive measures. I also appreciate the staff allowing me and members of the agency's staff to discuss their initial draft recommendations at the final hearing last month.

Since 2015, I have proudly and humbly served the State of Texas as one of two Licensed State Land Surveyor (LSLS) members of TBPLS at the appointment of Governor Greg Abbott. As a son of a Texas Registered Professional Land Surveyor (RPLS), I understand the integrity and importance of providing the unique service of land surveying to the public. Therefore, I not only obtained my RPLS in Texas but also my LSLS and higher education in cadastral sciences (master's and doctorate degrees.) I have also extended my service into the State of Oklahoma as a licensed professional land surveyor and I am also certified as a Federal Land Surveyor (CFedS) for the United States Bureau of Land Management (BLM).

To understand the importance to maintain an independent regulatory agency for Texas land surveyors, you must understand the history of the Texas original land grant system. The Texas Licensed State Land Surveyor is unique to our state. As the cadastral surveyors are to the U.S. Bureau of Land Management, the Texas LSLS is to the Texas General Land Office. Let me outline a few key points to address some issues stated in the recommendation, then I will go into detail on each point.

### ***Key Points***

- Texas retains sovereignty to its lands in the 1850 Compromise. This is unique to any states that joined the United States which were required to surrender their land to the benefit of the Federal government.
- The Texas Licensed State Land Surveyor has been duly qualified through examination for a century under the Act of 1919. Their legacy stems from the need of the Commissioner of the Texas General Land Office to have qualified experts in land surveying provide services on original land grants. Texas LSLS reside in the State of Texas to provide their services to the State of Texas. Outsourcing the development of the LSLS examination will compromise its integrity.
- The Texas Board of Professional Engineering is not qualified to provide qualified land surveying regulation to protect the public. Some professional engineers are not educated or duly qualified in Texas case and statutory laws dealing with the complex Texas land system. The recommended one land surveyor member for the revised board would not be able to fully represent the citizens of Texas for land surveying issues.

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## **History of Texas Lands**

Texas is a unique state when it comes to the land disposition. Since the 18<sup>th</sup> century, under the Spanish and Mexican governments, colonies were established which land were granted. However, the greatest asset to the State of Texas came during their negotiations with the United States after joining the union. Because of the huge war debt and our size, the United States purchased a portion of the Republic of Texas and allowed the remaining land to be used to settle the debt. The 1850 Compromise, as it became to be known, was used to help build our infrastructure and continues to be used to fund the Permanent School Fund (PSF) through the management of the Commissioner of the Texas General Land Office.

## **Surveying Texas Sovereignty**

When the Republic of Texas won its independence from Mexico in 1836, President Sam Houston understood that it was imperative to honor land grants previously awarded under the Spanish and Mexican governments. Therefore, the first official agency of the Republic was the Texas General Land Office and the newly appointed Commissioner, John Borden, a land surveyor, duty was to validate those titles and continue awarding land grants. To further protect the welfare of the public, legislation passed an act that allowed the Commissioner to appoint qualified land surveyors to provide the State their services in the late 19<sup>th</sup> century. This elite group of land surveyors became known as state land surveyors and by 1919 legislation created the licensed state land surveying board whose duty was to qualify state land surveyors through examination for the Commissioner. This exam tested the candidate's knowledge on case and statutory law that dealt with sovereign land grants.

## **State Land Surveyors**

For one hundred years, the LSLS members of the board, along with the Commissioner's designee which was usually the chief surveyor of the Texas General Land Office, has interviewed candidates, created and graded examinations, and administered the oath of the state land surveyor for the Commissioner. The LSLS would thus be an official of the State of Texas working in this capacity. This process has not changed much other than being revised to update questions to the ever-changing laws and provide additional analytical questions. The LSLS board was eventually combined with the registration for public surveyors' board in 1979 as a result of Sunset Commissioner recommendation. The representation of the LSLS remained untouched as it was recognized that their duties to the Commissioner and the State of Texas was separate and unique from the RPLS.

## **Engineers not Qualified to Regulate Land Surveyors**

This Sunset Commission is suggesting that "the Texas Board of Professional Engineers [TBPE] could more effectively regulate land surveyors." Albeit recognized the two professions are distinct and the proposal to keep the Act of land surveying separate from engineering, the education and required experience to becoming a professional in each field is not similar. Engineers do work with surveyors on many projects that are related, but surveyors also work with other professions such as architects, lawyers, geologist, oil and gas professionals, Federal and State governmental agencies and the like. What truly separates us from engineers is our expert knowledge in the application of laws that deal with boundary construction.



## **Not Common with Other States**

It is recognized that many states have some form of combined boards of engineers and land surveyors. It is also important to restate the fact that Texas land system is much different than in those states. The states in which the Federal government has jurisdiction to land management matters are Public Land System States (PLSS) and have explicit instructions to surveying methods published by the BLM. These standard methods are studied and examined through the National Council of Examiners for Engineers and Surveyors (NCEES.) Unlike the land system in Texas, the PLSS examination can be used in other common PLSS. Since there is no sovereign Federal land in Texas, the BLM surveying methods cannot be applied for boundary construction. Understanding this major difference in land surveyors in Texas, it can be concluded that engineers would not be able to protect the citizens of Texas without a formal education and duly qualifying examination process to become a land surveyor.

## **Difference with Land Surveyors and Engineers**

The practice of engineering is applying certain fundamental knowledge mathematics in specific fields in various locations. For example, the process of designing a bridge for construction in Texas is the same for other jurisdictions in the United States. In contrast, the reconstruction of a riparian boundary along a navigable river in Texas is tremendously different than other states due to statutory definitions and case law respective to each state. Texas land surveyors have an important role in perpetuating the record of the land with their unique expertise in the cadastral system of Texas is better regulated by their peers.

## **TBPE Representation of the Surveying Profession is Inadequate**

The TBPE has a nine-member board of which six are engineers, in no particular discipline that is under their definition. The Sunset Commission's recommendation to include only one RPLS (or LSLS) in a voting position on the board does not accurately represent the importance of the land surveying professional service to the public's welfare. As the LSLS is duly qualified to provide specific services to the State of Texas under the authority of the Commissioner, a RPLS is duly qualified to provide a more general land surveying service to the citizens of Texas. Since 1955, a RPLS has had to take an additional eight-hour examination as required by the 1919 LSLS Act to be an LSLS. Therefore, the RPLS is not qualified to respond to issues that would be categorized within the duties of the LSLS.

## **Outsourcing the LSLS Examination Would Compromise Its Integrity**

The Sunset Commission's recommendation to outsource the development of the LSLS examination would jeopardize a century of protecting the contents of a limited number of example problems used for the analytical portion of the examination. Many generations of LSLS have developed these questions based on their applicable experience of the case and statutory laws that specifically deal with surveying original land grants in the State of Texas. The questions are not theoretical, nor do they create hypothetical scenarios that would not exist for the state land surveyor. The questions are from real-world cases that have been resolved using the laws that are applicable. LSLS members that have served on the board have protected the examination from extortion and fraud for a hundred years through the pride of their responsibility to the State of Texas from which they have given their oath. From experience as an LSLS, nearly every project that requires the capacity of an LSLS has a certain historical and regional aspect that could never be simplified into an examination question by a developer that is not qualified under the Act.

## Statutory Requirement for the LSLS to Reside in the State of Texas

The Sunset Commission is recommending that the statute to require an LSLS to remove the requirement of residing in the State of Texas. This requirement is important to the integrity of the work that is being performed for the Commissioner. A Texas resident would be a more interested party to providing those services than those that live outside the state. An LSLS is also considered an official of the State of Texas while working under this capacity, according to the Act, which would require that official to be a resident of the State of Texas. The Commissioner is not attempting to license an abundance of state land surveyors, but only to license qualified individuals willing to provide their expertise for the State of Texas.

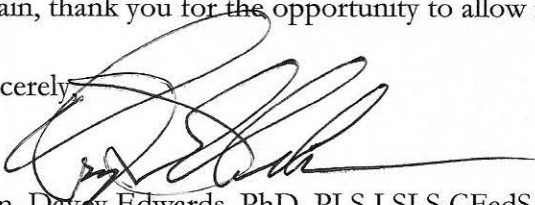
## Conclusion

The recommendation from the Sunset Commission to restructure the Texas Board of Professional Engineering to oversee the land surveying profession and add one surveying member will not adequately protect the public from issues related the land surveying in the State of Texas. The land surveying profession in states that have the oversight of a combined engineering board experience an overbearing engineering presence on a field that is more than just mathematics thus resulting in a demise to the professional population which could never sustain an existence in the real estate needs. The Texas license state land surveyor is more than just a statistical number, they are an officer of the State of Texas. Representing the Commissioner of the Texas General Land Office, the LSLS has taken an oath to protect the sovereign lands of Texas for the purpose of benefiting the Permanent School Fund.

In my opinion, the Texas Board of Professional Land Surveying should remain independent and allowed to address the other important issues that were brought forward in the staff report. If that is not possible, then a combined board should have equal representation of a Registered Professional Land Surveyor and a Licensed State Land Surveyor, along with the Commissioner of the Texas General Land Office (or his designee) as voting members. Thus, creating a board membership of four engineers, one Registered Professional Land Surveyor, one Licensed State Land Surveyor, the Commissioner of the Texas General Land Office (or his designee), and two public members. The last alternative would be to leave the board memberships untouched and combine the administration of the boards which would not effectively cost the State of Texas any more in annual operating expenses.

Again, thank you for the opportunity to allow me to state my opinion in the recommendation of this committee.

Sincerely,



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