

THE PROFESSIONAL SEAL

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ABSTRACT

Almost all states require a surveyor, upon licensing, to obtain a professional seal of a design and size prescribed by the licensing board. Unfortunately, many licensing boards fail to explain why, when, and where the seal is used. This article explains why, when, and where along with some guidelines for the proper use of the professional seal.

INTRODUCTION

Most surveyors when they are initially licensed in a jurisdiction are required to obtain a professional seal. Normally, the same letter congratulating the surveyor on passing the exam also directs the surveyor to obtain a professional seal of a design and size specified by the licensing board. Unfortunately, the letter and subsequent documents from the licensing board fail to tell the surveyor why the seal is necessary, when it is to be used, and where it should be used. The surveyor is forced to learn why, when, and where from reading the licensing statute, observing those previously licensed, relying on his or her own intuition, or, in some cases, hoping the document or form will direct when and where to use the seal. This article has been written to address why, when, and where a professional seal should be used.

WHY

Why the professional seal is required is frequently explained in one or more sections found in the licensing act. Most of the time the explanation is vague, confusing, or incomplete. A review of some case law on the subject reveals there are generally five common reasons for requiring the surveyor to obtain and use a seal.

First, the seal signifies that the person whose name appears on the seal is qualified to practice surveying within the jurisdiction shown on the seal. Documents prepared by the surveyor pass from his or her hands and are used by the public, lending institutions, title companies, or successive landowners. The imprint of the seal on the document acts as an attestation or, in part, an affidavit of the surveyor's competence and

authorization to practice the profession of surveying. To the layperson who sees the seal on a document, the emboss or stamp raises the inference of official authority (perhaps incorrectly) and, at the very least, the person is authorized and competent to practice surveying. The seal's design and size; the prominent display of the jurisdiction, profession, and name of the licensee; and the professional's unique license number all combine to connote a vesting of State trust and responsibility on the licensee.

Second, the seal attests to the genuineness of the surveyor's signature and in many cases stands in the same stead as the surveyor's signature. The seal is personal and considered to be in the possession or under the control of the surveyor at all times. As such, the appearance of the seal on a document is prima facie evidence that the signature on the document is the genuine signature of the surveyor. While a signature may be forged, it is extremely difficult to forge the embossed relief or produce an undetectable and realistic facsimile of the surveyor's seal short of ordering a duplicate seal or taking possession of the original seal.

Third, the seal signifies that the person has prepared, supervised, or reviewed the document that the seal has been affixed on. The seal, as a symbol of achievement, competency, trust, and responsibility, carries with it a duty for the surveyor to use the seal in a competent, trustworthy, responsible, and professional manner. Signing and embossing the seal on to a document is meant to impress on the surveyor a sense of solemnity, respect, and responsibility for his or her actions. While a signature may be scrawled in a few seconds, the act of locating and legibly embossing or imprinting a seal's facsimile on the document cannot be done in haste. This is one reason many jurisdictions did or continue to outlaw the use of rubber stamps and require the embossing seal.

In conjunction with the third reason, the fourth reason for the seal is to attest to the surveyor's willingness to assume responsibility for the information or work the document represents. While many people may work on the project and several may be responsible for portions of the project, the person that takes ultimate responsibility is the individual or corporation whose seal is affixed to the document. With the responsibility to review and supervise the project (as the seal signifies) comes the liability for mistakes, errors, and omissions.

Fifth, and finally, as a result of the previous reasons, the seal may be required before an agency or person approves, reviews, accepts, pays for, or records a document. By requiring a professional seal, an agency or person makes known its desire and is reasonably assured that the work

was performed, supervised, or reviewed by someone that has achieved the minimum standard of competency necessary to enter the profession and who is also willing and can be held liable for the information found in the document or represented by the document.

WHEN

Knowing why the profession seal is used or required helps determine when and where the seal should be used in the course of professional service. As a general statement, surveyors should use their seal when they have performed, supervised, or reviewed the work and they are willing to assume responsibility (and ultimately liability) for the work. In this regard, the possession of a seal is different from the use of the seal. As a general rule, a surveyor is said to be "competent" when they are allowed to obtain a seal while the surveyor is said to be a "professional" if they know when to properly use the seal.

WHERE

Where to use the professional seal is generally intertwined with the question on when to use the seal. As a general rule, a seal can be used on any document prepared, supervised, or reviewed by the surveyor. Therefore, the seal should be used on all plans, plats, reports, designs, opinions, and official letters that relate to the surveyor's professional practice, so long as the document has been prepared, supervised, or reviewed by the surveyor.

The professional seal should be placed or located on the document so that the seal is noticeable, the extent of the surveyor's responsibility is obvious, and it is near or on the surveyor's signature, certificate, or other important or critical information. The first criterion is important when a seal is required before the document can be accepted or recorded. By placing the seal where it will be easily noticed, it gives the document an aura of professionalism and fitness. Surveyors, other professionals, recorder of deeds, and others have become so accustomed to seeing a seal on some documents that the absence of a seal immediately raises questions and draws a more critical examination of the work. A professional seal noticeably displayed on a document also helps give the document an authoritative and official flavor.

The second criterion; that is, placing the seal on certain documents or a particular position on the document, helps infer the extent of the

surveyor's responsibility. For example, the seal on the cover sheet of a binder containing five drawings denotes complete responsibility for all the drawings rather than one of the drawings which would occur if the seal were only found on one of the drawings within the binder. Similarly, placing the seal at the end or on the cover of a report or field book is more suggestive of complete responsibility for the contents than would be inferred by placing the seal on an intermediate chapter or field book page that may only contain one-day's work.

Finally, addressing the last criterion, the seal should be placed near or on the surveyor's signature and other important information. Not only does this help prevent fraudulent additions or changes but it helps draw the reader's attention to the importance of the information and reinforces the authenticity of the signature.

GUIDELINES

In light of the discussion on why, when, and where seals should be used, the following are some guidelines that should be followed after obtaining but before using a professional seal. First, make sure those persons that assume responsibility for the survey are the ones that seal the document(s). If the jurisdiction permits it, and most do, obtain and use a corporate surveying seal rather than a personal seal on work that has been supervised and reviewed by a surveyor employed by a corporation. The general saying that "where go the profits (money) should go the responsibility" is appropriate here. In partnerships and sole proprietorships, two or more seals appearing on one document may be appropriate depending on the situation. In other words, if more than one licensed surveyor performed, supervised, or reviewed the work and should or can be held responsible for the work (e.g. other partners) then more than one surveyor should affix their seal to the document. While this may not necessarily reduce the liability for any one surveyor, it should and usually does impress on other surveyors the seriousness and responsibility (also liability) that is expected from them in performing their work or managing the business. In certain cases, where a surveyor may only have limited responsibility, say for example supervision of the field work, the surveyor (i.e. party chief) should affix their seal to the field book.

The second suggestion is to avoid using a rubber/ink stamp. If at all possible emboss the seal on the document. One way to make an embossment anywhere on the drawing is to emboss on gold, metal, mylar, or paper "leaf" and firmly affix the leaf to the document so it cannot be

removed without destroying the leaf or the document. In the past, a process similar to this was accomplished by dropping hot wax on the document, then immediately pressing a seal into the wax while the wax was still warm and pliable.

Embossing rather than stamping addresses three important concerns. First, it clearly identifies the original or master copies. In these days of fast, easy, crisp, and clear copies, copies are difficult to tell from an original that contains an ink stamp facsimile of the surveyor's seal. Hence, unauthorized changes can easily be made and remain undetected. (In fact, it is not inconceivable that an entirely fraudulent drawing could be produced and contain a "seal" copied from an ink stamped seal taken from another plat.) On the other hand, a copy of a document with an embossed seal will usually show enough detail of the seal to authenticate the document but will not contain the raised relief found on the original. Second, since embossing tends to be slower and take more effort in order to provide legible relief, it forces the surveyor to take more time and reflect on the seriousness and responsibility of their action. Third, embossing paper makes it extremely difficult to write over the embossed area without destroying the relief. Similarly, embossing an area that contains writing or graphics allows the writing or graphics to remain legible while preventing unauthorized copying or alterations since these actions would normally destroy the raised relief. This characteristic may be used by the surveyor to prevent alteration or removal of a copyright, caveat, name, signature, or so on that was placed on the document and must remain unaltered on the document.

Third, the seal should go at the end or bottom of the document. As a general rule of construction, any information following a signature that is surplus, repugnant, or in contrast to the information above or preceding the signature, can be ignored or rejected. This is not a hard and fast rule and may be applied or ignored according to the circumstances. However, if the surveyor has reason to believe that a document may be altered or additional information inserted without the surveyor's review, the surveyor would be wise to affix the seal as near as possible to the end of the information.

CONCLUSION

In conclusion, the professional seal and use of the professional seal should not be dismissed or thought of lightly. The surveyor should review the licensing act and regulations to see why, when, and where the seal should be used. It may also prove beneficial to sit down at some point near the

beginning of a surveyor's career and explain why, when, and where the professional seal is used.

REFERENCES

1. ***Duncan v. Missouri Bd. for Architects***, Mo.App., 744 S.W.2d 524, 535 (1988)
2. ***Hamilton Ent., Ltd. v. South Park Land & Livestock Co., Inc.***, Colo.App., 527 P.2d 886, 889 (1974)
3. ***South Park Land & Livestock Co., Inc. v. Hamilton Ent., Ltd.***, Colo., 538 P.2d 444 (1974)