

LAND SURVEYOR CLAIMS STUDY

Firms that provide surveying services have unique risks. Below are some examples of typical claims scenarios against surveyor firms in the Victor and CNA program.



CASE STUDY: STANDARD OF CARE

ABC Surveying Co. (ABC) provided various surveying services for a shopping center expansion, including the staking out of two new buildings. Shortly after construction began, it was discovered that the new structure was incorrectly placed about 30 feet west of where it should have been located. The error would have resulted in the loss of parking spaces for an office supply store and would have created accessibility problems. Footings, foundation walls, and the concrete slab had to be demolished, and the building had to be relocated. The project owner filed a claim for delays and extras in the amount of \$656,000.

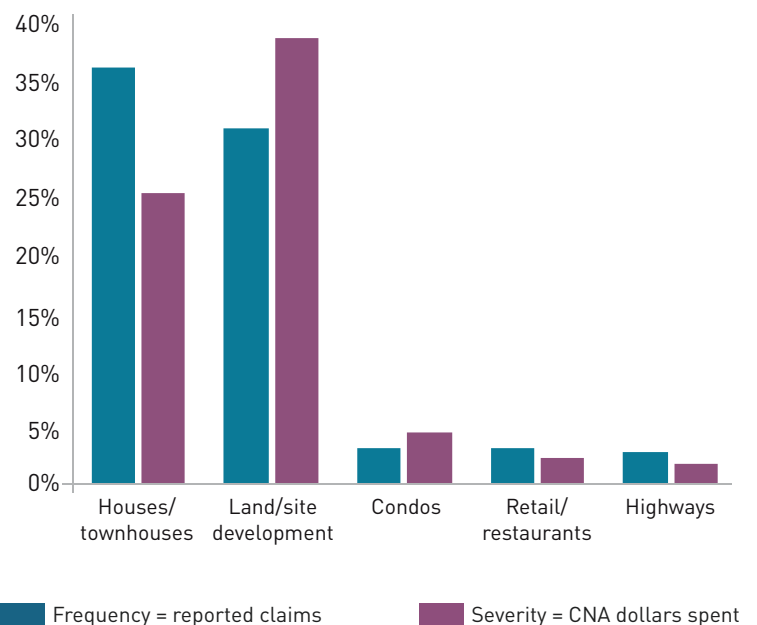
While ABC accepted responsibility for the miscalculation, it also pointed out that the drawings provided by the architect were ambiguous and incomplete. According to ABC, the drawings contained only two fixed reference points in lieu of three. To properly place the building, a third fixed point should have been provided. Without the third point for reference, the building could have been placed in more than one location. Thus, the building was misplaced.

The architect argued, however, that a third fixed point had been given to ABC in a telephone conversation, but the surveyor failed to document the conversation accordingly. ABC had, in fact, failed to document this critical issue, and the information was never transferred to the field. Defense counsel believed that the case could have been defended by highlighting the fact that had the architect provided the drawings with three fixed points, the building could have been properly placed. It could have been argued, however, that the surveyor failed to perform its services according to the standard of care. A prudent surveyor would not have staked out a building without a third fixed point.

After several negotiations, the claim settled with the insurance carrier paying \$362,500 in indemnity and more than \$25,000 in defense costs.

FIGURE 1

Claims by project type (2013 - 2022)





CASE STUDY: POOR COMMUNICATION

Contractors, Inc., hired a surveyor to provide surveying services on a new middle school. In the original plans prepared by the architect, there was no point of origin identifying the (0/0) point, which was critical to the surveyor’s work. The surveyor notified the architect of this error, and the architect corrected the problem in addendum #1. In another addendum (addendum #7), however, there was a 30-foot change in the (0/0) point of origin of which the surveyor was unaware.

As a result, the school was off by 30 feet, which presented problems. The main issue was that the road adjacent to the school complex needed to be moved. To accomplish this, additional land had to be purchased. The school worked out a deal with the property owner who agreed to sell 100 feet of land along the proposed right-of-way.

The surveyor was clearly liable for not identifying the change in the point of origin found in addendum #7. It was argued, however, that the architect had some portion of responsibility since the 30-foot change in the point of origin was not clearly marked. Also, the surveyor was not informed of the change despite continuous communication between the parties. Instead, the change was buried within the addendum, making it difficult to identify.

The school district sued Contractors, Inc., and, in turn, the contractor sued the surveyor, claiming that it had failed to adhere to the contract documents and addenda. Initially, the school demanded payment in excess of \$350,000. The case was finally settled at mediation for \$235,000; legal expenses exceeded \$85,000.

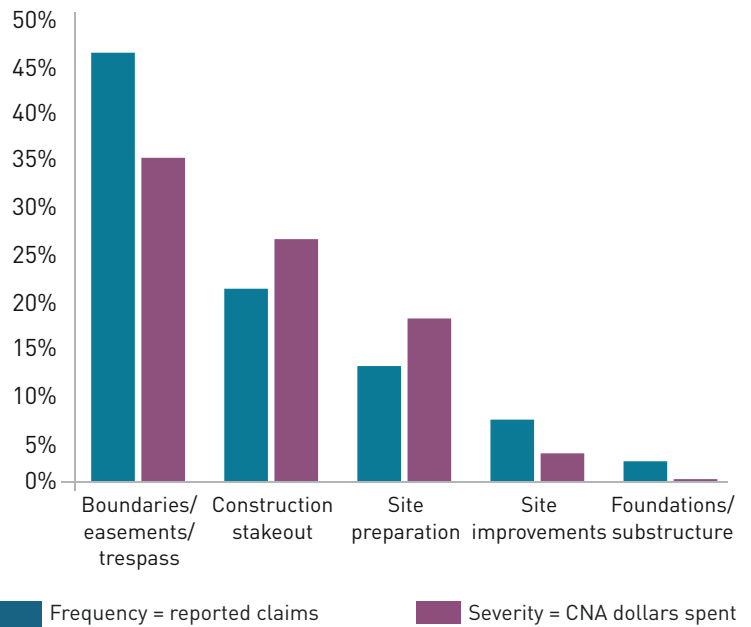
CASE STUDY: SURVEYOR NEGLIGENCE

A surveying company provided surveying services for a bank site in a major city. Apparently, the original computations of the building layout had been made in error. As a result, when the surveying crew staked out the building, it was staked out incorrectly.

The building was subsequently constructed 9 feet off in one direction and 10 feet off in the other direction. By ordinance, the contractor was required to notify the surveyor to perform a spot survey after the slab had been poured; this was not done. When the spot survey was called for, the building had already been constructed up to the tie beams. It was only at that time that the surveyor discovered the error in the location.

FIGURE 2

Claims by problem area (2013 - 2022)



The client did not want the building in the new location. There were also problems with encroachment that would have been difficult to resolve. The parties, therefore, decided to demolish the building and start over.

This was a case of admitted liability on the part of the surveyor. The contractor’s delay in notifying the surveyor to perform a spot survey added significantly to the costs associated with demolition and reconstruction. The insurance carrier was, however, able to negotiate the costs. The case closed with an indemnity payment in the amount of \$76,000 and \$7,000 in legal expenses.



CASE STUDY: IMPROPER STAKING

A surveying firm was hired by a general contractor to provide construction staking services for a church on a design-build project. During construction, the general contractor discovered a difference between the construction drawings and the staking of the sanctuary portion of the building, which caused the sanctuary, as staked, to be 10 feet too close to the existing building.

There were between 30 to 50 piers that had been drilled and poured and had to be redone based on the surveyor's error.

CASE STUDY: STANDARD OF CARE

A surveyor was hired to plat a subdivision and prepare site improvement plans, including cuts and fills, and the design of storm and sanitary sewer systems. During the initial phase, the surveyor discovered that a significant portion of the site was inaccurately shown on FEMA maps as being within the 100-year flood plain. The surveyor submitted a request to FEMA asking to amend its map to accurately show the location of the 100-year flood plain, which FEMA did after conducting its own investigation.

The map amendment removed the subdivision from the 100-year flood plain, and the basements were built below the flood plain as the regulations did not apply. After the homes were built, the area flooded, and 13 plaintiffs claimed that:

- the FEMA maps were inaccurate;
- there was substantial information available to alert the surveyor of the errors; and
- their homes were within the 100-year flood plain, making them susceptible to further flooding.

Originally, the architect advised that the remedial work in connection with the improperly poured piers would cost approximately \$50,000. When the work was completed, however, the bill was for \$94,800; 49 of the piers had to be redone.

To resolve the claim, and with the surveyor's liability being clear, the insurance carrier tried to make a compromise settlement in the amount of \$75,000; this offer was rejected. The matter was resolved for \$94,800 and no expenses were paid.

The surveyor indicated that the plat was correct initially and only later did FEMA advise that the basements had to be above the flood plain.

The plaintiffs claimed in excess of \$1.9 million in damages, which was greatly exaggerated. The major portion of their claim was the allegedly diminished value of their homes. The plaintiffs also alleged that the surveyor:

- ignored discrepancies between the survey work and FEMA data as to the location and elevation of the flood plain;
- ignored the fact that the FEMA data was incorrect, inaccurate, and inconsistent with the survey work; and
- should have recommended, hired, or undertaken an appropriate flood study evaluation and analysis in accordance with the customary standard of care.

While the case appeared to be defensible, it was clear that the plaintiffs' experts were going to argue that the surveyor had failed to render services according to the standard of care. Also considering that defense costs were in excess of \$153,000, the claim was settled with an indemnity payment of \$438,000.



Managing the risks of land surveyor claims

Two themes are apparent from the case studies above. First, surveyors need to be careful about documentation. Surveyors should establish and enforce procedures for documenting discussions, circumstances, and events as they occur, and they should state only the facts when recording information—do not speculate. The keys to an effective documentation policy are:

- establishing the system;
- recording information contemporaneously; and
- being objective in your communication.

Second, there is a need for quality control procedures and adherence to the applicable standard of care for all services provided. Quality control procedures can help manage risk by identifying problems or discrepancies in the surveyor's services before construction begins. Discovery after construction begins can be extremely costly to fix.

For more information on surveyor risks, please consult [Staking Out Your Future: Managing Professional Liability Exposure](#), Victor's comprehensive risk management and contracts guide for surveying practices of all sizes.

Visit [Victor Risk Advisory](#) to learn more.

This document is for illustrative purposes only and is not a contract. It is intended to provide a general overview of the program described. Please remember only the insurance policy can give actual terms, coverage, amounts, conditions and exclusions. Program availability and coverage are subject to individual underwriting criteria.

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