



SB 288 - Criminal and Civil Trespass - Professional Land Surveyors – Exception

Before House Judiciary Committee

FAVORABLE

You'd be hard pressed to find a group of professionals that are aware of and respect property boundaries more than Land Surveyors. We have a professional responsibility to protect property rights of the general public with accurate and impartial boundary determinations. As part of this responsibility, we are required to collect **all** relevant evidence when retracing a property boundary. In order to understand the complex pieces of the property puzzle, and to accurately identify, and sometimes set, the property corners as physical points on the ground, we must locate adjoining boundary evidence, which requires entering property not owned by our Client.

Additionally, State and local regulations require the precise location of adjacent environmental features and improvements on development plans. Environmental features (tidal waters & wetlands), & private utilities (septic & well) can have setbacks that extend 100ft or more onto adjacent properties. Likewise, many urban jurisdictions require the location of adjacent structures to ensure conformity of development. All of these regulations require land surveyors to enter adjoining property to provide accurate location data.

29 States currently grant private surveyors either a Right of Entry or exempt surveyors from trespass liability. An additional 13 States have limited Right of Entry for surveyors, typically for surveyors employed by the State. Only 8 States have no legislation protecting surveyors from trespass. Every trespass is considered to result in injury, to which the wronged party is entitled damages, even if the act is not negligent or wrongful. This bill preserves the right of property owners to seek damages if an act is willful, wanton, reckless, fraudulent, or malicious. Land surveyors are **only** exempt from trespass while performing survey services and are not permitted to enter buildings.

Senate Bill 288 will protect Land Surveyors in Maryland from suits involving trespass while performing survey services. The Maryland Society of Surveyors asks this committee to make a favorable recommendation for the approval of Bill 288, to allow reasonable access for land surveyors.

Respectfully,

William Bower, PE, PLS
Chairman, Government Affairs Committee
Maryland Society of Surveyors



Testimony in Favor of SB288



James J. Demma
(301) 517-4809
jdemma@milesstockbridge.com

February 3, 2023

VIA EMAIL (bill@kresshammen.com)

William Kress, Esquire
Kress Hammen
204 Duke of Gloucester Street
Annapolis, Maryland 21401

Re: Criminal and Civil Trespass – Professional Land Surveyors – Exception
Reasonable Access for Surveyors - Senate Bill 288

Dear Mr. Kress:

With the introduction of Senate Bill 288, I feel that it is incumbent upon me that I contact you in order to give you my prospective on the subject of this proposed legislation.

I am a Maryland registered professional land surveyor and I have also been a practicing attorney in Maryland for now more than fifty (50) years. In addition, I have taught classes at the Baltimore Community College - the Catonsville campus, for more than forty (40) years, on the subjects of boundary and surveying law. As a part of the curriculum for my classes, a great emphasis is given to the various statutes and case law dealing with both civil and criminal trespass.

As it has been said often over the years, land surveying is a time-honored profession, however, its importance is not always that well understood by most people which, in part, is to assist in the determination of the title to real estate. In making that determination, the land surveyor must correctly determine the bounds and the location of the common corners of the property which is being surveyed. In doing so, the surveyor cannot avoid entering upon a neighboring property, usually to uncover a boundary corner, and to precisely determine the common line between two or more properties. Therefore, in the conduct of most surveying projects it is necessary for the surveyor to enter onto adjoining properties in a reasonable manner.

In addition, local and national standards of practice for land surveyors require that structures and other improvements on adjoining properties be located when they are in close proximity to a common boundary line, or when those improvements may possibly be encroaching on the property being surveyed, which are important to locate in order to determine if the title to the property being surveyed is legally marketable.

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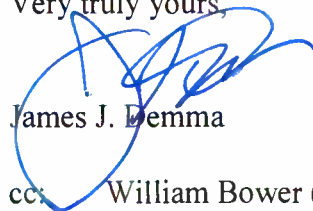
William Kress, Esquire
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I most heartedly support Senate Bill 288 for the protection it will give to not only the land surveyors in the State of Maryland, but also for the protection that it will provide to property owners, so they can be assured that their property is being adequately located.

I am so pleased that such a bill has been introduced in the Maryland Assemble as referenced above, as it is long overdue for the limited protection of the professional men and women who practice land surveying in this State.

Please feel free to contact me if you have any questions or comments about the need for the passage of Senate Bill 288.

Very truly yours,



James J. Demma

cc: William Bower (BBower@cpja.com)
Legislative Committee Chair
Maryland Society of Surveyors

John Palatiello, Executive Director (john@marylandsurveyor.org &
John@mwcapitol.com)
Maryland Society of Surveyors

William Pugh (BPugh@cpja.com)
Maryland Society of Surveyors

Bill Bower

From: bellockeng@aol.com
Sent: Monday, February 6, 2023 2:22 PM
To: Bill Bower

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Bill,

I am a PLS licensed for 50 years in Pennsylvania and Virginia- but have attend many of the Maryland Conferences. Received the email in regard to trespassing issue.

My story- at least one- is an armed neighbor- threatened the crew- of which was I was one - if we set forth on his land we would be shot. We were surveying a large wooded area and truthfully , until we completed the survey- did not know where the actual property line nor the property corners were until we completed and closed the survey. Fortunately or unfortunately, my client also came out with a gun after the altercation and we had a stand off with surveyors in the middle of the line of fire.

*To get a distance/reading or to shoot to a property corner, you may have multiple property owners that share the common corner and **legally** could be called for trespassing on someones property just by putting a plumb bob on a point. It is **physically impossible** to locate, get a distance/ reading, without trespassing if one really legally pushed the issue. Also one may not be fortunate enough to find a reference corner/monument for the property being surveyed and would have to trespass on an adjoining properties to find a monument/ information to go from. Just by doing a survey we, as surveyors, could be legally found in trespassing daily especially true when there are "no trespassing" signs posted.*

I would hate to see the day when could conceivably see TV advertisement for lawyers advertising to represent surveyors trespassing as we do for lawyer seeking clients to represent for accidents-

We as surveyors are morally and legally required to obtain as much information -evidence- as possible to insure our surveys are true and correct to the intent of the deed. (Who knows, if someone had really pushed the legality of trespass, maybe fellow surveyors Washington, Jefferson, and Lincoln could have been arrested as for trespassing, the trespassing offense going an their record, ending their political future brilliant political carriers.)

*Going one step further, It should be a **"national standard"** to allow surveyors to trespass as long as long as it is related to a project they have been hired to perform- as long as it does not damage or destroys anyone's property.*

Good luck- much needed endeavor.

Ed Bellock, PE, PLS

Excuse my sense of humor in the above but most of it is factual

Letter pertaining to SB288 Reasonable Access

To whom it may concern:

My name is Paul Ewell. I am currently the President of the Maryland Society of Surveyors and have been Land Surveying for over 36 years in Maryland. I have managed a survey group for 20 years now. At times an issue arises that my staff is unable to access a particular property that keeps us from performing the most prudent job possible.

A brief example of this was last year in Frederick County. We were performing a survey on a 400-acre property for one of the largest companies in the world looking to develop on several Maryland sites. A key part of performing a boundary retracement survey is looking for monumentation and evidence not only for the survey site but all the properties adjoining it. Sometimes even additional properties beyond that need to be included. The sole purpose of this is reconning property evidence, locating them with survey instruments and utilizing that data in the boundary determination process. Our survey crews are instructed to always try to talk to neighbors when doing boundary work for not only permission to access the property but to gather parole evidence from them on their understanding of the property lines being determined. They are also instructed always be respectful and diplomatic. 99 out of 100 times landowners are more than helpful in this regard. In this example they had talked to several landowners in the vicinity of this corner of the property and was given assistance and help. They found several concrete monument property corners that were called for on existing plats of record. Before we could locate the monuments, one owner in the area approached the survey crew extremely hostile and threatening. They asked the owner, "would you like for us to leave the area maam". This was responded to with, "I don't care where you go, my husband is on his way home, he has a gun, and he is going to shoot you." This had a ripple affect on the survey and development of the project. The client had us stop work on the site while they attempted to work with the neighbor. This delayed the project for many weeks. We were never allowed to enter that area to properly locate the monuments. We ultimately had to set those two property lines by angles from the deed rather than from called for concrete monuments. Additionally, it was extremely upsetting to the crew performing this work. They feared working on the project going forward

A misconception about Land Surveyors that neighbors of the property we are working for have. They think we are going to set lines in favor of our client at their expense. One thing I say all the time about this is our obligation is to set a property line where it was legally intended to be. This is done by thorough research of Land Records, talking to pertinent landowners, and locating all the evidence in the field possible. We are setting lines on that principle regardless if it benefits our client or the adjoining owners. That is our professional responsibility. It is in the best interest of not only the property we are surveying but every property that touches it, that we are allowed to locate all boundary monumentation and evidence to determine where a property line is intended to be. It is imperative that we follow the steps of the previous surveyors.

This proposed bill allows us to do the most prudent job possible. Such litigation could diffuse extreme situations such as the one I gave in this letter. It gives us the ability to best serve the public's interest in the work we perform. As I said, our responsibility is to place a property line where it was intended to be when it was created. That's why I call it a "Boundary Retracement Survey".

I respectfully support this bill and the ability it gives Land Surveyors to fulfill that responsibility.

Best Regards,



Paul S. Ewell, Professional Land Surveyor
MSS President

7020 Tudsbury Road, Suite C
Windsor Mill, Maryland 21244
Ph: (410) 504.1880
Fax: (240) 252.5612



February 06, 2023

The Honorable Jeffrey D. Waldstreicher
Maryland State Senator for District 8
Miller Senate Office Building, 2 East Wing
11 Bladen St., Annapolis, MD 21401

RE: Criminal and Civil Trespass – Professional Land Surveyors – Exception
Reasonable Access for Surveyors – Senate Bill 288

Dear Senator Waldstreicher:

As a licensed Professional Land Surveyor in the State of Maryland, I strongly support any effort to provide an exception regarding trespass for land surveyors. My support is based upon the following perspective, formed through personal experience, knowledge and observation, both in the performance of field surveys, and the management thereof.

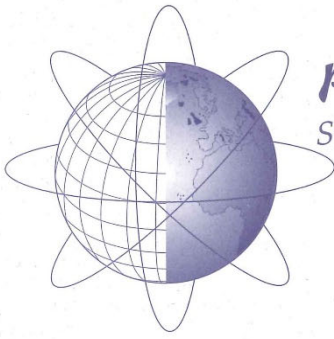
In order to perform the due diligence expected of any prudent surveyor, as well as to **comply with the minimum standards** for property surveys in Maryland, as codified in COMAR, it is not only imperative, but unavoidable that a field surveyor must perform investigation and data collection within the bounds of the subject parcel(s) and those adjoining thereto.

The charge of a Professional Land Surveyor, duly licensed as such in the State of Maryland, is to protect and preserve the integrity of property therein, in perpetuity. Therefore, as this is a vital service to the welfare of land owners in Maryland, it is to the benefit thereof that surveyors be granted, by law, the ability to legally enter upon neighboring properties in the execution of their duties.

Sincerely & with gratitude,
CV, Inc.



Kanaan J. Thomas, Sr., Prof. L.S.
Chief of Field Services



Precision Measurements, Incorporated

Surveying ♦ Mapping ♦ GPS ♦ Hydrographic Surveying ♦ 3-D Scanning

February 6, 2023

William Kress, Esquire
Kress Hammen
204 Duke of Gloucester Street
Annapolis, Maryland 21401

Re: Criminal and Civil Trespass- Professional Land Surveyors-Exception
Reasonable Access for Surveyors – Senate Bill 288

Mr. Kress,

I have been a Licensed Professional Land Surveyor in the State of Maryland for almost 12 years. My experience in the field of land surveying extends back to the 1980's. One of the most challenging situations, myself and my crews find ourselves in, is entering neighboring properties while trying to conduct a survey for boundary and/or topographic purposes.

The Men and Women of Maryland deserved to be protected while performing the survey tasks asked of them. Therefore, Senate Bill 288 has 100% of my support in it's effort to protect all land surveyors.

Should you have any questions, please feel free to contact me.

Respectfully,

Rena D. Butler- Licensed Professional Surveyor
Maryland No. 21617
Office Manager – PMI Maryland Branch
rbutler@precisionmeasurements.com
Cell Number: 443-986-1134

From: Ewell, Paul <paul.ewell@aecom.com>

Sent: Friday, February 3, 2023 9:51 AM

To: john marylandsurveyor.org <john@marylandsurveyor.org>; Cooper, Eric <ECooper@jmt.com>; Daniel L. Burke Jr. <dlburke@cpja.com>; Aaron Worley <AWorley@rodgers.com>; Patrick Simon <psimon@baltimorecountymd.gov>; Bill Bower <BBower@cpja.com>; Robert Banzhoff <bbanzhoff@mhgpa.com>; Davis, Michael <mbdavis@dewberry.com>; Steven W. Jones <sjones@cpja.com>; Bryan Haynie <bhaynie@centuryeng.com>; Rob Kundrick <rkundrick@gpinet.com>; Keith Heindel <kheindel@hanoverlandservices.com>; Frank Manalansan II <frankm@fcc-eng.com>; Jeff Hubbard <jhubbard@leinc.com>; Kevin Norris <knorris@ldgwaldorf.com>; Mettee 4, John <jmettee4@fredward.com>; Deanna Coughenour <coughsurveying@verizon.net>; George Wigfield <george.wigfield.pls@gmail.com>; Shaw, James <JShaw@jmt.com>; Bill Pugh <BPugh@cpja.com>; Burns, Jeremy <jburns@wtbco.com>; Vincent Nohe <vincent.nohe.ls@gmail.com>; Erick Quintanilla <equintanilla@aidatainc.com>; Wayne Aubertin <waubertin@mhgpa.com>; Alan Dragoo <alan.dragoo@colliersengineering.com>; David Moyle <davidmoyle@cncivil.com>

Cc: khea marylandsurveyor.org <khea@marylandsurveyor.org>

Subject: Urgent need

Dear MSS colleagues,

As many of you are aware, we have obtained sponsorship of our proposed Reasonable Access legislation under SB288. Our legislative committee has to testify in front of the Senate Judiciary Committee on 2/16/23. We need as many written testimonies as possible provided to them for this hearing. These letters need to be from people affected by the need for this and/or in support of the bill. I will put a letter together about our experience here that started this ball rolling. I implore you all to reach out to yourself, staff, colleagues, chapter members or anyone you know that could do a letter as soon as possible. Bill is looking for a flood of this written testimony to take with him.

Feel free to use my email as a landing spot for them to come in and I can get to Bill.

Thank you for your effort in this, Paul

Paul Ewell

Chief of Surveys

Professional Land Surveyor, MD & PA

Direct 410-891-9514

Paul.ewell@aecom.com

AECOM

4 North Park Drive, Suite 300

Hunt Valley, MD 21030, USA

T +1-410-785-7220

aecom.com

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Bill Bower

From: Robert Banzhoff <bbanzhoff@mhgpa.com>
Sent: Friday, February 3, 2023 3:45 PM
To: Ewell, Paul; Cooper, Eric; Dan Burke Jr.; Aaron Worley; Patrick Simon; Bill Bower; Davis, Michael; Steven W. Jones; Bryan Haynie; Rob Kundrick; Keith Heindel; Frank Manalansan II; Jeff Hubbard; Kevin Norris; Mettee 4, John; Deanna Coughenour; George Wigfield; Shaw, James; Bill Pugh; Burns, Jeremy; Vincent Nohe; Erick Quintanilla; Wayne Aubertin; Alan Dragoo; David Moyle
Cc: khea marylandsurveyor.org
Subject: RE: Urgent need

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Paul:

My story about a guy who apparently did not wish to live across the road from a state park...

My name is Bob Banzhoff. I have been surveying since 1972, became licensed in '88.

My story occurred in the early 1970s as I was working on a survey job for a state contract at Rocky Gap State Park.

We were a three man crew running levels (transferring elevations) along the road bordering the park.

The road was blacktop with no curb and no shoulder.

There were some nice ranch houses along the road and they were set back roughly 100 feet or so from the road.

The lawns were all nicely manicured with no trees or shrubs and mowed right to the edge of the road.

Our instrument operator set up the tripod with a level on it in the grass in front of one of these houses, but well within the right of way of the road.

In short order, a gentleman came out of the house with a shotgun in hand.

He ordered our instrument operator off his lawn with both hands on the weapon.

Off his property, to be more precise.

As the fellow with the instrument was trying to explain that we were actually within the road right of way, two girls in their early teens came out around the next house.

When he made no headway with the old gentleman, our instrument man called out to these two girls.

He shouted to them "This man is threatening us with a shotgun, call the police."

One of them replied "We can't do that." Our guy asked "Why not?"

They both replied "He's our grandfather."

No one else was out and about, and there were no other witnesses.

We moved on, and after watching us a bit he went back in his house.

Broad daylight, public road, wide open area, nothing to hide behind and nowhere to run.

That's my story.

R