

The Surveyor as a Bill Collector ... CHAMP or CHUMP

By Ron P. Murphy, LS (Reprinted from the *Georgia Land Surveyor*, Nov.-Dec. 1991)

All of us have outstanding accounts. Most of these accounts will be paid by solid substantial citizens who are the bulk of the people we deal with. These good and substantial clients fall into two main categories: a) the client who pays on time and, b) the client who will be a little late with the payment, calls you up and makes suitable arrangements for satisfying your claims. These wonderful folks are not a collection problem to the surveyor or any other party.

However, there are some others lurking out there waiting for the unwary, and sometimes wary, surveyor to pass their web. These citizens and clients can be grouped into three categories:

- 1) those who pay if pressured;
- 2) those who will pay only if court proceedings are instituted and finalized; and,
- 3) those who won't pay at all.

Work for the surveyor is a means of acquiring the wherewithal to exist as a human being, a professional and business person. Payment for that work is a requirement for fulfilment of all these functions. Non-payment for work hinders our development in all these areas and sometimes retards and/or terminates that development. Non-payment is not a position the professional land surveyor wishes to be in.

The work we do is for clients who come to us of their own free will and enter into an oral, or better yet, a written, agreement as to what is to be accomplished by the surveyor, what the fee is to be and how that fee is to be paid. Surveyors are not seen canvassing dark alleys for the feeble minded and the monetarily foolish to take advantage of. Rather, we enter into agreements with those of sound minds on a quid pro basis. We supply a service and the client pays

for the service. In almost all of the problem billings cases I know of, the surveyor has completely performed their function and the client is at fault for non-payment of the fee.

Yet, the basic problem in collection of fees for surveyors is their assumption that the surveyor is at fault because the client doesn't pay or can't pay the fee. We all seem to want to be thought of as nice people by everyone; "we need to give the poor client a break; it's not their fault they're not paying us besides, it's only money". This is the view of a **CHUMP**. And it results in little profits, reduced employee wages and benefits and sometimes with our business activity terminating.

Don't confuse misfounded pity with justice. It is just that we, or anyone, should be paid for services rendered. It is unjust when they are not paid. If the client doesn't pay the fee, it is not the client who should be pitied, but the surveyor, who is out of pocket, out of time, and if he lets this go, out of a mind. How can the surveyor collect his fees? In client categories A and B, communication between the surveyors and the client solves the problem. Personal meeting with the client, or as a second best, telephone calls, will resolve the problem, if surveyors assume a position of strength and assert themselves as the party being wronged, not the party in the wrong.

Client categories 1, 2 and 3 are our real collection concerns. These are problem clients and take special measures to deal with. The key to dealing with this kind are of collection, to my mind, is **ATTITUDE**.

My old boss told me many times that he never made a dime being mad at someone. So don't get mad. It even helps if you consider this type of collection as a kind of game. Don't get your personal self involved. It's a serious game, but yet

just a game. You're going to win sometimes and if you have the right approach, you'll win most of the time; but no question about it, you're going to lose too. We can't collect all our bills. There are sharpers and deadbeats out there who just shine at what they do. So, don't be upset when you lose. Look on it as mentally enriching, but fiscally unrewarding experience.

The first step in fee control, or collection, is client confrontation. This should be intended as a reasonable approach by a reasonable person to obtain an agreed upon fee. The result of this confrontation should let you know in what category your client stands or is heading for. This meeting should take place prior to the lien rights expiring and preferably no more than a month after the first billing.

"Don't confuse misfounded pity with justice. It is just that we, or anyone, should be paid for services rendered."

The first line of defense for services above \$250 is the lien. Don't lose it. Take those preliminary steps of notification on your work order or contract preferably, and follow it up by filing the lien and perfecting it if necessary. Don't let the client talk you out of the lien rights unless they replace those rights with stronger rights, such as the fee with interest held by a responsible third party to be paid at an agreed upon time.

On smaller claims or any claim up to \$3500, small claims court is a lovely place. A warm, rewarding place where justice, aided by a signed contract, time sheets and a finished plat survey prevails over evil forces aligned against the gentle surveyor. At least to the point where judgement is handed down. Have the

MINDING YOUR BUSINESS

judgment filed, find out vehicles or personal, saleable property the client owns, and allow them the option of losing it at a sheriff's sale or paying your fee. The choice is a fiscal one, not a moral one and it is the client's choice, not yours. It is a situation the client has asked for by not paying the just fee.

A little flair and imagination help in collecting the fee. I recall a survey we performed for a woman which we provided at the agreed upon fee in the agreed upon time. The woman profited from the work by a sale of the property and flatly refused to pay the fee or even discuss it over the phone. She had the money, she just wouldn't pay for the services from which the money was obtained.

I went to small claims court and obtained an uncosted judgment, filed it, found out what motor vehicles were owned by the woman and her husband, and on Christmas Eve, a deputy sheriff pulled into their yard to take over the vehicles or get a cheque. The cheque was made out on the spot and one of us had a pleasant Christmas. A chump became a champ at that particular game.

For tougher cases, get professional help. Call your attorney. Attorneys call on us for professional help. We should in these cases return the favour. Throughout the centuries, the law has developed accepted ways and means to protect the

poor surveyor. The attorney, by law, is allowed to do and say things to those people who have not paid our fees which we never could. Almost every law school in the land has a class in "Ways and Means to Collect Fees for the Poor Surveyor".

*"... if surveyors assume
a position of strength
and assert themselves as the party
being wronged,
not the party in the wrong."*

I recall a recent experience under the lien law where our claim went to court, was adjudicated and the court held in our favor. The attorney's fees, as is the law, were added to our claim. Our \$1,300 fee, and the attorney's \$1,900 fee, resulted in the acquisition of 40 acres of land which, in a little over a year, we can sell. It beats a sharp stick in the eye.

Another recent experience where the robbers are winning involved Notice. We had been retained to provide surveying services on an apartment complex in Washington County. We weren't paid for our services. Many other small businesses weren't paid either.

We were the tip of the quarter million iceberg. We liened the property, as did

others, but our lien was the property lien, first in line.

A bank provided a loan and filed the Mortgage in the Record's Office about 10 days after we had begun work. At trial, the court held that we did not give notice sufficient for the bank to be placed in a position inferior to our claims when they foreclosed. The case is now on appeal. The important point here is that the surveyor should file a Notice of Work on the property with the right to lien where the projects are large and it is evident that a lending institution will be getting involved. It is the business of banks to look out for banks, not land surveyors.

We wouldn't stand by and watch a pickpocket clean us out without attempting to stop them. Don't let yourself be robbed. A conservative defense against this, and an effective one, is not to consort with robbers.

Does your client have fee title to the property? If no, that's red flag number one. Does your client have the wherewithal to pay you, or is your fee dependent on some deal? If the fiscal existence of your fee is dependent, that's red flag number two. Is your client using someone else's land, someone else's money and your services for their profit? If so, that's red flag number three. Bulls run at red flags, surveyors should run from them.



"Water, water everywhere ..." But where is the boundary?

Water Boundaries Seminar
103rd Annual Meeting
February 22nd, 1995

Winter 1995 Deadlines

Articles due:

Friday
December 16

Winter 1995 Deadlines Ad Insertion Orders due:

Wednesday
December 21

"Show off at the Annual Meeting"

Specially-priced Show Boat tickets.
103rd Annual Meeting
February 23rd, 1995