

Do I Need Permission to Enter Private Property?

July 29, 2015

Michigan Surveyor Magazine - Spring Summer Edition 2015

As a general rule, a surveyor does not need permission from the property owner when conducting a survey if the following two factors are met:

(1) A surveyor is entering public or private land or waters in the state, but not buildings, for the purpose of making a survey; and

(2) The vehicle used must be clearly identified on the exterior by a proper and ethical sign listing name, address and telephone number of the surveyor or firm. MCL § 54.122.

The Crude Oil and Petroleum Act 16 of 1929 was amended in 1997 to require persons conducting survey work for proposed crude oil or petroleum pipeline to notify affected property owners in writing before a survey crew enters the owner's property. Any offer to a landowner for an easement for locating, constructing, maintaining and operating pipelines on agricultural property is required to include specific information that includes assurances that agricultural drainage tile damaged or removed during construction or repair of the pipelines will be returned to its original condition, the top soil will be replaced, that the property owner will be compensated for lost productivity of the land for damages incurred after the pipeline is constructed related to the exercise of easement rights by the pipeline owner, and that the landowner has rights under the Uniform Condemnation Procedures Act. Previously, the definition of a "pipeline" contained in Section 2(a) means a pipeline used or to be used to transport crude oil or petroleum. The Bill adds transporting carbon dioxide substances to this definition. Further, when laying pipelines, the current regulations described above, regulating the notification requirements, repairs and compensation to affected landowners would apply. (MCL §483.2 (a))

MCL §483.2(a) does not define the type of notice required. Therefore, it is recommended that notice is given to the last known property owner by certified mail, return receipt requested and first class mail. It is important to keep a receipt and a copy of the notice that was given to the landowner, should this become an issue in the future. The notice should be mailed to the property that is being affected by the survey. However, oftentimes landowners do not reside where the survey work is being done. Therefore, it is important to check the local tax records to determine the mailing address of the owner. If the owner does not reside at the property, then also mail a set of notices to the landowner's residence mailing address.

DO I NEED PERMISSION TO ENTER PRIVATE PROPERTY? Cont.

Alternatively, no notice is required for surveying which includes "right-of-way" as defined by a tract or road bed owned by a railroad. Public Act 354 of 1993 gives an exemption to a registered land surveyor for his or her employers for the purpose of making land surveys for walking, riding, driving or being upon or along a right-of-way or yard. But if surveying on behalf of a railroad, there are numerous requirements including placing a bond.

In conclusion, as a practical matter, a courtesy letter to the property owner may be given to notify them when survey work will be done on their property for any type of survey.