

# Handling a Complaint: 101

By Andrew Mantha, OLS, OLIP on behalf of the Complaints Committee

Section 21 of the Surveyors Act creates a Complaints Committee as part of the AOLS mandate to self-regulate the survey profession in Ontario. The Committee is empowered to investigate complaints received against a specific member from the public or from a fellow member and according to Section 22(4.3) of the Surveyors Act may,

- (a) direct that the matter be referred, in whole or in part, to the Council with a recommendation that Council refer the matter to the Discipline Committee; or
- (b) take the action that it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

The Complaints Committee has interpreted Section 22(4.3)(b) to mean that we also include an educational component to our work. This paper is our attempt to educate the members on how to recognize and hopefully avoid the most common types of public complaints.

Before we get into that however a little introduction is in order. The Complaints Committee is composed of land surveyors who just like you deal with the public daily. We understand the difference between legitimate complaints and instances where the public just has unrealistic expectations of their surveyor. We aren't here to carry on witch hunts and we also realize that no one is perfect. Most of the cases we deal with are resolved in an amicable manner and hopefully with both parties learning something positive from the process.

We feel that the best way to avoid a complaint is to know who is complaining and to understand what issues seem to be the most common cause of the complaints. We also note that surveyors who address complaints quickly and in a professional manner are the ones who will save themselves hours of aggravation further down the road. Ignoring a problem is not the same thing as solving one.

While we do deal with complaints between surveyors, the vast majority of complaints received are from the general public and as can be expected usually involve issues over simple things like fees, expected services and abuse of our right to entry.

When a written complaint is received we ask the complainant to fill in a "Help Form" that we have designed to try and key in on the actual issues at hand. This form and any further pertinent information included with the complaint is then forwarded to the surveyor at issue for his/her response. The surveyor's response is similarly returned to the complainant for his/her comment. This process continues until both parties have had full opportunity to present their individual arguments at which point the file is turned over to the Complaints Committee for review. Please note that everything you send to the Committee may

be forwarded to the complainant. Transparency is a key component of the whole complaints process therefore we cannot pick and choose the evidence to be presented to either party.

It has been said that "a short pencil beats a long memory any day". Surveyors who keep accurate logs of conversations with their clients and who open jobs with a formulated job order sheet are usually better prepared to respond to complaints.

Obviously in a case where your client gave a signed authorization to proceed according to a written estimate, and where you documented changes to your original instructions you are in a far better position to defend yourself than in a situation where the argument centers over the vague recollections of a verbal contract. As far as handling a complaint, we view written documentation as being superior to oral evidence.

Open communication between a surveyor and his/her client is really the key to avoiding a complaint. The Code of Ethics states that "Every member shall ensure that clients are aware of the complexity of the type of surveys recommended and the nature of fees for service". We are the professionals and the onus is on us to make sure that our clients know what to expect from us during the course of a project. Surveyors who take the time to make sure their clients know the product they are getting and the service they can expect to receive are the surveyors who never seem to have to deal with complaints.

In the real world unexpected things always come up that affect a project. Problems with a boundary, "extras" that arise during the course of your work, inclement weather, mechanical problems – there are a hundred reasons why you might have to alter your original contract. Invariably the reason the Complaint Committee gets involved isn't because of things beyond your control but rather how you addressed them. Did you contact the client to let them know about the delay? Did you get them to authorize additional costs? Did you keep them informed of the progress of their project or did they have to chase you to find out its status?

It seems strange but it's the simple things like this that explain why the vast majority of our members never become part of a complaint. They remember the Golden Rule and treat everyone the way they would want to be treated. Blowing off appointments, failing to meet deadlines, offering unrealistic expectations are steps that inevitably lead to formal complaints. Clients who walk away from you satisfied with your professional service are the best advertisement you will ever have. Ask yourself whether a little more effort on your part is worth turning a potential complaint into a potential endorsement.

## Right-of-Entry:

The misuse of our Right-of-Entry seems to be an ongoing problem though one that appears before the committee less and less. It is important to remember that the right to enter does not include the right to anonymity. Field crews should be ready to identify themselves and their reason for trespass before they are challenged by a homeowner.

Your crews should be encouraged to try and keep their activities limited as much as possible to the subject property. We have the right-of-entry to allow us to gather survey information. The right is not there to allow us to traverse across an open field because the subject property is bush. If you want to access a property because it makes your job easier than you must ask permission. Anything less is an abuse of the privilege granted us by the Surveys Act.

A little sensitivity up front goes a long way to preventing a complaint. You are always going to encounter difficult people you can't satisfy. If a complaint is lodged against you, you want to be in a position to show that you did what is expected of a professional to be able to deal with it.

## Your fellow surveyors:

Lack of research is the cause of most complaints between members of this association. There seems to be a feeling out there that we only need to search fellow members' files in cases where a search at the registry office failed to find sufficient numbers of deposited plans. Nothing could be further from the truth.

The onus is on every member to conduct thorough

research on every project. Original field notes include building ties and actual field measurements that don't necessarily appear on the final reference plans. There is a reason that section 4 of the Surveys Act requires us to "make and preserve exact and regular field notes of all his or her surveys and keep a proper record and index of all such field notes and shall exhibit or give copies of the same to any surveyor for a reasonable charge".

Lack of proper research is particularly maddening in areas where members have instituted an online records system. You can easily gather notes and plans off these websites from the comfort of your own office. There really is no excuse to not make use of these valuable search tools.

The Committee understands that hindsight is 20/20. It's hard to say when enough research has been done and we've all experienced those moments when some old survey pops up that disagrees with a project you've just sent out the door. This is always going to happen but if you make it a regular practice to research the files of other surveyors in your area you can minimize these problems.

## Conclusion:

Being the subject of a formal complaint is not the end of the world. The smart surveyor looks at it as an opportunity to reflect and maybe tighten up their business practices. The Committee is not there to hang you but will always first try to work with you and the complainant to resolve the problem. Remember that when life hands you a lemon there is always the opportunity to make lemonade. 