



## Prior Notification for Surveying Property

### Key Takeaways:

- In 2023, legislation was introduced which would require adjoining landowners be notified prior to a survey being conducted.
- Currently, adjoining landowners are only to be notified if a discrepancy is detected between the deed descriptions after a survey is completed.
- Landowners have noted experiences where surveys were misread, and discrepancies were not communicated but claim if they had been notified prior to the completion of the survey, they may have been able to assist in clearing up any confusion.
- Opponents of the legislation cited unknown additional costs for notifying property owners, safety concerns and unlisted property owners.
- Some lawmakers expressed concern about forcing property owners to notify their neighbor about the survey in the view this requirement infringes on the requesting property owner's rights.

### Questions:

1. **Should adjoining landowners be notified if a survey is scheduled to be conducted?**
2. **If so, how should a property owner be notified?**
3. **As a private property owner, do you feel your private property rights are being infringed upon if you are forced to notify a neighbor in the event you want to complete a survey?**

### Background

In January of 2023, legislation was introduced to require land surveyors to notify all adjoining property owners prior to a survey being conducted. This amends the current law which only requires notification in the event there is a discrepancy detected between the deed descriptions after the survey is completed. The sponsoring lawmaker met with Tennessee Farm Bureau and other interested industry stakeholders on potential amendatory language which would state a "best effort" must be made to contact all adjoining property owners and would not apply to platted subdivisions or court ordered boundaries. The amendment discussion also included how to protect surveyors and the dangers they may be faced with when completing a survey such as aggressive dogs or other intents to harm by an adjoining property owner by creating a Class C Misdemeanor to one who tries to inhibit a surveyor from doing their job and exercising their right of entry. However, after consulting with members of the House Business and Utilities Subcommittee of the Commerce Committee, the sponsor took the legislation off notice in



Bill Tracking for  
HB52/SB1296

response to opposition by the Tennessee Association of Professional Surveyors and the understanding there were not enough votes to pass the bill out of the subcommittee.

Prior notification is a typical best practice for many in the surveying industry, as their standard of practice requires adjoining property owners' information be included in the final survey. Southern states such as Kentucky, Mississippi, and Texas all have similar laws requiring notification of adjoining landowners. It was the legislative intent of the sponsor to provide transparency to property owners as well as provide added protection to surveyors who may face right of refusal when trying to gain access onto a property.

Opponents of the legislation cited unknown additional costs for notifying property owners, such as sending notifications via certified mail to ensure receipt of the notice for professional protection. Other questions included how to navigate those who were declared as "unlisted" as a property owners name on searchable property databases as well as how far should a surveyor go to consider a "best effort" without additional staffing or assistance resulting in a higher cost of service to the requesting property owner. Safety is also a concern, as some surveyors met with the sponsor of the legislation and described instances where they had been shot at, attacked by dogs, etc. and the fear of a rogue adjoining property owner who "knows they're coming" could allow them time to prepare to cause harm or inhibit a surveyor from completing their job effectively. Furthermore, some lawmakers expressed concern about forcing property owners to notify their neighbor about the survey in the view this requirement infringes on the requesting property owner's rights. This also applies to those looking to sell or purchase property.

Because the legislation was taken off notice without being considered in committee, it is still in a posture where it could be considered in the second half of the 113<sup>th</sup> General Assembly, which reconvenes in January of 2024.

## **Policy**

### *Tennessee Farm Bureau Property Rights (Partial)*

Relationships of adjoining landowners are better maintained when property boundaries are clearly identified. Sometimes surveyors and attorneys make mistakes drawing property lines and writing deeds. Adjoining property owners should be notified when a survey is to be done. When the survey is being done, if a discrepancy is believed to exist the adjoining property owner where the discrepancy exists should again be notified by surveyors or attorneys. The surveyor should work with the adjoining landowners to resolve any discrepancies before recording the survey. A property owner should not bear

Current law requires notification in the event there is a discrepancy detected between the deed descriptions after the survey is completed.

Southern states such as Kentucky, Mississippi, and Texas all have similar laws

the cost of defending a challenge to an established survey or boundary line which was determined to be correct.

We urge landowners to contact the Tennessee Board of Examiners for Land Surveyors when they have complaints concerning surveys/surveyors.