

1978 WL 35191 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 27, 1978

*1 Roland E. Trent
Director of Investigations
South Carolina State Board of Engineering Examiners
SCN Center, Suite 1020
Main and Lady Streets
Columbia, South Carolina 29201

Dear Mr. Trent:

You have asked for an opinion from this Office concerning an interpretation of the phrase 'laying out' in the definition of the 'practice of land surveying' as found in [Section 40-21-10\(6\), Code of Laws of South Carolina \(1976\)](#). Specifically you seek advice as to whether this phrase implies that licensed land surveyors have the authority to design grades rather than merely 'stake out' such grades from engineering design plans.

In seeking an interpretation of this particular statutory language, a number of problems have been encountered. First, there is a distinct lack of legislative history concerning this particular phrase which could shed any light on its correct construction. Further, although this definition was drafted from the Model Law of the National Council of Engineering Examiners, that Model Law has no accompanying comments which could aid in our interpretation. Although the specific provisions of a number of states do not seem to include design-type work within their definitions of 'land surveying', the laws of these jurisdictions are of little value in attempting to interpret our statutes.

The best evidence which lends this Office to the conclusion that 'laying out' should not be deemed to include design-type work is the definition of the 'practice of engineering' in [Section 40-21-10\(4\)](#). If a land surveyor were permitted to design such things as grades of streets, there would be an irreconcilable conflict between these definitions. Since an engineer is expressly granted design authority, it is the opinion of this Office that in the absence of such specific authority in the case of land surveyors, the phrase 'laying out' should not be interpreted to include such work.

It should be pointed out that where a statute is ambiguous, the agency administering that statute may construe it in a manner it feels appropriate in keeping with the policy of the legislature. Such an administrative interpretation will usually be given great deference by the Courts. See annotation at [39 L.Ed.2d 942](#). Although the Board of Engineering Examiners may therefore construe the phrase 'laying out' in a manner it feels consistent with the practice of surveying, a final and definitive answer can only come through judicial determination.

I am returning the materials that you kindly provided me. If I can be of further assistance to you in this matter, please do not hesitate to contact me.

With kindest personal regards, I am
Very truly yours,

Richard B. Kale, Jr.
Assistant Attorney General

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