

April 30, 2009

Mr. Thomas L. Cuni
Cuni, Ferguson & LeVay Co., L.P.A.
Attorneys at Law
10655 Springfield Pike
Cincinnati, Ohio 45215-1120

Re: **Construction Layout Services**

Dear Mr. Cuni:

This letter is in response to your letter of April 8, 2009 concerning an individual who wishes to provide construction layout or construction staking.

Ohio Revised Code Section 4733.01 (F) defines the practice of surveying as:

“Practice of surveying” means any professional service that requires the application of special knowledge of the principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for the adequate performance of the art of surveying, including, but not limited to, measuring the area or the contours of any portion of the earth’s surface, the lengths and directions of the bounding lines, and the contour of the surface, for their correct determination and description and for conveyancing for recording, or for the establishment or re-establishment of land boundaries and the platting of lands and subdivisions; and like measurements and operations involved in the surveying of mines, commonly known as “mine surveying.”

Ohio Revised Code Sections 4733.02 and 4733.22 provide that no person shall practice, or offer to practice, the profession of engineering or the profession of surveying without being registered or exempted in accordance with sections 4733.01 to 4733.23 of the Revised Code. Furthermore, Ohio Revised Code Section 4733.16 provides that only firms that are registered with this Board may provide surveying services in Ohio; so in effect there are two license requirements – as an individual and as a firm.

The activities referenced in your letter may be carried out by an unlicensed individual when the individual is in the direct employment of a general contractor and the activities are incidental to the contractor’s scope of work. However, please be advised that contractual obligations imposed by the owner often dictate that these same activities be performed under the direction of a registered surveyor. Additionally, the map, plan, or drawing, on which the construction plans are based, along with any associated control

points established by a professional surveyor, must be strictly adhered to. To make changes to the professional surveyors work product, or to establish different control points, would constitute the illegal practice of surveying.

An unlicensed individual or a firm not registered in accordance with ORC 4733.16, may not offer, provide or contract for surveying services. Even if the unlicensed individual, who is not working for a licensed firm, were to engage a professional surveyor to assist with the project, the unlicensed individual would be in violation of ORC 4733 by offering and/or contracting to provide surveying services.

It is the Boards opinion that the offer to provide construction staking service to the public (by an unlicensed individual and/or unlicensed firm) would constitute the illegal practice of surveying and is not permissible under ORC 4733.

Sincerely,

**OHIO STATE BOARD OF REGISTRATION FOR
PROFESSIONAL ENGINEERS AND SURVEYORS**

John F. Greenhalge
Executive Director