

**STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS**

**DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES,**

Petitioner,

vs.

**Case No. 1905-18407
Agency Clerk No. B27949**

WILLIS R. HOWELL

Respondent,

FINAL ORDER

THIS CAUSE came before the Florida Board of Professional Surveyors and Mappers (Board) pursuant to sections 120.569 and 120.57(2), Florida Statutes, at a duly noticed meeting on October 30, 2020, in Various Locations (virtual meeting), Florida, for consideration of the Respondent's administrative charges and the Department's proposed disciplinary action. The Respondent, Willis R. Howell, was present at the hearing. The Florida Department of Agriculture and Consumer Services (Petitioner) was represented by Funmi Ojetayo, Esq.

SUMMARY

1. On September 10, 2020, the Department issued an Administrative Complaint against the Respondent, attached hereto as "Exhibit A" and is incorporated herein.
2. On October 8, 2020, the Department received Respondent's executed Election of Rights form.
3. Respondent requested an informal hearing.
4. The Board has considered Respondent's testimony as well as the Department's recommendation.

Upon consideration of the Administrative Complaint, the testimony provided at the hearing, and being otherwise fully advised of the premises, **IT IS HEREBY ORDERED AND ADJUDGED:**

A. The Administrative Complaint's counts numbered one through nine and twelve are **DISMISSED**. The Letter of Guidance is attached as "Exhibit B" and is incorporated herein.

B. The Administrative Complaint's counts numbered ten, eleven, thirteen, and fourteen are upheld and carry the following disposition:

1. **REPRIMAND:** The Board shall issue a Reprimand against Respondent's license.
2. **FINE:** The Board shall impose an administrative fine of **One Thousand Dollars and Zero Cents (\$1,000.00)** against Respondent's license, which Respondent shall pay to: Florida Department of Agriculture and Consumer Services, Board of Professional Surveyors and Mappers, Attention: Executive Director, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, within one hundred eighty (180) days of the entry of the Final Order. **All fines shall be paid by cashier's check or money order.** Respondent's failure to pay the fine by the time it is due may result in further disciplinary action by the Board.
3. **COSTS:** Pursuant to Rule 5J-17.06, Florida Administrative Code, Respondent agrees to pay the Department for the Department's costs incurred in the investigation and prosecution of this case. The amount of the Department costs to be paid in this case is **One Thousand Two Hundred Dollars and Eight Cents (\$1200.08)**. Respondent shall pay such administrative costs to: Florida Department of Agriculture and Consumer Services, Board of Professional

Surveyors and Mappers, Attention: Executive Director, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, within one hundred eighty (180) days of the entry of the Final Order. All costs shall be paid by cashier's check or money order. Respondent's failure to pay the costs by the time due may result in further disciplinary action by the Board.

4. **PROBATION:** Probation shall take effect **immediately** upon the date the Board's Final Order is rendered in this matter. If Respondent fails to comply with any terms of probation, it shall constitute a violation of section 472.0351(1)(h), Florida Statutes, and the Respondent's license shall be suspended. The matter will be referred to the Department for further prosecution and additional discipline, including additional fines and costs, and/or other appropriate discipline. The suspension shall last until the terms of probation are completed and terminated by the Board. Terms of probation shall be as follows:

- a. All documents required to be submitted by Respondent under this paragraph 4 shall be filed with the Board of Professional Surveyors and Mappers, Attention: Executive Director, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500 ("Board Office").
- b. Continuing education courses completed as part of this probation shall not be counted toward the continuing education requirement for renewal of the Respondent's license under Chapter 472, Florida Statutes.
- c. Respondent shall complete six (6) hours of Board-approved continuing education courses in **Standards of Practice (SOP)** within one hundred

and eighty (180) days from the date of this Final Order. Respondent shall submit proof of completion of the above-mentioned course to the Board Office within the allotted time frame.

- d. Respondent shall submit proof of professional liability insurance pursuant to section 472.015(5), Florida Statutes, to the Board Office within one hundred eighty (180) days from the date of this Final Order, or a statement that professional liability insurance is not required.
- e. Survey Review: Respondent shall provide the Board with a list of all signed and sealed surveys, which shall contain a minimum of three (3) surveys which were performed by Respondent within ninety (90) days of the date of this Final Order. The survey list submitted by the probationer shall contain each survey's project name and/or number, the client name (if available), the date of the survey, and the type of survey performed. The Board's Probation Chair will select three (3) of Respondent's signed and sealed surveys for review from the survey list submitted by Respondent. Within five (5) calendar days of being notified by the Board of the surveys which were selected for review, Respondent shall have post-marked and submitted to the Board Office signed and sealed surveys for the surveyed properties selected for review, along with copies of the relevant field notes, the relevant full-size record plats, all measurement and computational records, and all other documents necessary for a full and complete review of the surveys, in accordance with Florida Administrative Code Rules 5J-

17.016, 5J-17.083, and 5J-17.085. Respondent must attend the Probation Committee meeting at which the surveys are to be discussed. Respondent's reviewed surveys must be found to meet or exceed the Standards of Practice.

- f. Probation shall be terminated upon Respondent's successful completion of all terms of probation within the time frames provided, and upon a vote of the Board terminating Respondent's probation. Probation shall not be terminated prior to such decision by the Board.

C. This Final Order shall be placed in and become a part of the Respondent's official records and shall take effect upon being filed with the Agency Clerk of the Department of Agriculture and Consumer Services.

DONE AND ORDERED this 12 day of November, 2020.



Patricia Compton
Executive Director
Florida Board of Professional Surveyors
and Mappers
For Nick Campanile, Chair

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Final Order is entitled to seek judicial review of this Final Order pursuant to Section 120.68, Florida Statutes, and Rule 9.100, Florida Rules of Appellate Procedures. Judicial review proceedings must be instituted by filing a Notice of Appeal with the Department's Agency Clerk, 407 South Calhoun Street, Suite 509, Tallahassee, Florida, 32399-0800, within thirty (30) days of rendition of this order. A copy of the Notice of Appeal must be filed with the Clerk of the appropriate District Court of Appeal accompanied by any filing fees prescribed by law.

Rendered this 17th day of Nov. 2020.



Agency Clerk

Copies by Certified U.S. Mail

Mr. Willis R. Howell, PSM #LS5448
4752 W. Abeline Dr.
Citrus Springs, FL 34433

Sent via Certified mail:

7019-0160-0000-0402-6424

**STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS**

**DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES,**

PETITIONER,

v.

**CASE NO. 1905-18407
CASE NO. 1910-38391**

**WILLIS R. HOWELL, P.S.M.
WILLIS R. HOWELL, INC.**

RESPONDENTS.

ADMINISTRATIVE COMPLAINT

Petitioner Department of Agriculture and Consumer Services files this Administrative Complaint before the Board of Professional Surveyors and Mappers ("Board") against Willis R. Howell and Willis R. Howell, Inc., (collectively 'Respondent') and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of land surveying and mapping pursuant to Chapter 472, Florida Statutes.
2. At all times material to this complaint, Respondents were licensed as a professional surveyor and mapper within the state of Florida, having been issued license number LS5448 to Willis Ray Howell, PSM, and license number LB 6990 to Willis R. Howell, Inc.

3. Respondent's address of record is 4752 W. Abeline Dr., Citrus Springs, FL 34433.

4. Respondent was retained by William Southworth (Complainant) to prepare a survey of a portion of Lot 117 of River Bend, Unit No. 4, in Citrus County, Florida.

5. On or about March 26, 2019, Respondent completed the survey. After which Complainant sought to record the survey in Citrus County. Citrus County planning department informed Complainant that the survey did not include contour lines nor did it include a survey of jurisdictional wetlands, absent which the survey prepared by Respondent would not be approved.

6. Subsequently, Complainant contacted Respondent to survey the wetlands. Respondent however disputed that the property included wetlands and thereafter stopped responding to Complainant.

7. On May 15, 2019, Complainant filed a complaint against Respondent, alleging that he contracted with Respondent to survey property which included wetlands; however, Respondent failed to include wetlands in the survey he prepared and has since failed to correct the survey or otherwise respond to Complainant's numerous calls or messages regarding deficiencies in the Respondent's survey.

8. On October 9, 2019, the Petitioner sent Respondent a Notice of Investigation, a request for documents, and a copy of the complaint.

9. On or about November 4, 2019, the Department received a response package from Respondent which included signed and sealed surveys, field notes, calculations, certificate of insurance, plats, and other surveying and mapping data.

10. On December 9, 2019, the Department received additional documents from the Respondent which included a response letter, plat, wetland delineation response, and email correspondence between Complainant and Respondent.

11. On or about January 7, 2020, Alvin T. Gloer, P.S.M., licensed as a professional surveyor and mapper, provided the Department his Consultant Report. He reviewed and identified the documentation provided by the Department related to Respondent's March 26, 2019 survey. He reviewed the survey using the Standards of Practice (SOP) pursuant to Chapter 5J-17, Florida Administrative Code (F.A.C.) (Amended 7-15-18), in effect on the date of the survey.

12. Mr. Gloer's Consultant Report identified the following issues and possible violations in the boundary survey:

- a. Respondent did not have a work order detailing the work to be performed, signed and evidenced by correspondence between the Complainant and Respondent. Hence, no evidence to substantiate what was the requested or proposed work-plan. This lacuna creates and inference of misrepresentation or deceptive practice, in violation of Rule 5J-17.053(1)(b)1.

- b. At various points the survey failed to include detailed description to support accuracy, methodology or otherwise substantiate the survey and mapping products for the survey as required by Rule 5J-17.051(2), F.A.C. (Amended 7-15-18).
- c. The survey also failed to include the original signature as required by Rule 5J-17.051(3)(e), F.A.C. (Amended 7-15-18).
- d. The record boundaries in the survey do not correspond with the description in the plat, and at various points the information within the survey conflicts with the recorded real property description.
- e. The Respondents failed to maintain complete calculations, field notes or evidence of research of records for the submitted survey, in violation of Rule 5J-17.053(5)(a).
- f. The survey failed to otherwise conform to the Board's rules in violation of Rule 5J-17.053(6)(a).

COUNT I

13. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

14. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

15. Rule 5J-17.051(2), F.A.C., states: “The accuracy of the survey measurements shall be premised upon the type of survey and the expected use of the survey and map. The accuracy of data shall be independently verified.”

16. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17.051(2), F.A.C., by measuring only from a single observation and/or control point, thus rendering the accuracy of the data unable to be verified independently.

COUNT II

17. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

18. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

19. Rule 5J-17.051(2)(b), F.A.C., states: “All surveying and mapping products expressing or displaying mapped features shall state the datum and a detailed description of the control upon which the surveying and mapping products are based. The data shall be supported with documentation describing the horizontal accuracy and the methodology used to determine accuracy. Mapped features may be obtained on an assumed datum provided the numerical basis of the datum is obviously different than a publicly published datum.”

20. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17.051(2)(b), F.A.C., by failing to show on the survey map a detailed description of the control upon which the survey is based. Furthermore, no documentation was maintained to provide horizontal accuracy and the methodology used to determine the accuracy.

COUNT III

21. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

22. Section 472.0351(1)(g), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline upon proof that the license is guilty of negligence in the practice of surveying and mapping.

23. Rule 5J-17.051(2)(d), F.A.C., states in relevant part: “Measurement and computation records shall be dated as of the date of acquisition and must contain sufficient data to substantiate the surveying and mapping products.”

24. Respondent violated Section 472.0351(1)(g), Florida Statutes, by failing to provide sufficient data to substantiate the survey and mapping products for the survey, in violation of Rule 5J-17.051(2)(d), F.A.C.

COUNT IV

25. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

26. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

27. Rule 5J-17.051(3)(e), F.A.C., states: “The survey map and report and the copies of the survey map and report, except those with electronic signature and electronic seal, must contain a statement indicating that the survey map and report or the copies thereof are not valid without the original signature and seal of a Florida licensed surveyor and mapper.”

28. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17.052(3)(e), F.A.C., by failing to include in the survey map the note that requires the original signature.

COUNT V

29. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

30. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

31. Rule 5J-17.052(1)(a), F.A.C., states: “The surveyor and mapper shall make a determination of the position of the boundary of real property in complete

accord with the real property description shown on the survey map or report and map. In order ensure adequate and defensible real property boundary locations.”

32. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17. 052(1)(a), F.A.C., insofar as the description of the property in the boundary survey does not accord with the recorded real property description, and such discrepancy was not identified on the survey with notes.

COUNT VI

29. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

30. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

31. Rule 5J-17.052(1)(a)2, F.A.C., states in relevant part: “Prior to making the survey, the licensee shall perform research of records with sufficient scope and depth to identify with reasonable certainty: a. The location of the record boundaries, b. Conflicting record and ownership boundary locations within, abutting or affecting the property or access to same.”

32. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17. 052(1)(a)2, F.A.C., because the record boundaries furnished by the Respondent refers to Lot 117A and River Bend Unit No. 5 which is not a

name of any plat on the property. The requisite note pointing out the discrepancy should have been noted on the survey map. Additionally, Respondent failed to perform sufficient research to determine that the property contained wetlands, which would have alerted him to the need for a Jurisdictional Wetlands Survey. Thus, the research was insufficient to determine the proper scope of the survey.

COUNT VII

29. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

30. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

31. Rule 5J-17.052(1)(a)(e), F.A.C., states: "Survey data shall be shown to positively describe the boundaries of the surveyed property. For portions of the property bounded by an irregular line, distances and directions to the irregular boundary shall be shown with as much certainty as can be determined or as "more or less," if variable."

32. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17.052(1)(a)(e), F.A.C., because the survey does not contain sufficient distances and directions to describe the boundary of the "Black Water of Withlacooche River."

COUNT VIII

29. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

30. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

31. Rule 5J-17.052(1)(i), F.A.C., states: "Surveys of parcels with water boundaries shall describe the feature located including, top of bank, edge of water, mean high water line, ordinary high water line and the method used to locate the water boundary. Water boundaries may be located in their approximate position as long as this is adequately depicted and explained with notes on the face of the plat or map."

32. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17.052(1)(i), F.A.C., by failing to adequately explain with notes on the face of the plat or map, the method used to determine the boundary position of the water.

COUNT IX

29. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

30. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

31. Rule 5J-17.052(2)(f), F.A.C., states in relevant part: "Side ties to locate or set monuments shall be substantiated by multiple measurements."

32. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17.052(2)(f), F.A.C., by failing to locate or set monuments with multiple measurements. It should be noted that multiple measurements would require the generation of duplicate coordinate numbers and point numbers, which the notes and coordinate data of the survey do not show.

COUNT X

29. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

30. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

31. Rule 5J-17.052(3)(a)4., F.A.C., addresses "Doubt as to the location on the ground of survey lines or property rights."

32. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17.052(3)(a)4., F.A.C., because no ties are shown to the

permanent reference monuments on the north line of River Bend, Unit 4 to assure the boundary location was accurate and does not contain excess or deficiency in measurement. Furthermore, the boundary of the portion of Lot 117 surveyed is based only on found monumentation.

COUNT XI

29. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

30. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

31. Rule 5J-17.052(5)(a), F.A.C., states: "Location of fixed improvements pertinent to the survey shall be graphically shown upon the map and their positions shall be dimensioned in reference to the boundaries, either directly or by offset lines."

32. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17.052(5)(a), F.A.C., because even though Respondent learned of wells and septic tanks on adjacent property during fieldwork, the field notes and coordinate list contain evidence of the location of only one of the two septic tanks. Additionally, while the wells are shown, the septic tanks are not shown or dimensioned as required by rule.

COUNT XII

29. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

30. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

31. Rule 5J-17.052(1)(b)1., F.A.C., states: “A professional report, statement or testimony is false, fraudulent, deceptive or misleading if it: contains a material misrepresentation of fact; omits the statement of any material fact that is necessary to form a complete and accurate understanding of the communication; or is intended or is likely to create an unjustified expectation.”

32. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17.052(1)(b)1., F.A.C., insofar as the communication between the Respondent and Complainant evidenced deception, misleading and misrepresentation of the work to be done. The Respondent claims to have limited the work product to a boundary survey and excluded the location of jurisdictional lines and water boundary lines. However, there is no documentation or correspondence between the Respondent and Complainant to confirm such conditions were in place prior to the execution of the contract for the survey work. Furthermore, proper research would have revealed that the property was bounded by

water and the wetland conditions would have thus necessitated the location of jurisdictional lines in the survey. Insofar as Respondent claims there was never any intent to locate wetlands and contour lines, Complainant was misled in executing a contract that Respondent knew or had reason to know would not likely be able to meet the Complainant's needs in a proper survey of the property.

COUNT XIII

29. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

30. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

31. Rule 5J-17.053(5)(a), F.A.C., states: "For each survey produced, all licensees, except for those who do not have an ownership right to the work product, shall maintain for a minimum of six years from the date of creation at least one copy of all signed and sealed drawings, plans, specifications, plats, and reports as well as one copy of all related calculations and field notes. Additionally, the documented research of records and written notification regarding lack of insurance shall be retained for a minimum of six years from the date of creation. These records may be kept in hard copy or electronic or digital format. Licensees shall provide these

records to the Department and Board upon request. The failure to do so shall constitute cause for discipline.”

32. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17.053(5)(a), F.A.C., by failing to maintain complete calculations, field notes or evidence of research of records for the survey.

COUNT XIV

29. Petitioner incorporates and restates the allegations in paragraphs 1 through 12.

30. Section 472.0351(1)(h), Florida Statutes (2019), subjects a licensed professional surveyor and mapper to discipline for violating a rule of the Board or Department.

31. Rule 5J-17.053(6)(a), F.A.C., states: “Licensees shall sign, date and seal those final drawings, plans, specifications, plats or reports that have been prepared or issued by the licensee and conform to the Standards of Practice for professional surveyors and mappers as outlined in Chapter 5J-17 F.A.C.”

32. Respondent violated Section 472.0351(1)(h), Florida Statutes, by violating Rule 5J-17.053(6)(a), F.A.C., because while the survey may have complied with the Minimum Technical Standards in Chapter 6G17-6 F.A.C., that rule is no longer in effect. Instead, Rule 5J-17 F.A.C. controls and the Respondent failed to prepare the survey in conformity with the rules outlined therein.

WHEREFORE, Petitioner respectfully requests an order from the Board imposing one or more of the following penalties: imposition of an administrative fine not to exceed one thousand dollars (\$1,000.00) for each count or separate offense, issuance of a reprimand, assessment of costs associated with investigation and prosecution, imposition of any or all penalties delineated within Section 472.0351(2), Florida Statutes, and/or any other relief that the Board or the Department is authorized to impose pursuant to Chapter 472, Florida Statutes, and/or the rules promulgated thereunder.

Signed this 30th day of July, 2020.



Olorunfunmi Ojetayo
Senior Attorney [FBN 118366]

Office of General Counsel
407 South Calhoun Street, Suite 520
Tallahassee, FL 32399-0800
Phone: (850) 245-1029
Fax: (850) 245-1001
funmi.ojetayo@fdacs.gov

PCP Date: July 28, 2020

PCP Members: Steven Hyde (Chair)
Robin Petzold
Keith Fountain

~~Certified U.S. Mail, Return Receipt #~~ FedEx Tracking: 7714-9393-3614

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with §§120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoenas and subpoenas duces tecum issued on his or her behalf if a hearing is requested. Florida Administrative Code Rule 28-106.111 provides in part that if Respondent fails to request a hearing within twenty-one (21) days of receipt of an agency pleading, Respondent waives the right to request a hearing on the facts alleged.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to §472.0351(4)(a), Florida Statutes, the Board may assess costs and attorney's fees related to the investigation and prosecution of the case against the Respondent in addition to any other discipline imposed.



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER NICOLE "NIKKI" FRIED

Please Respond to:
Funmi Ojetayo, Sr. Attorney
Office of the General Counsel
407 S. Calhoun Street, Ste. 520
Tallahassee, FL 32399-0800
Phone (850) 245-1029
Fax (850) 245-1001
funmi.ojetayo@fdacs.gov

November 11, 2020

Willis R. Howell
Willis R. Howell, Inc.
4752 W. Abeline Dr.
Citrus Springs, FL 34433

RE: FDACS v. Willis R. Howell, Case No.: 1905-18407
FDACS v. Willis R. Howell, Inc., Case No.: 1910-38391

Dear Mr. Howell:

The Florida Board of Professional Surveyors & Mappers has found probable cause in the above-referenced cases and has entered an order finding that you and/or your business violated certain provisions of Chapter 472, Florida Statutes, and/or the rules promulgated thereunder. At its October quarterly meeting on October 29, 2020, the Board resolved to levy penalties on four (4) of the fourteen (14) counts in the Administrative Complaint, and to issue a **Letter of Guidance in lieu of penalties** on the remaining counts 1-9, 12.

The Board recommends Respondent(s) specifically review the following rules of the Board which were in effect at the time of your fieldwork.

- Rule 5J-17.051(2), F.A.C., states: "The accuracy of the survey measurements shall be premised upon the type of survey and the expected use of the survey and map. The accuracy of data shall be independently verified."
- Rule 5J-17.051(2)(b), F.A.C., states: "All surveying and mapping products expressing or displaying mapped features shall state the datum and a detailed description of the control upon which the surveying and mapping products are based. The data shall be supported with documentation describing the horizontal accuracy and the methodology used to determine accuracy. Mapped features may be obtained on an assumed datum provided the numerical basis of the datum is obviously different than a publicly published datum."

- Rule 5J-17.051(2)(d), F.A.C., states in relevant part: "Measurement and computation records shall be dated as of the date of acquisition and must contain sufficient data to substantiate the surveying and mapping products."
- Rule 5J-17.051(3)(e), F.A.C., states: "The survey map and report and the copies of the survey map and report, except those with electronic signature and electronic seal, must contain a statement indicating that the survey map and report or the copies thereof are not valid without the original signature and seal of a Florida licensed surveyor and mapper."
- Rule 5J-17.052(1)(a), F.A.C., states: "The surveyor and mapper shall make a determination of the position of the boundary of real property in complete accord with the real property description shown on the survey map or report and map. In order ensure adequate and defensible real property boundary locations."
- Rule 5J-17.052(1)(a)2, F.A.C., states in relevant part: "Prior to making the survey, the licensee shall perform research of records with sufficient scope and depth to identify with reasonable certainty: a. The location of the record boundaries, b. Conflicting record and ownership boundary locations within, abutting or affecting the property or access to same."
- Rule 5J-17.052(1)(a)(e), F.A.C., states: "Survey data shall be shown to positively describe the boundaries of the surveyed property. For portions of the property bounded by an irregular line, distances and directions to the irregular boundary shall be shown with as much certainty as can be determined or as "more or less," if variable."
- Rule 5J-17.052(1)(i), F.A.C., states: "Surveys of parcels with water boundaries shall describe the feature located including, top of bank, edge of water, mean high water line, ordinary high water line and the method used to locate the water boundary. Water boundaries may be located in their approximate position as long as this is adequately depicted and explained with notes on the face of the plat or map."
- Rule 5J-17.052(2)(f), F.A.C., states in relevant part: "Side ties to locate or set monuments shall be substantiated by multiple measurements."
- Rule 5J-17.052(1)(b)1., F.A.C., states: "A professional report, statement or testimony is false, fraudulent, deceptive or misleading if it: contains a material misrepresentation of fact; omits the statement of any material fact that is necessary to form a complete and accurate understanding of the communication; or is intended or is likely to create an unjustified expectation."

It is the Board's belief that you should review this case and refresh your understanding of Chapter 472, Florida Statutes, and Florida Administrative Code Chapter 5J-17, to serve as a guide for future conduct. Should you have any questions about your case, please feel free to reach out to Board staff accordingly.

Sincerely,

Funmi Ojetayo, Esq.
Senior Attorney