

# Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP  
Attorneys at Law  
200 Pringle Avenue, Suite 300 | Walnut Creek, CA 94596-7367  
Telephone: 925.943.5551 | Facsimile: 925.943.5553  
www.allenmatkins.com

Michael Patrick Durkee  
E-mail: mdurkee@allenmatkins.com  
Direct Dial: 415.273.7455 File Number: 999903-14000/SF775910.02

VIA FAX (707.578 4406) AND U.S. MAIL

February 12, 2010

California Land Surveyors Association  
526 South E Street  
Santa Rosa, CA 95405  
Attention: Dorothy Calegari, Executive Director

*Re: County Surveyor Office Consolidation*

Dear Dorothy:

At your request, this letter conveys our thoughts concerning the County of Los Angeles's ("County") consolidation of the County Surveyor's office with the office of Public Works Director. We understand that CLSA already has communicated with the County about whether the Public Works Director must be a licensed surveyor. For the reasons more fully described below, it appears to us that the Public Works Director must be a licensed surveyor in order to hold the title of County Surveyor.

## **I. LEGAL ANALYSIS**

The County's Code provides that the office of Public Works Director is a consolidated office that includes the County Surveyor/Engineer, the Road Commissioner, and the Chief Engineer of the County Flood Control District. (County Code § 2.18.015.) The County's consolidated Public Works office also is authorized by Government Code section 24306, entitled "Los Angeles County; consolidation of offices."

Section 24306 provides as follows:

If the board of supervisors in counties having a population of 4,000,000 or more persons, consolidates two or more offices pursuant to statute or charter, the occupant of the consolidated office need not possess any of the qualifications required of the occupant of any of the separate offices which are consolidated if:

(a) No qualification applies to all of the offices consolidated; and

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(b) The board finds that sufficient personnel possessing the qualifications required are employed in the consolidated office to assure that decisions made by the occupant of the office are based upon competent professional advice.

This section does not permit the occupant of such consolidated office to practice any profession or trade for the practice of which a license, permit or registration is required without such license, permit, or registration.

In other words, Government Code section 24306 authorizes the County to consolidate any two or more County offices, such as the County Surveyor's office and the Public Works Director, and have one occupant hold more than one office, such as the Public Works Director serving as County Surveyor, as long as the County can make the two described findings.

Government Code section 24306 expressly provides that the occupant of the consolidated office, such as the County's Public Works Director, "need not possess any of the qualifications required of the occupant of any of the separate offices which are consolidated." This arguably means that the Public Works Director can serve as the County Surveyor without possessing the qualifications of the County Surveyor (such as possessing a surveyor's license ).

Section 24306 also expressly prohibits any employee of the consolidated office to practice any profession of which a license is required without the license. Clearly, under Section 24306, the Public Works Director may not practice surveying unless he or she is a licensed surveyor. Presumably, other employees (licensed surveyors) in the Public Works Department would be performing the actual surveying work, and therefore assure that decisions made by the Director are "based upon competent professional advice." (Gov. Code § 24306.)

*However*, the fact that the Public Works Director also holds the title of "County Surveyor" is tantamount to and qualifies as "practicing surveying," and hence requires a license. Under state law, the "County Surveyor" is a statutorily-defined office, and therefore a "term of art," with statutory requirements. The Government Code defines the "County Surveyor" as a "county officer," and expressly requires that the County Surveyor be a licensed surveyor. (Gov. Code §§ 24000(n), 27550.) In other words, while consolidation is generally allowed between these two county offices, these sections require the Public Works Director to be a licensed surveyor if he or she is to hold the title of County Surveyor.

Moreover, Business & Professions ("B&P") Code section 8725, which is part of the "Professional Land Surveyors Act," provides that "[a]ny person practicing, or offering to practice, land surveying in this state shall submit evidence that he or she is qualified to practice and shall be licensed under this chapter." B&P Code section 8704 provides that "[a]ny person practices land surveying when he professes to be a land surveyor or is in responsible charge of land surveying work." In the present case, with the consolidation, the Public Works Director "is in responsible charge of land surveying work" because he or she oversees the County's practicing surveyors.

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Thus, the Director is practicing land surveying within the meaning of Section 8725, and in so doing must hold a surveyor's license.


Finally, state law provides that any person using the titles "licensed land surveyor," "professional land surveyor," "land surveyor," or "any combination of these words" must be a licensed surveyor. (B&P Code § 8708.) Under this Section, a "County Surveyor" arguably constitutes a combination of the words provided, and since the Public Works Director also holds the title of "County Surveyor," the Director must be a licensed surveyor.

For all of the foregoing reasons, we submit that the County's Public Works Director, because that office is consolidated with the County Surveyor's office, must hold a surveyor's license.

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Thanks Dorothy. If you have any questions, please give me a call.

Very truly yours,



Michael Patrick Durkee

MPD:afm

cc: Aaron Smith, PLS, CLSA President