

Summary
of
Bock & Clark Corp. v. Department of Consumer Protection
31 Conn. L. Rptr. 599 (Conn.Super. 2002)
by
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Note: The principles discussed in this case may not apply to all states. The reader is encouraged to research the law in their own state.

Bock & Clark Corp. (plaintiff) is a corporation with a principal place of business in Akron, Ohio. The firm mailed postcards to recipients (lawyers, realtors, etc.) in other states offering to provide a one source contact for ALTA/ACSM Land Title Surveys anywhere in the United States. Bock & Clark Corp. recruited licensed surveyors in the state to bid on and perform the ALTA/ACSM Land Title Surveys. Bock & Clark Corp. provided management service that entailed evaluating a client's land surveying needs, soliciting bids from firms on its database, choosing the firm to perform the service, reviewing the surveys for compliance with industry standards, and reviewing the performance of the locally licensed surveyor, in part, by reviewing the descriptions of the survey compared to the actual drawing itself.

Bock & Clark Corp. was turned into the Connecticut licensing board for practicing land surveying without a valid Connecticut land surveyor's license. An investigation was held, followed by a hearing. The licensing board determined that Bock & Clark Corp. practiced land surveying in Connecticut without a corporate registration from the board of examiners; and that Bock & Clark Corp. used a title or description that conveyed to the public that the Bock & Clark Corp. was authorized to engage in land surveying in Connecticut. The licensing board ordered Bock & Clark Corp. to stop their practice in Connecticut until Bock & Clark Corp. obtained the proper registration.

Bock & Clark Corp. appealed the licensing board's decision to the Connecticut Superior Court. In the appeal, the Superior Court noted that in making a decision, the licensing board must come to a decision based on substantial evidence. In determining questions of law (rather than fact), the licensing board's duty is to render a decision that is not unreasonable, arbitrary, illegal, or an abuse of discretion. Deference is given to the licensing board in interpreting a statute. Great deference is given where the statute gives the board jurisdiction for enforcement and the Board has expertise in the area and a history of hearings in the subject area.

The court determined that the surveyor licensing act includes the function of "evaluating" surveying services. Bock & Clark Corp. went beyond simply facilitating surveys when they brokered surveying services for clients. Under Connecticut's definition of surveying, Bock & Clark Corp. did not have to actually conduct a survey in

order to run afoul of the licensing act. The Court upheld the licensing board's decision and determined that Bock & Clark Corp. did practice land surveying in Connecticut and improperly implied to clients that it was authorized to practice land surveying in Connecticut.

This case has suggested several points of potential interest to land surveyors.

1. Tread cautiously when extending services beyond the boundaries of the state of licensure. Check the pertinent statutes for the state. Display the states of licensure in correspondence and advertisement to keep clients informed. (Does an out-of-state firm violate surveyor licensing acts when the firm offers evaluation services to lending institutions whereby the firm determines if selected property resides within a flood plain?)
2. Licensing boards have considerable leeway in evaluating the licensing act and what constitutes the practice of surveying.
3. Modern equipment and software simplifies technical tasks. More and more laypeople are able to use the equipment and software and perform what many believe are surveying services. For example, the familiarity with equipment and software has allowed laypeople to offer mapping or GIS services. Boards should periodically review licensing acts to insure the licensing act covers modern practice. (For example, does the licensing act cover wetlands mapping with GPS?)