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15 \* Application for admission  
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27 UNITED STATES DISTRICT COURT  
28 EASTERN DISTRICT OF CALIFORNIA

RYAN CROWNHOLM; and CROWN  
CAPITAL ADVENTURES, INC., d/b/a  
MYSITEPLAN.COM,

Plaintiffs,

v.

RICHARD B. MOORE, in his official capacity  
as Executive Officer of the California Board for  
Professional Engineers, Land Surveyors, and  
Geologists; ROSSANA D'ANTONIO, in her

No. \_\_\_\_\_

**COMPLAINT**

1 official capacity as President of the California  
2 Board for Professional Engineers, Land  
3 Surveyors, and Geologists; MICHAEL  
4 HARTLEY, in his official capacity as Vice-  
5 President of the California Board for  
6 Professional Engineers, Land Surveyors, and  
7 Geologists; FEL AMISTAD, ALIREZA  
8 ASGARI, DUANE FRIEL, KATHY JONES  
9 IRISH, COBY KING, ELIZABETH  
10 MATHIESON, PAUL NOVAK,  
11 MOHAMMAD QURESHI, FRANK  
12 RUFFINO, WILFREDO SANCHEZ, and  
13 CHRISTINA WONG, in their official  
14 capacities as members of the California Board  
15 for Professional Engineers, Land Surveyors,  
16 and Geologists,

Defendants.

11  
12 1. This is a civil-rights complaint for declaratory and injunctive relief against the  
13 enforcement of a California law, the California Professional Land Surveyors' Act, Cal. Bus. &  
14 Prof. Code §§ 8700 *et seq.*, which Defendants enforce and have used to try to shut down  
15 MySitePlan.com, a business owned and operated by Plaintiffs.

16 2. Plaintiffs provide a useful service to homeowners and contractors that even the  
17 National Council of Examiners for Engineering and Surveying (NCEES) recognizes should not  
18 require a surveyor license. Plaintiffs use preexisting public data—Geographic Information System  
19 (GIS), satellite imagery and client-provided information—to generate new information—an  
20 aerial-view drawing of a property showing features relative to the lot boundaries, called a site  
21 plan. The creation and dissemination of information—including as part of a business—is speech  
22 within the protection of the First Amendment.

23 3. These kinds of site plans do not authoritatively determine property boundaries or  
24 locations and do not require training or experience as a surveyor. Indeed, building departments  
25 across the state accept site plans that are drawn by people other than surveyors, architects, or  
26 engineers. These include site plans drawn by contractors and by homeowners themselves.

27 4. Plaintiffs expressly explain that their site plans are not legal surveys or intended to  
28 be or replace a legal survey. Plaintiffs do not stamp, sign, or seal any plans. Instead, their site

1 plans are intended for general informational use and for use where building departments do not  
2 require that a site plan be prepared by a licensed surveyor, architect, or engineer.

3 5. Nevertheless, Defendants use California's vague, broad, and outdated statutes,  
4 rules, and regulations governing "land surveying" to shut down MySitePlan.com because it is not  
5 a licensed land surveyor. Defendants' enforcement violates Plaintiffs' constitutional rights  
6 protected by the First and Fourteenth Amendments.

### 7 JURISDICTION AND VENUE

8 6. Plaintiffs bring this civil-rights action under the First and Fourteenth Amendments  
9 to the U.S. Constitution; the Civil Rights Act of 1871, 42 U.S.C. § 1983; and the Declaratory  
10 Judgment Act, 28 U.S.C. § 2201.

11 7. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3).

12 8. Venue is authorized in this judicial district by 28 U.S.C. § 1391(b)(1)-(2).

### 13 PARTIES

#### 14 I. Plaintiffs

15 9. Plaintiff Ryan Crownholm, an individual, is a U.S. citizen who lives in California.  
16 He is the sole shareholder, director, and officer of Plaintiff Crown Capital Adventures, Inc.

17 10. Ryan is not licensed as a professional engineer, a professional land surveyor, a  
18 professional geologist, or in any other capacity by the Board.

19 11. Plaintiff Crown Capital Adventures, Inc., is a Delaware corporation, registered as a  
20 foreign corporation in California, doing business as MySitePlan.com. Plaintiff Ryan Crownholm  
21 is the sole shareholder, director, and officer of Plaintiff Crown Capital Adventures, Inc.

22 12. Through Plaintiff Crown Capital Adventures, Inc., Plaintiff Ryan Crownholm is  
23 the sole owner and operator of MySitePlan.com.

#### 24 II. Defendants

25 13. The California Board for Professional Engineers, Land Surveyors, and Geologists  
26 is created by statute and vested by the State of California with the authority to enforce the  
27 provisions and requirements of the Act. Cal. Bus. & Prof. Code § 8710.

28 14. Defendant Richard B. Moore is the Executive Officer of the California Board for

1 Professional Engineers, Land Surveyors, and Geologists. He is sued in his official capacity.

2 Defendant Richard B. Moore is also a licensed professional land surveyor (“PLS”).

3 15. Defendant Rossana D’Antonio is the President of the California Board for  
4 Professional Engineers, Land Surveyors, and Geologists. She is sued in her official capacity.

5 16. Defendant Michael Hartley is the Vice-President of the California Board for  
6 Professional Engineers, Land Surveyors, and Geologists. He is sued in his official capacity.

7 17. Defendants Fel Amistad, Alireza Asgari, Duane Friel, Kathy Jones Irish, Coby  
8 King, Elizabeth Mathieson, Paul Novak, Mohammad Qureshi, Frank Ruffino, Wilfredo Sanchez,  
9 and Christina Wong are members of the California Board for Professional Engineers, Land  
10 Surveyors, and Geologists. They are each sued in their official capacity.

11 18. As the Executive Officer and members of the California Board for Professional  
12 Engineers, Land Surveyors, and Geologists, Defendants (collectively, the “Board”) share ultimate  
13 responsibility for enforcing the statutes and regulations at issue here.

14 19. The Board’s enforcement of those statutes and regulations has deprived and  
15 threatens to deprive Plaintiffs of their rights protected by the First and Fourteenth Amendments.

## 16 STATEMENT OF FACTS

### 17 I. Ryan Crownholm and MySitePlan.com.

18 20. Ryan Crownholm describes himself as a “serial entrepreneur,” and his history  
19 bears this out.

20 21. Ryan began his college education while serving in the Army from 1996 to 1999.

21 22. Upon his honorable discharge, Ryan continued his education at Diablo Valley  
22 College and then St. Mary’s College in California, from which he graduated in 2003 with a  
23 Bachelor of Arts in economics and business administration.

24 23. While still in college, Ryan started a successful rubbish removal/hauling company  
25 using his own pickup truck.

26 24. That company’s success led to more entrepreneurial opportunities. To take on larger  
27 jobs, Ryan obtained a California demolition contractor license.

28 25. Starting in 2007, during the housing market crash, Ryan’s company began to

1 specialize in residential demolition, excavation, and swimming pool removal.

2 26. Eventually, Ryan obtained a California “general engineering” contractor license.

3 27. Ryan’s experience as a licensed contractor gave him experience with site plans.

4 28. As a precondition to issuing various building permits—including demolition  
5 permits—California county and municipal building departments often require submission of a site  
6 plan drawing.

7 29. This site plan drawing is, however, not necessarily a survey.

8 30. To obtain a permit, the site plan drawing need only show the basic layout of a  
9 property and a simple explanation of the changes that will be made to it.

10 31. The site plan drawing requirement is so simple that homeowners and contractors are  
11 allowed to create and submit it themselves.

12 32. For example, Contra Costa County explains that

13 Almost all projects require plans. These include, but are not limited to, new  
14 structures, demolitions, additions, alterations, interior/exterior remodels, running  
15 new electrical, water or gas lines, repairs, outdoor kitchens, pergolas, pavilions,  
decks, carports, garages, docks, pools, foundation repairs, ADUs, and JR. ADUs,  
solar, energy storage systems, and backup generators.

16 <https://www.contracosta.ca.gov/7863/Applying-for-a-Building-or-Grading-Permi>

17 33. Contra Costa County further explains that

18 Most projects will require Architectural, Structural, Electrical, and often Mechanical and  
19 Plumbing plans. Many details and calculations are also required, often these include  
20 structural and Title 24 energy calculations. Your design professional is the best resource to  
help you have a complete submittal.

21 <https://www.contracosta.ca.gov/7863/Applying-for-a-Building-or-Grading-Permi>

22 34. But not all projects require plans prepared by a “design professional.” Some plans,  
23 Contra Costa County explains, can be prepared by an “unlicensed person.”

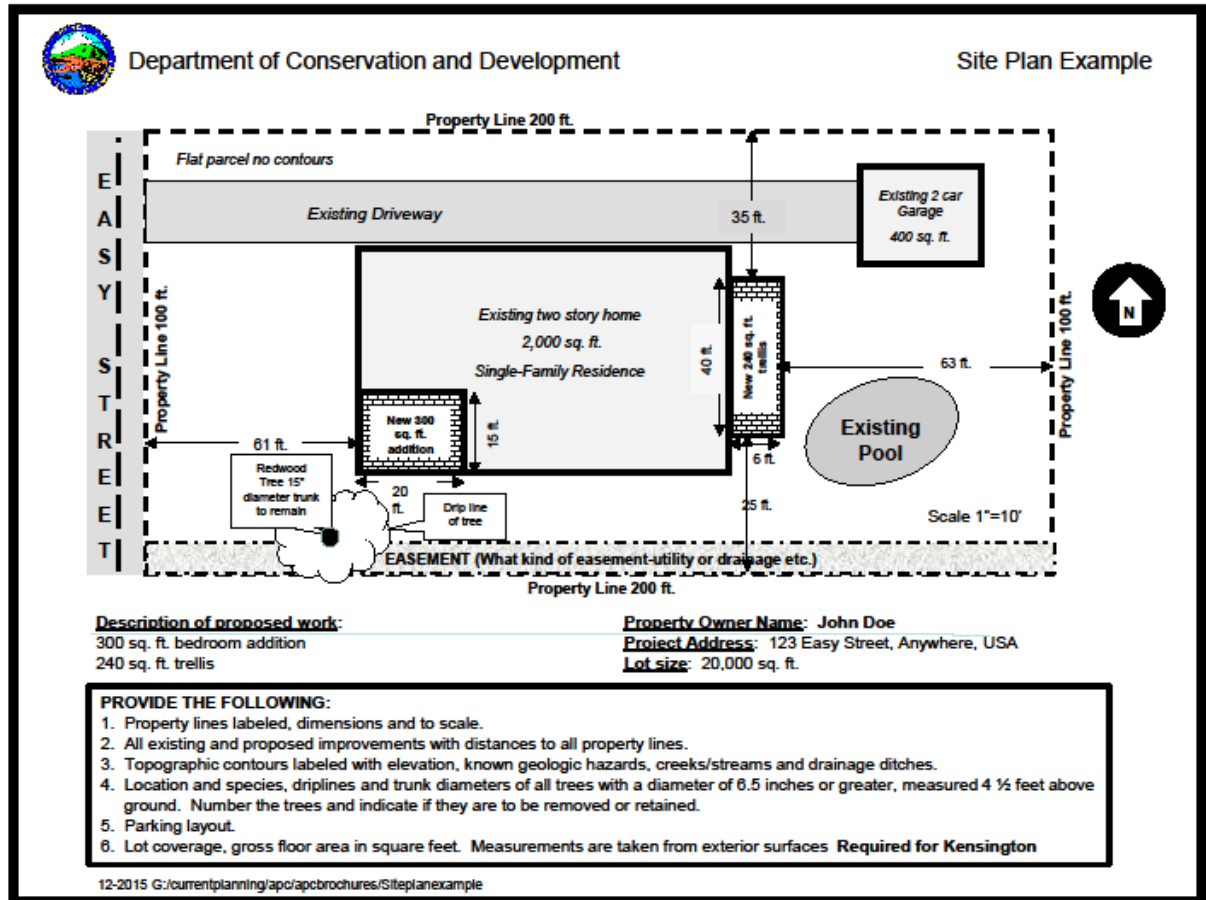
24 [https://www.contracosta.ca.gov/DocumentCenter/View/45674/WHEN-IS-A-LICENSED-  
25 PROFESSIONAL-REQUIRED?bidId=.](https://www.contracosta.ca.gov/DocumentCenter/View/45674/WHEN-IS-A-LICENSED-PROFESSIONAL-REQUIRED?bidId=)

26 35. Moreover, not all site plans must be prepared by a “design professional.” Some  
27 projects require only simple site plans that may be prepared by anyone.

28 36. Several California counties and municipalities provide guidance to non-surveyors

on how to prepare their own site plan drawings for submission to permit issuing agencies.

37. For example, Contra Costa County tells unlicensed people how to draw a site plan, what information to provide in a site plan, and provides an exemplar for unlicensed people to use:



<https://www.contracosta.ca.gov/DocumentCenter/View/44308/How-to-Draw-a-Site-Plan?bidId=>

38. Other counties and municipalities provide similar guidance, including:

- Monterey County: <https://www.co.monterey.ca.us/government/departments-and-services/housing-community-development/development-services/building-services/preparing-a-site-plan>
- Napa County: <https://www.countyofnapa.org/DocumentCenter/View/7162/Sample-Site-Plan-PDF>
- City of Citrus Heights: <https://www.citrusheights.net/1094/How-to-Prepare-a-Site-Plan>
- City of Chino Hills: <https://www.chinohills.org/DocumentCenter/View/1563/How->

1 [to-Prepare-A-Residential-Plot-Plan?bidId=](#)

- 2 • City of Danville: [https://www.danville.ca.gov/DocumentCenter/View/5351/How-](https://www.danville.ca.gov/DocumentCenter/View/5351/How-to-Plot-Plan-PDF)
- 3 [to-Plot-Plan-PDF](#)
- 4 • City of Murrieta: [https://www.murrietaca.gov/DocumentCenter/View/137/Site-](https://www.murrietaca.gov/DocumentCenter/View/137/Site-Plot-Plan-IB-105?bidId=)
- 5 [Plot-Plan-IB-105?bidId=](#)
- 6 • City of Pleasant Hill: <https://www.pleasanthillca.org/246/Plot-Plan-Instructions>
- 7 • City of San Gabriel: [https://www.sangabrielcity.com/DocumentCenter/View/217/](https://www.sangabrielcity.com/DocumentCenter/View/217/How-to-Prepare-a-Site-Plan---A-Homeowners-Guide)
- 8 [How-to-Prepare-a-Site-Plan---A-Homeowners-Guide](#)
- 9 • City of Visalia: [https://www.visalia.city/civicax/filebank/blobdload.aspx?BlobID=](https://www.visalia.city/civicax/filebank/blobdload.aspx?BlobID=14080)
- 10 [14080](#).

11 39. Site plans are routinely submitted to various California county and municipal  
12 building permit issuers by non-surveyors, including contractors and homeowners with no surveyor  
13 training.

14 40. Site plans prepared by non-surveyors, including contractors and homeowners with  
15 no surveyor training, are routinely accepted by various California county and municipal building  
16 permit issuers.

17 41. These various California county and municipal building permit issuers know that  
18 these site plans are not prepared by licensed surveyors and accept them because the permit issuers  
19 do not need legal surveys for their purposes. They just need a general picture of the site.

20 42. When Ryan worked as a contractor, he spent hours hand drawing basic site plans to  
21 obtain demolition permits.

22 43. Building permit issuers always accepted Ryan's hand-drawn site plans because they  
23 did not need a legal survey that required a licensed surveyor. They just needed a general picture of  
24 the site.

25 44. Originally, Ryan did his site plan drawings by literally tracing by hand data and  
26 images from GIS data or even Google Maps, a method taught to him by county and municipal  
27 building permit issuer staff.

28 45. For example, the City of San Gabriel Community Development Department advises

1 homeowners to prepare a site plan by using GIS maps maintained by the Los Angeles County  
2 Assessor to determine the “property boundaries,” “dimensions” and “size” of their lot, and then  
3 adding the locations and measurements of “all structures and other physical features” of the site.  
4 City of San Gabriel, *A Homeowner’s Guide to Site Plan Preparation for Small Projects*,  
5 [https://www.sangabrielcity.com/DocumentCenter/View/217/How-to-Prepare-a-Site-Plan---A-  
6 Homeowners-Guide?bidId=](https://www.sangabrielcity.com/DocumentCenter/View/217/How-to-Prepare-a-Site-Plan---A-Homeowners-Guide?bidId=).

7 46. GIS (Geographic Information System) is a computer system that analyzes and  
8 displays geographically referenced information (data that is attached to a unique location). GIS is  
9 used in public health; urban planning; banking; insurance; supply chain management; forestry,  
10 timber, and other resource management; earth sciences, biology, and many other fields.

11 47. The United States Geologic Survey maintains a publicly available GIS, The  
12 National Map, <https://apps.nationalmap.gov/viewer/>, which displays various geographically  
13 referenced data on a map.

14 48. Many other governments, especially at the county and municipal level, also maintain  
15 publicly available GIS that contain greater detail within the jurisdiction. These display parcel  
16 property boundaries, property ownership and tax records, parcel addresses, property building and  
17 other coverage, orthoimagery (aerial and/or satellite imagery geometrically corrected to a uniform  
18 scale), and other information. And because this publicly available GIS is at a uniform scale, these  
19 GIS often allow measurements of distances, dimensions, and area, to be calculated within the GIS  
20 based on polygon drawings.

21 49. The Sacramento County Assessor’s Parcel Viewer, available at  
22 <https://assessorparcelviewer.saccounty.gov/jsviewer/assessor.html>, is an example of these GIS.  
23 Every county in California has a similar publicly available GIS.

24 50. Google Maps is not a true GIS because it lacks the extensive analytical capabilities  
25 of true GIS. But Google Maps contains much of the same information as GIS, including information  
26 about parcel property boundaries, locations, and building and other coverage, orthoimagery, and  
27 even street-view imagery.

28 51. On information and belief, hundreds, if not thousands, of non-surveyors in



1 California routinely submit site plans based on copied GIS data or Google Maps to county and  
2 municipal building permit issuers.

3 52. On information and belief, county and municipal building permit issuers routinely  
4 accept site plans based on copied GIS data or Google Maps submitted by non-surveyors.

5 53. Eventually, Ryan learned how to use publicly available information from GIS to  
6 create electronic site plan drawings in a Computer-aided Design (CAD) program.

7 54. Based on government-provided GIS and other publicly available imagery, Ryan  
8 could electronically draft a site plan—including rough measurements—without ever visiting a  
9 property. He would then send the draft to a client to take measurements to confirm.

10 55. These site plan drawings can be used for general informational or planning purposes.

11 56. These site plan drawings can also be submitted by the client or by Ryan to a county  
12 or municipal building permit issuer.

13 57. These site plan drawings were always accepted by county or municipal building  
14 permit issuers.

15 58. In fact, building permit issuers appreciated Ryan’s site plan drawings because they  
16 were easier to use than the typically hand-drawn plans they receive for such permits.

17 59. Other contractors started asking Ryan for site plan drawings.

18 60. No one ever thought that Ryan’s site plan drawings were surveys.

19 61. Eventually, Ryan used his experience to start [MySitePlan.com](https://www.mysiteplan.com) in 2013.

20 62. [MySitePlan.com](https://www.mysiteplan.com) is headed by a disclaimer reading “THIS IS NOT A LEGAL  
21 SURVEY, NOR IS IT INTENDED TO BE OR REPLACE ONE.”

22 63. The website further warns users that “**Before ordering:** Please verify with your  
23 building department that they **DO NOT** require that the plan to be prepared by surveyor, architect  
24 or engineer. **This is not a Legal Survey, nor is it intended to be or replace a Legal Survey.** We  
25 are a Drafting Company and do not stamp, sign or seal plans. Our plans are non-certified.”  
26 <https://www.mysiteplan.com/collections/frontpage>.

1           64.     The webpage further explains:

2           **What Is a Non-Certified Site Plan?**

3           A non-certified site plan is one that can be created by a homeowner, unlicensed  
4           individual, or a company like My Site Plan.

5           We use GIS (Geographical Information System) lot lines, satellite imagery, and  
6           client provided information to create the first draft which is sent to the client to  
7           verify dimensions. If you need any dimensions adjusted just mark them onto the  
8           draft and send back to us. We take care of those free of charge. We make no  
9           representation regarding the accuracy of our sources.

10          As long as a certified plan isn't required for your project, we stand by our work with  
11          a money-back guarantee.

12          **What Is a Certified Site Plan?**

13          A certified site plan is a site plan that is prepared by and stamped by an architect,  
14          engineer, or surveyor and requires a high level of accuracy. This will require a visit  
15          to your site.

16          Often, permit authorities will require a certified site plan for building additions or  
17          lot subdivisions where having dead-on measurements is a must. Every city is  
18          different, so it is always best to call to verify requirements before ordering a plan.

19          <https://www.mysiteplan.com/pages/certified-site-plans>

20          65.     Occasionally, someone requests certified plans from MySitePlan.com. Ryan and his  
21          agents tell those requestors to seek a locally licensed surveyor, engineer, or architect.

22          66.     Neither MySitePlan.com nor Ryan have ever done a survey, claimed to do surveys,  
23          or claimed to be a surveyor.

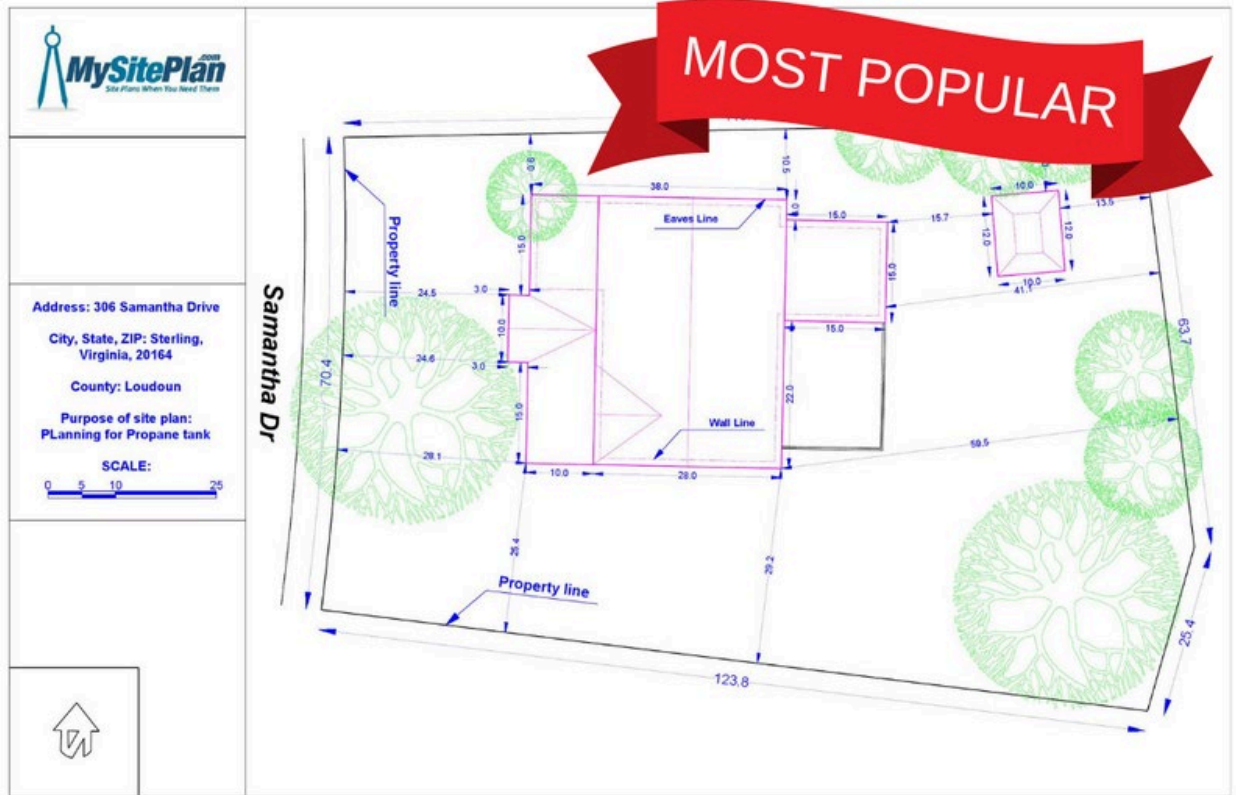
24          67.     MySitePlan.com contracts with non-licensed individuals to prepare these site plan  
25          drawings based on publicly available satellite imagery and GIS data.

26          68.     Every drawing prepared by MySitePlan.com includes MySitePlan.com's name.

27          69.     No drawing done by MySitePlan.com carries any signature or seal.

28          70.     The drawings done by MySitePlan.com are literally that: drawings. They are  
29          pictures that do not purport to be authoritative or surveys, much less authoritative surveys.

30          71.     An example of the most popular version of a site plan drawing from  
31          MySitePlan.com is:



14 [https://www.mysiteplan.com/collections/frontpage/products/plot-plan-showing-structures-tree-](https://www.mysiteplan.com/collections/frontpage/products/plot-plan-showing-structures-tree-and-vegetation?variant=386904444)  
15 [and-vegetation?variant=386904444.](https://www.mysiteplan.com/collections/frontpage/products/plot-plan-showing-structures-tree-and-vegetation?variant=386904444)

16 72. The site plan drawings done by MySitePlan.com are used for a variety of purposes,  
17 including:

- 18 • Applying for a building permit for a new outdoor structure (Shed, fence, deck, gazebo, etc.)
  - 19 • Applying for a demolition permit for the demolition of a house or another structure
  - 20 • Swimming pool removals or remodels
  - 21 • Landscape planning, including layout of bushes, trees, and sprinklers, and yard work maintenance instructions
  - 22 • Applying for building permits in cities with tree protection requirements. Planning departments find it useful to determine if any extra protection is required for trees on the property
  - 23 • Wedding, farmers market, and other event layout planning
  - 24 • During COVID shutdowns, restaurants used site plan drawings to plan outdoor dining tables on streets and parking lots
- 25  
26  
27  
28

- 1                   • Maps for apartment complexes, hotels, and motels to show tenants  
2                   and guests the location of buildings and units and directions to get  
3                   to their apartment or room
- 4                   • Vacation rental permits
- 5                   • Sketching out a new roof line
- 6                   • Conditional Use Permits for Commercial Properties, including  
7                   plotting out parking spaces

8                   73. MySitePlan.com does drawings in any English-speaking jurisdiction that has GIS  
9                   data publicly available. This includes Canada, Australia, and nearly all U.S. States—including  
10                  California.

11                  74. MySitePlan.com has created approximately 42,000 site plan drawings in its nine  
12                  years of operation.

13                  75. No building department or client has ever complained to Plaintiffs about  
14                  MySitePlan.com site plan drawings.

15                  **II. The Board uses the Professional Land Surveyor’s Act to try to shut down**  
16                  **MySitePlan.com.**

17                  76. California regulates land surveying through its Professional Land Surveyors’ Act  
18                  (Cal. Bus. & Prof. Code §§ 8700 *et seq.*), rules and regulations promulgated pursuant to the Act,  
19                  and policies of the Board.

20                  77. On December 28, 2021, Defendant Richard B. Moore, PLS, acting as the Executive  
21                  Officer for the Board, issued a Citation Order to MySitePlan.com and Ryan.

22                  78. The Board’s Citation Order was served on MySitePlan.com and Ryan by email that  
23                  same day.

24                  79. The Board’s Citation Order ordered MySitePlan.com and Ryan “to cease and desist  
25                  from violating Business and Professions Code section(s) 8792(a) and (i).”

26                  80. The Board’s Citation Order also ordered MySitePlan.com and Ryan to pay “an  
27                  administrative fine in the amount of \$1,000.00”.

28                  81. The Board’s Citation Order correctly notes that Ryan is not licensed as a  
“professional engineer, a professional land surveyor, a professional geologist, or in any other

1 capacity” by the Board.

2 82. As “Cause for Citation” the Board stated:

3 An investigation, including a review by at least one licensee of the Board who is  
4 competent in the branch of professional land surveying most relevant to the subject  
5 matter, determined that you have violated the Professional Land Surveyors’ Act  
6 (Business and Professions Code section 8700, et seq.) related to your business  
7 known as My Site Plan. Specifically, you have offered and practiced land surveying,  
8 without legal authorization, as evidenced by a review of your business website by  
9 Board staff between March 2021 and December 2021. Preparing site plans which  
10 depict the location of property lines, fixed works, and the geographical relationship  
11 thereto falls within the definition of land surveying, pursuant to Business and  
12 Professions Code section(s) 8726(a) and (g). Offering to prepare subdivision maps  
13 and site plans which show the location of property lines, fixed works, and the  
14 geographical relationship thereto falls within the definition of land surveying  
15 pursuant to Business and Professions Code section 8726(i). In offering and  
16 practicing land surveying, you have violated Business and Professions Code section  
17 8792(a). In managing a business from which land surveying is offered and practiced,  
18 without legal authorization, you have violated Business and Professions Code  
19 section 8792(i).

20 83. Business and Professions Code sections 8792(a) and (i) make it a misdemeanor to  
21 “practice[], or offer[] to practice, land surveying in this state without legal authorization” or  
22 exemption, or to “manage[] or conduct[] as manager, proprietor, or agent, any place of business  
23 from which land surveying work is solicited, performed, or practiced” without legal authorization.

24 84. In relevant part, *i.e.*, the portions the Board has invoked, California’s definition of  
25 “land surveying,” Cal. Bus. & Prof. Code § 8726,<sup>1</sup> provides:

26 (a) A person, including any person employed by the state or by a city, county, or  
27 city and county within the state, practices land surveying within the meaning of this  
28 chapter who, either in a public or private capacity, does or offers to do any one or  
more of the following:

(1) Locates, relocates, establishes, reestablishes, or retraces the alignment or  
elevation for any of the fixed works embraced within the practice of civil  
engineering, as described in Section 6731.

(2) Determines the configuration or contour of the earth’s surface, or the position  
of fixed objects above, on, or below the surface of the earth by applying the  
principles of mathematics or photogrammetry.

(3) Locates, relocates, establishes, reestablishes, or retraces any property line or  
boundary of any parcel of land, right-of-way, easement, or alignment of those

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<sup>1</sup> Technical corrections to Cal. Bus. & Prof. Code § 8726 became effective shortly after the Board’s letter. 2021 Cal Stat. ch. 106 (effective Jan. 1, 2022). These did not substantively affect the cited provisions but did change number and lettering conventions. Former subsection (a) is now (a)(1), former subsection (g) is now (a)(7), and former subsection (i) is now (a)(9). For ease of reference, this Complaint proceeds with citations to the current statute.

1 lines or boundaries.

2 (4) Makes any survey for the subdivision or resubdivision of any tract of land.  
3 For the purposes of this subdivision, the term “subdivision” or “resubdivision”  
4 shall be defined to include, but not be limited to, the definition in the Subdivision  
5 Map Act (Division 2 (commencing with Section 66410) of Title 7 of the  
6 Government Code) or the Subdivided Lands Law (Chapter 1 (commencing with  
7 Section 11000) of Part 2 of Division 4 of this code).

8 (5) By the use of the principles of land surveying determines the position for any  
9 monument or reference point that marks a property line, boundary, or corner, or  
10 sets, resets, or replaces any monument or reference point.

11 (6) Geodetic surveying or cadastral surveying. As used in this chapter:

12 (A) Geodetic surveying means performing surveys, in which account is  
13 taken of the figure and size of the earth to determine or predetermine the  
14 horizontal or vertical positions of fixed objects thereon or related thereto,  
15 geodetic control points, monuments, or stations for use in the practice of land  
16 surveying or for stating the position of fixed objects, geodetic control points,  
17 monuments, or stations by California Coordinate System coordinates.

18 (B) Cadastral surveying means performing a survey that creates, marks,  
19 defines, retraces, or reestablishes the boundaries and subdivisions of the  
20 public land survey system of the United States.

21 (7) Determines the information shown or to be shown on any map or document  
22 prepared or furnished in connection with any one or more of the functions  
23 described in paragraphs (1) to (6), inclusive.

24 . . . .

25 (9) Procures or offers to procure land surveying work for themselves or others.

26 85. Based on the Board’s citation and statutory provisions cited, MySitePlan.com and  
27 Ryan are threatened with enforcement and fines merely for doing and offering to do their site plan  
28 drawings because they depict or show “the location of property lines, fixed works, and the  
geographical relationship thereto”.

86. The Board has not claimed that MySitePlan.com and Ryan have falsely held  
themselves out as a licensed surveyor or other Board-licensed professional.

87. MySitePlan.com and Ryan have never held themselves out as a licensed surveyor  
or other Board-licensed professional.

88. Nonetheless, on September 21, 2022, Ryan signed a notice agreeing not to appeal  
the Board’s citation, instead accepting its terms and paying the Board a \$1,000 fine.

1 **III. Experts recognize that not all mapping requires a license.**

2 89. Even twenty years ago, experts recognized that a “literal interpretation” of practice  
3 of surveying definitions would mean that a large amount of spatial information, including GIS,  
4 would be illegal in the hands of people other than licensed surveyors. *See* Bruce A. Joffe, *Surveyors*  
5 *and GIS Professionals Reach Accord*, U.S. Geological Survey Open-File Report 02-370, 29  
6 [https://pubs.usgs.gov/of/2002/of02-370/dmt\\_02.pdf](https://pubs.usgs.gov/of/2002/of02-370/dmt_02.pdf).

7 90. Beginning in 2006, the National Council of Examiners for Engineering and  
8 Surveying (NCEES), whose members are the engineering and surveying licensing boards from all  
9 50 states, the District of Columbia, and U.S. Territories, promulgated Model Rules to distinguish  
10 activities and uses of data that require a license from those that do not.

11 91. The current version of the NCEES Model Rules, dated September 2021, provides in  
12 relevant part:

13 210.25 Inclusions and Exclusions to the Practice of Surveying

14 A. Activities Included within the Practice of Surveying

15 Activities that must be accomplished by or under the responsible charge of a  
16 professional surveyor (unless specifically exempted in subsection B of this section)  
include, but are not limited to, the following:

- 17 1. The creation of maps or georeferenced databases representing authoritative  
18 locations for boundaries, the location of fixed works, or topography. This  
19 includes maps and georeferenced databases prepared by any person or  
government agency where that data is provided to the public as a surveying  
deliverable.
- 20 2. Original data acquisition, or the resolution of conflicts between multiple data  
21 sources, when used for the authoritative location of features within the  
22 following data themes: geodetic control, orthoimagery, elevation and  
hydrographic, fixed works, private and public boundaries, and cadastral  
information
- 23 3. Certification of positional accuracy of maps or measured survey data
- 24 4. Adjustment or authoritative interpretation of raw survey data
- 25 5. Geographic Information System (GIS)-based parcel or cadastral mapping used  
26 for authoritative boundary definition purposes wherein land title or  
development rights for individual parcels are, or may be, affected
- 27 6. Authoritative interpretation of maps, deeds, and other land title documents to  
28 resolve conflicting data elements

- 1 7. Acquisition of field data required to authoritatively position fixed works or  
2 cadastral data relative to geodetic control
- 3 8. Analysis, adjustment or transformation of cadastral data of the parcel layers  
4 with respect to the geodetic control layer within a GIS resulting in the  
5 affirmation of positional accuracy

#### 6 B. Activities Excluded from the Practice of Surveying

7 A distinction must be made in the use of electronic systems between making or  
8 documenting original measurements in the creation of surveying deliverables,  
9 versus the copying, interpretation, or representation of those measurements in such  
10 systems. Further, a distinction must be made according to the intent, use, or purpose  
11 of measurements derived from electronic systems to determine an authoritative  
12 location versus the use of those measurements as a reference for planning,  
13 infrastructure management, and general information. The following items are not  
14 to be included as activities within the definition of the practice of surveying:

- 15 1. The creation of general maps
  - 16 a. Prepared by private firms or government agencies for use as guides to
  - 17 motorists, boaters, aviators, or pedestrians
  - 18 b. Prepared for publication in a gazetteer or atlas as an educational tool or
  - 19 reference publication
  - 20 c. Prepared for or by education institutions for use in the curriculum of any
  - 21 course of study
  - 22 d. Produced by any electronic or print media firm as an illustrative guide to
  - 23 the geographic location of any event
  - 24 e. Prepared by laypersons for conversational or illustrative purposes. This
  - 25 includes advertising material and users [sic] guides.
- 26 2. The transcription of previously georeferenced data into a GIS or LIS by manual
- 27 or electronic means, and the maintenance thereof, provided the data are clearly
- 28 not intended to indicate the authoritative location of property boundaries, the
- shape or contour of the earth, or fixed works
3. The transcription of public record data, without modification except for
- graphical purposes, into a GIS- or LIS-based cadastre (tax maps and associated
- records) by manual or electronic means, and the maintenance of that cadastre,
- provided the data are clearly not intended to authoritatively represent property
- boundaries. This includes tax maps and zoning maps.
4. The preparation of any document by any federal government agency that does
- not define real property boundaries. This includes civilian and military versions
- of quadrangle topographic maps, military maps, satellite imagery, and other
- such documents.
5. The incorporation or use of documents or databases prepared by any federal
- agency into a GIS/LIS, including but not limited to federal census and
- demographic data, quadrangle topographic maps, and military maps
6. Inventory maps or databases created by any organization, in either hard-copy
- or electronic form, of physical features, facilities, or infrastructure that are
- wholly contained within properties to which they have rights or for which they
- have management responsibility. The distribution of these maps or databases
- outside the organization must contain appropriate metadata describing, at a



1 minimum, the accuracy, method of compilation, data sources and dates, and  
2 disclaimers of use clearly indicating that the data are not intended to be used as  
a surveying deliverable.

3 7. Maps and databases depicting the distribution of natural resources or  
4 phenomena prepared by foresters, geologists, soil scientists, geophysicists,  
biologists, archeologists, historians, or other persons qualified to document  
5 such data

6 8. Maps and georeferenced databases depicting physical features and events  
7 prepared by any government agency where the access to that data is restricted  
by statute. This includes georeferenced data generated by law enforcement  
agencies involving crime statistics and criminal activities.

8 NCEES Model Rule § 210.25, [https://ncees.org/wp-content/uploads/Model\\_Rules\\_2021\\_web-](https://ncees.org/wp-content/uploads/Model_Rules_2021_web-2.pdf)  
9 [2.pdf](https://ncees.org/wp-content/uploads/Model_Rules_2021_web-2.pdf).

10 92. The NCEES Model Rules reflect that the rationale for licensing land surveyors  
11 extends only to activities related to determining or representing “authoritative” location.

12 93. Plaintiffs do not engage in any activities related to determining or representing  
13 “authoritative” location.

14 94. As reflected in the NCEES Model Rules, surveyor licensing does not include non-  
15 authoritative uses of location data such as references for planning, infrastructure management, and  
16 general information.

17 95. Plaintiffs use GIS and data to generate only non-authoritative site plans for planning,  
18 infrastructure management, general information, and similar uses.

19 96. The Board has never adjusted its own rules or enforcement practices to reflect the  
20 NCEES Model Rules. To the contrary, as illustrated by the enforcement action that precipitated this  
21 case, the Board enforces California’s vague, broad, and outdated statutes, rules, and regulations  
22 governing “land surveying” to their utmost limits.

23 97. In comparison to the NCEES Model Rules, California’s definition of land surveying,  
24 read literally, criminalizes a vast amount of informal mapmaking and information conveying by  
25 anyone without a surveyor’s license.

26 **IV. Surveyor license requirements are burdensome and unnecessary for drawing non-**  
27 **authoritative site plans.**

28 98. There are a variety of ways to become a licensed professional land surveyor in

1 California, but all of them require many years of education, experience, and exams. *See* California  
2 Board for Professional Engineers, Land Surveyors, and Geologists, Flowchart-Do I qualify to apply  
3 for the Professional Land Surveyor License?, [https://www.bpelsg.ca.gov/applicants/  
4 flowchart\\_for\\_pls.pdf](https://www.bpelsg.ca.gov/applicants/flowchart_for_pls.pdf).

5 99. Generally, a person must (1) graduate from a four-year post-secondary curriculum  
6 “with an emphasis in land surveying approved by the board or accredited by a national or regional  
7 accrediting agency” and have “two years of actual broad based progressive experience in land  
8 surveying, including one year of responsible field training and one year of responsible office  
9 training, satisfactory to the board,” (2) have “[a]ctual broad based progressive experience in land  
10 surveying for at least six years, including one year of responsible field training and one year of  
11 responsible office training, satisfactory to the board,” or (3) already be licensed “as a civil engineer  
12 with two years of actual broad based progressive experience in land surveying satisfactory to the  
13 board.” Cal. Bus. & Prof. Code § 8742(a); Cal. Code Regs. tit. 16, § 425.

14 100. In addition, a would-be licensed professional land surveyor must generally first be  
15 certified as a land surveyor-in-training if they are not already licensed as a civil engineer. Cal. Bus.  
16 & Prof. Code § 8741.

17 101. All would-be licensed professional land surveyors also must pass four examinations:  
18 the NCEES Fundamentals of Surveying exam (unless approved for a waiver), the NCEES  
19 Principles and Practice of Surveying exam, a California-specific Professional Land Surveyor exam,  
20 and a California Professional Land Surveyors State Laws and Rules exam.

21 102. All would-be licensed professional land surveyors also must have references from  
22 at least four land surveyors or civil engineers. Cal. Bus. & Prof. Code § 8743.

23 103. Because Ryan is not a licensed civil engineer, not a licensed land surveyor-in-  
24 training, and did not graduate from any post-secondary curriculum with an emphasis in land  
25 surveying, he would need to stop working at his own business, obtain at least six years of additional  
26 education and experience (gained under a licensed land surveyor) and pass all four exams to become  
27 a licensed professional land surveyor.

28 104. These years of education, experience, and exams are overly burdensome and

1 unrelated to MySitePlan.com's non-authoritative site plan drawings.

2 105. County and municipal building permit issuing entities in California regularly and  
3 repeatedly accept non-authoritative site plan drawings from contractors and homeowners who, like  
4 Ryan, do not have the years of education, experience, and exam passes necessary to obtain a  
5 surveyor's license.

6 **INJURY TO PLAINTIFFS**

7 106. MySitePlan.com and Ryan have offered their site plan drawing services in  
8 California since at least 2013.

9 107. But for the Board's application of Cal. Bus. & Prof. Code §§ 8726(a)(1), (7), and  
10 (9), and 8792(a) and (i) to MySitePlan.com and Ryan, MySitePlan.com and Ryan would be free to  
11 continue operating in California as they have done for many years and as they operate in other  
12 states and around the world.

13 108. But for the Board's application of Cal. Bus. & Prof. Code §§ 8726(a)(1), (7), and  
14 (9), and 8792(a) and (i) to MySitePlan.com and Ryan, MySitePlan.com and Ryan would be free to  
15 continue using publicly available GIS and other information to create and disseminate new  
16 information in the form of non-authoritative site plan drawings.

17 109. California's definition of "land surveying," and in particular Cal. Bus. & Prof. Code  
18 § 8726(a)(1), (7), and (9), is unconstitutional in a substantial number of its applications, judged in  
19 relation to is plainly legitimate sweep.

20 110. California's definition of "land surveying," and in particular Cal. Bus. & Prof. Code  
21 § 8726(a)(1), (7), and (9), does not provide fair warning or allow Ryan to determine if his business  
22 through MySitePlan.com is prohibited by the law.

23 111. California's definition of "land surveying," and in particular Cal. Bus. & Prof. Code  
24 § 8726(a)(1), (7), and (9), impermissibly delegates to the Board the power to determine, on an ad  
25 hoc and subjective basis, whether Ryan's business through MySitePlan.com is prohibited, which  
26 leads to arbitrary and discriminatory application of the law.

27 112. California's definition of "land surveying," and in particular Cal. Bus. & Prof. Code  
28 § 8726(a)(1), (7), and (9), operates to inhibit the exercise of protected constitutional rights.

1 113. California county and municipal building permit issuing departments accept non-  
2 authoritative site plans prepared by non-surveyors, including contractors and homeowners with no  
3 surveyor training.

4 114. Ryan's business through MySitePlan.com, creating non-authoritative site plans for  
5 submission to California county and municipal building permit issuing departments, is substantially  
6 different than the business of surveyors, who prepare drawings and materials related to authoritative  
7 location.

8 115. The years of education and experience and four exams required to become a licensed  
9 professional land surveyor are unjustified burdens on Ryan and MySitePlan.com creating non-  
10 authoritative site plans for planning, infrastructure management, general information, and  
11 submission to California county and municipal building permit issuing departments.

12 116. But for the Board's application of Cal. Bus. & Prof. Code §§ 8726(a)(1), (7), and  
13 (9), and 8792(a) and (i) to MySitePlan.com and Ryan, MySitePlan.com and Ryan would be free to  
14 continue to prepare non-authoritative site plans for planning, infrastructure management, general  
15 information, and submission to California county and municipal building permit issuing  
16 departments without needing to first acquire years of education and experience and pass four  
17 exams.

18 117. But for the Board's application of Cal. Bus. & Prof. Code §§ 8726(a)(1), (7), and  
19 (9), and 8792(a) and (i) to MySitePlan.com and Ryan, MySitePlan.com and Ryan would be free to  
20 continue to prepare non-authoritative site plans for planning, infrastructure management, general  
21 information, and submission to California county and municipal building permit issuing  
22 departments, just as other non-surveyors, including contractors and homeowners with no surveyor  
23 training, are allowed to.

24 **CONSTITUTIONAL VIOLATIONS AND CLAIMS FOR RELIEF**

25 **First § 1983 Cause of Action:**

26 **First Amendment**

27 **Declaratory and Injunctive Relief**

28 118. Plaintiffs incorporate and re-allege paragraphs 1 through 117.

1 119. The First Amendment, which is made applicable to the states through the Fourteenth  
2 Amendment, provides: “Congress shall make no law . . . abridging the freedom of speech.” U.S.  
3 Const. amend. I.

4 120. Defendants’ application of the California Professional Land Surveyors’ Act, Cal.  
5 Bus. & Prof. Code §§ 8700 *et seq.*, to Plaintiffs abridges Plaintiffs’ freedom of speech.

6 121. Plaintiffs take existing data and information, including GIS data made available to  
7 the public by governments, and use it to create and disseminate new information in the form of  
8 non-authoritative site plans.

9 122. The creation and dissemination of information are speech within the meaning of the  
10 First Amendment, do not fall within any recognized exception to the First Amendment, and are  
11 fully protected by the First Amendment.

12 123. Plaintiffs create and disseminate non-authoritative site plans to their customers for  
13 planning, infrastructure management, general information, and submission to California county and  
14 municipal building permit issuing departments purposes.

15 124. Under California law, as interpreted and enforced by the Board, Plaintiffs may not  
16 use preexisting public GIS data and other information to create and disseminate non-authoritative  
17 site plans to their customers for planning, infrastructure management, general information, and  
18 submission to California county and municipal building permit issuing departments purposes.

19 125. Under California law, as interpreted and enforced by the Board, licensed surveyors  
20 may create and disseminate non-authoritative site plans from preexisting public GIS data, but  
21 Plaintiffs may not create and disseminate non-authoritative site plans from preexisting public GIS  
22 data.

23 126. Application of the California Professional Land Surveyors’ Act, Cal. Bus. & Prof.  
24 Code §§ 8700 *et seq.*, to Plaintiffs restrains the way in which Plaintiffs may use and disseminate  
25 publicly available information.

26 127. Application of the California Professional Land Surveyors’ Act, Cal. Bus. & Prof.  
27 Code §§ 8700 *et seq.*, to Plaintiffs restrains the way in which they may provide non-authoritative  
28 site plans to their customers for planning, infrastructure management, general information, and

1 submission to California county and municipal building permit issuing departments purposes.

2 128. Defendants' application of the California Professional Land Surveyors' Act, Cal.  
3 Bus. & Prof. Code §§ 8700 *et seq.*, to Plaintiffs acts as a content- and speaker-based restriction on  
4 the ability to use and generate information.

5 129. Defendants lack a state interest, compelling or otherwise, in preventing Plaintiffs  
6 from creating and disseminating non-authoritative site plans to their customers for planning,  
7 infrastructure management, general information, and submission to California county and  
8 municipal building permit issuing departments purposes.

9 130. Defendants possess no evidence that any of Plaintiffs' site plan drawings have ever  
10 caused any harm to anyone.

11 131. Defendants possess no evidence that they achieve any state interest, compelling or  
12 otherwise, by forbidding anyone other than licensed surveyors from drawing non-authoritative site  
13 plans for planning, infrastructure management, general information, and similar uses.

14 132. Defendants possess no evidence that they achieve any state interest, compelling or  
15 otherwise, by forbidding anyone other than licensed surveyors from submitting site plan drawings  
16 to permitting authorities that do not want and have not asked for formal surveys.

17 133. Defendants possess no evidence that they achieve any state interest, compelling or  
18 otherwise, by punishing Plaintiffs for creating site plan drawings of properties when it does not  
19 enforce the law against countless other persons statewide, including contractors and homeowners,  
20 who also create site plan drawings without being licensed surveyors.

21 134. Application of the California Professional Land Surveyors' Act, Cal. Bus. & Prof.  
22 Code §§ 8700 *et seq.*, and in particular Cal. Bus. & Prof. Code §§ 8726(a)(1), (7), and (9), and  
23 8792(a) and (i), to Plaintiffs by Defendants, their agents and employees, acting under the color of  
24 state law, denies Plaintiffs their right to free speech, as guaranteed by the First and Fourteenth  
25 Amendments to the United States Constitution and protected by 42 U.S.C. § 1983.

26 135. Unless the California Professional Land Surveyors' Act, Cal. Bus. & Prof. Code  
27 §§ 8700 *et seq.*, and in particular Cal. Bus. & Prof. Code §§ 8726(a)(1), (7), and (9), and 8792(a)  
28 and (i), are declared unconstitutional as applied to Plaintiffs and Defendants are enjoined from

1 enforcing those sections against Plaintiffs, Plaintiffs will suffer continuing and irreparable harm to  
2 their First Amendment rights.

3 **Second § 1983 Cause of Action:**

4 **Facial Unconstitutionality; Void for Vagueness and Overbreadth**

5 **Declaratory and Injunctive Relief**

6 136. Plaintiffs incorporate and re-allege paragraphs 1 through 117.

7 137. Even if the state could criminalize Plaintiffs' drawings (which it cannot), the state's  
8 definition of "land surveying," Cal. Bus. & Prof. Code § 8726, and in particular the subparts cited  
9 by the Board in its citation to Plaintiffs, Cal. Bus. & Prof. Code § 8726(a)(1), (7), and (9), is  
10 unconstitutional on its face because it is so vague that there is no way to know that it outlaws  
11 picture-drawing and/or it is so overbroad that it criminalizes innumerable wholly-innocuous  
12 pictures.

13 138. In our constitutional order, a vague law is no law at all and unconstitutional on its  
14 face because it violates multiple constitutional guarantees.

15 139. First, a vague law violates due process by trapping the innocent by not providing  
16 fair warning to reasonable persons of ordinary intelligence that their conduct is prohibited by the  
17 law in question.

18 140. Second, a vague law violates separation of powers, due process, and equal protection  
19 guarantees, because it impermissibly delegates basic policy matters to lower-level officials for  
20 resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and  
21 discriminatory application.

22 141. Third, a vague law regulating speech operates to inhibit the exercise of the freedom  
23 of speech guaranteed by the First Amendment.

24 142. Additionally, a law regulating speech is overbroad, and therefore unconstitutional  
25 on its face, if a substantial number of its applications are unconstitutional, judged in relation to the  
26 law's plainly legitimate sweep.

27 143. Read literally, California's definition of "land surveying," Cal. Bus. & Prof. Code  
28 § 8726, and in particular the subparts cited by the Board in its citation to Plaintiffs, Cal. Bus. &

1 Prof. Code § 8726(a)(1), (7), and (9), criminalizes a vast amount of informal mapmaking and  
2 information conveying by anyone without a surveyor’s license: Anyone who draws a picture of a  
3 property by retracing the alignment or elevation for a street or home (such as by copying a GIS  
4 map), draws a picture of a building on the earth (such as by copying a GIS map), retraces property  
5 lines (such as by copying a GIS map), determines the information to be shown in a drawing of  
6 property (such as choosing what information to copy from a GIS map), or offers to do any of those  
7 things, without a state license is a criminal.

8 144. The Board has chosen not to enforce California’s definition of “land surveying”  
9 literally, as is demonstrated by the numerous local jurisdictions that instruct non-surveyors how to  
10 draw site plans depicting property lines and the location of fixed works, and the numerous local  
11 jurisdictions that instruct non-surveyors how to determine what information to put in such a site  
12 plan drawing, as well as the thousands of contractors and homeowners who regularly make such  
13 site plan drawing and submit them to local jurisdictions, and the local jurisdictions accepting such  
14 site plan drawings from non-surveyors.

15 145. The Board’s choice not to enforce California’s definition of “land surveying”  
16 literally does not save the definition from being unconstitutionally overbroad. But it does  
17 demonstrate that California’s definition of “land surveying,” if not read literally, is  
18 unconstitutionally vague.

19 146. Cal. Bus. & Prof. Code § 8726(a)(1), (7), and (9) do not provide fair warning to  
20 Plaintiffs that their use of preexisting public GIS data and other information to create and  
21 disseminate non-authoritative site plans to their customers for planning, infrastructure  
22 management, general information, and submission to California county and municipal building  
23 permit issuing departments purposes is illegal.

24 147. For example, Plaintiffs have used preexisting public GIS data and other information  
25 to create and disseminate non-authoritative site plans for many years, have had thousands of  
26 customers use their non-authoritative site plans for planning, infrastructure management, and  
27 general information purposes, and have had thousands of non-authoritative site plans submitted to  
28 California county and municipal building permit issuing departments. Until the Board’s citation of



1 Plaintiffs, no one has ever believed Plaintiffs' services were illegal.

2 148. Cal. Bus. & Prof. Code § 8726(a)(1), (7), and (9) does not adequately constrain the  
3 Board's ability to prohibit Plaintiffs' use of preexisting public GIS data and other information to  
4 create and disseminate non-authoritative site plans to their customers for planning, infrastructure  
5 management, general information, and submission to California county and municipal building  
6 permit issuing departments purposes on a subjective and ad hoc basis.

7 149. For example, Plaintiffs have used preexisting public GIS data and other information  
8 to create and disseminate non-authoritative site plans for many years, have had thousands of  
9 customers use their non-authoritative site plans for planning, infrastructure management, and  
10 general information purposes, and have had thousands of non-authoritative site plans submitted to  
11 California county and municipal building permit issuing departments. Until the Board's citation of  
12 Plaintiffs, no one has ever believed Plaintiffs' services were illegal. Indeed, California county and  
13 municipal building permit issuing departments routinely instruct non-surveyors (including  
14 contractors and homeowners with no surveyor training) how to draw non-authoritative site plans  
15 and accept non-authoritative site plans prepared by non-surveyors (including contractors and  
16 homeowners with no surveyor training), yet the Board has never threatened to prosecute those  
17 county and municipal building permit issuing departments or other non-surveyors.

18 150. Cal. Bus. & Prof. Code § 8726(a)(1), (7), and (9) operates to inhibit the exercise of  
19 Plaintiffs' First Amendment rights because, as applied to Plaintiffs, it may prohibit, and does allow  
20 the Board to claim it prohibits, the use of preexisting public GIS data and other information to  
21 create and disseminate non-authoritative site plans to their customers for planning, infrastructure  
22 management, general information, and submission to California county and municipal building  
23 permit issuing departments purposes, even though the use, creation and dissemination of such  
24 information is protected by the First Amendment.

25 151. Application of the California Professional Land Surveyors' Act, Cal. Bus. & Prof.  
26 Code §§ 8700 *et seq.*, and in particular Cal. Bus. & Prof. Code §§ 8726(a)(1), (7), and (9), and  
27 8792(a) and (i), to Plaintiffs by Defendants, their agents and employees, acting under the color of  
28 state law, denies Plaintiffs their rights to free speech, due process, and separation of powers, as

1 guaranteed by the First and Fourteenth Amendments to the United States Constitution and protected  
2 by 42 U.S.C. § 1983.

3 152. Unless the California Professional Land Surveyors' Act, Cal. Bus. & Prof. Code  
4 §§ 8700 *et seq.*, and in particular Cal. Bus. & Prof. Code §§ 8726(a)(1), (7), and (9), and 8792(a)  
5 and (i) are declared unconstitutionally overbroad and/or void for vagueness and Defendants are  
6 enjoined from enforcing those sections against Plaintiffs, Plaintiffs will suffer continuing and  
7 irreparable harm to their rights protected by First and Fourteenth Amendments.

8 **Third Cause of Action:**

9 **Substantive Due Process and Equal Protection**

10 **Declaratory and Injunctive Relief**

11 153. Plaintiffs incorporate and re-allege paragraphs 1 through 117.

12 154. The Fourteenth Amendment's Due Process and Equal Protection Clauses protect the  
13 right to earn a living in the occupation of a person's choice subject only to rational government  
14 regulation and the right to not be treated differently than similarly situated people without sufficient  
15 justification, including with regard to earning a living in the occupation of a person's choice.

16 155. Plaintiffs use preexisting public GIS data and other information to create and  
17 disseminate non-authoritative site plans to their customers for planning, infrastructure  
18 management, general information, and submission to California county and municipal building  
19 permit issuing departments purposes.

20 156. The Board claims that Plaintiffs are prohibited from using preexisting public GIS  
21 data and other information to create and disseminate non-authoritative site plans to their customers  
22 for planning, infrastructure management, general information, and submission to California county  
23 and municipal building permit issuing departments purposes because they are not licensed  
24 professional land surveyors.

25 157. Plaintiffs' occupation is so different from the occupation of professional land  
26 surveyors that the government's interest in regulating professional surveyors—ensuring accurate  
27 authoritative location survey products—is not implicated.

28 158. Forcing Plaintiffs into a regulatory framework meant to regulate professional

1 surveyors results in unjustified barriers to Plaintiffs practicing their own occupation in violation of  
2 Due Process.

3 159. Because Ryan is not a licensed civil engineer, not a licensed land surveyor-in-  
4 training, and did not graduate from any post-secondary curriculum with an emphasis in land  
5 surveying, he must obtain at least six years of additional education and experience (gained under a  
6 licensed land surveyor) and pass four exams to become a licensed professional land surveyor.

7 160. These years of education, experience, and exams are not rationally related to any  
8 legitimate government interest as applied to Plaintiffs' non-authoritative site plan drawings.

9 161. These years of education, experience, and exams are overly burdensome and  
10 unrelated to Plaintiffs' non-authoritative site plan drawings.

11 162. Requiring Ryan to obtain at least six years of additional education and experience  
12 (gained under a licensed land surveyor) and pass four exams to become a licensed professional land  
13 surveyor will require him to stop working at and running his own business.

14 163. The NCEES recognizes that the practice of surveying, which must be accomplished  
15 by or under the responsible charge of a licensed professional surveyor, should include only  
16 activities related to determining or representing "authoritative" location.

17 164. Plaintiffs do not engage in any activities related to authoritative location.

18 165. The NCEES recognizes that activities related to non-authoritative uses of location  
19 data such as references for planning, infrastructure management, and general information do not  
20 implicate the justifications for practice of surveying licensing.

21 166. Plaintiffs only engage in activities related to non-authoritative location.

22 167. Plaintiffs do not claim to be licensed professional surveyors.

23 168. Plaintiffs do not claim that their site plans are surveys, certified, or authoritative;  
24 indeed, they clearly state that their site plans are not surveys, are not certified, and are not a  
25 substitute for a survey.

26 169. California does not prohibit other non-surveyors, including contractors and  
27 homeowners with no surveyor training, from creating non-authoritative site plans for planning,  
28 infrastructure management, general information, and submission to California county and

1 municipal building permit issuing departments purposes.

2 170. Plaintiffs are similarly situated to these other non-surveyors, including contractors  
3 and homeowners with no surveyor training, who create non-authoritative site plans for planning,  
4 infrastructure management, general information, and submission to California county and  
5 municipal building permit issuing departments purposes.

6 171. There is no distinction between Plaintiffs and these other non-surveyors that is  
7 rationally related to any legitimate government interest supporting the licensing of land surveyors.

8 172. Application of the California Professional Land Surveyors' Act, Cal. Bus. & Prof.  
9 Code §§ 8700 *et seq.*, and in particular Cal. Bus. & Prof. Code §§ 8726(a)(1), (7), and (9), and  
10 8792(a) and (i), to Plaintiffs by Defendants, their agents and employees, acting under the color of  
11 state law, arbitrarily, unreasonably, and discriminatorily prohibit Plaintiffs from pursuing their  
12 chosen livelihood by forcing them to obtain a license that is irrelevant to their profession and  
13 subjecting them to criminal penalties and fines, while other persons, similarly situated to Plaintiffs,  
14 are not forced to obtain a license to engage in the same occupation or threatened by criminal  
15 penalties and fines, thus threatening Plaintiffs' ability to earn a living in the occupation of their  
16 choice and the existence, profitability, and potential growth of Plaintiffs' business.

17 173. The arbitrary, unreasonable, and discriminatory diminution of Plaintiffs' economic  
18 liberty by the imposition of these regulations deprives them of substantive due process and equal  
19 protection as guaranteed by the Fourteenth Amendment to the United States Constitution and  
20 protected by 42 U.S.C. § 1983.

21 174. Unless the California Professional Land Surveyors' Act, Cal. Bus. & Prof. Code  
22 §§ 8700 *et seq.*, and in particular Cal. Bus. & Prof. Code §§ 8726(a)(1), (7), and (9), and 8792(a)  
23 and (i) are declared unconstitutional as applied to Plaintiffs and Defendants are enjoined from  
24 enforcing those sections against Plaintiffs, Plaintiffs will suffer continuing and irreparable harm to  
25 their rights protected by First and Fourteenth Amendments.

26 **PRAYER FOR RELIEF**

27 As remedies for the constitutional violations just described, Plaintiffs respectfully request  
28 the following relief:

1 A. Entry of judgment declaring Cal. Bus. & Prof. Code §§ 8700 *et seq.*, and in  
2 particular Cal. Bus. & Prof. Code §§ 8726(a)(1), (7), and (9), and 8792(a) and (i),  
3 unconstitutional as applied to Plaintiffs' use of preexisting public GIS data and other information  
4 to create and disseminate non-authoritative site plans to their customers for planning,  
5 infrastructure management, general information, and submission to California county and  
6 municipal building permit issuing departments purposes.

7 B. Entry of a judgment declaring Cal. Bus. & Prof. Code §§ 8700 *et seq.*, and in  
8 particular Cal. Bus. & Prof. Code §§ 8726(a)(1), (7), and (9), and 8792(a) and (i),  
9 unconstitutional on its face as overbroad and/or vague.

10 C. Entry of a preliminary and a permanent injunction prohibiting Defendants from  
11 enforcing Cal. Bus. & Prof. Code §§ 8700 *et seq.*, and in particular Cal. Bus. & Prof. Code  
12 §§ 8726(a)(1), (7), and (9), and 8792(a) and (i), against Plaintiffs.

13 D. An award of attorneys' fees, costs, and expenses in this action pursuant to 42  
14 U.S.C. § 1988; and

15 E. Such further legal and equitable relief as the Court may deem just and proper.

16 Respectfully submitted this 29th day of September, 2022.

17  
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