

PROFESSIONAL WRITTEN (CADASTRAL) EXAMINATION
Thursday, November 21st, 2019
9:00 A.M. – 12:00 P.M.

TIME ALLOWED:	Three (3) hours
# OF QUESTIONS:	Eight (8)
TOTAL MARKS:	82
PASS:	65%

INSTRUCTIONS

Note: This is a closed book examination. No aids are allowed.

1. There are eight (8) questions. Please ensure that you have a complete copy of the examination, including the plan.
2. Note the number of marks for each question before compiling your answers and allocate your time accordingly.
3. Place your exam registration number at the top right-hand corner of **each page** of your answers, on the front of each booklet and on the plan. **DO NOT** write your name on or in the book(s) or the plan.
4. Your answer to each question must begin on a new page, however the questions may be answered in any order.
5. Reference each response to its question number, including subsection, if any.
6. Use only on the right hand (ruled) side of the examination book for your answers. You may use the left (unruled) side for calculations, etc., however anything written on the unruled side will not be considered during marking.
7. Do not write in pencil.
8. The examination paper must be returned to the invigilator with your answer book(s) and plan.

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Question 1

10 marks

D.W. Lambden, I. de Rijcke, and B. Ballantyne wrote:

... On inland non-tidal waters, the primary common law presumption for the interpretation of descriptions is that title extends to the middle thread. In Ontario, in the case of navigable waters, this presumption was ended by the Bed of Navigable Waters Act of 1911, What remains is a presumption that title extends to the water's edge, but it is still a rebuttable presumption. [emphasis added]

The presumption that an upland parcel extends to the water's edge has been rebutted in the courts. Making reference to relevant case law, outline the evidence and tests used in the courts to make the determination that title did not extend to the water's edge.

Question 2

10 marks

An OLS competitor has prepared a reference plan for a one hectare severance that was recently granted by the local Committee of Adjustment. The severance fronts on a concession road allowance and its westerly sideline is coincident with a township lot line. The property is in a double front township (i.e. the township lot line was not run in the original township survey). As per the requirements of the severance approval, the reference plan includes a 5.0 m wide part across the front of the severance for a road widening.

Making reference to common and statute law, outline whether or not and how the various surveyed PART lines illustrated on your competitor's plan are "true and unalterable", for the purposes of subsequent survey by your firm.

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Question 3

8 marks

You are an OLS having a telephone conversation with a member of the public. This person wants to meet with you to discuss his boundary problems. He mentions names of previous surveyors he had contacted, and alludes to the investigation these other surveyors had performed. You agree to meet with him, and the prospective client promises to bring all the maps, plans and documents he has accumulated over the past several years. You prepare for the meeting by contacting the two surveyors mentioned, so as to obtain copies of their findings. During this research, you discover that:

- a) one of the surveyors has an outstanding account, which the person refuses to pay; and;
- b) the person has filed a complaint with the Association about the other surveyor.

How would you deal with this situation?

Question 4

6 marks

Two adjoining owners construct a fence in the vicinity of their original well monumented common boundary, but deliberately cause the fence to deviate from the true line in a few places in order to avoid rock outcrops. Since they both agree and consent that the fence would be a more suitable boundary, they instruct you to survey and monument the fence line and to prepare a plan under the Boundaries Act showing the fence as the true property line.

State, giving your reasons, the advice you would give the owners on how best to establish the new boundary to coincide with the new fence.

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Question 5

10 marks

You were retained to provide a reference plan for the creation of a hydro easement.

While doing the field work, your crew cut an existing hydro cable with an iron bar. The instrument-person was rendered unconscious temporarily. The crew rushed to the nearest phone and informed you of the accident.

What are your obligations? (5 marks)

Two months later you are presented with an invoice for \$4,000.00 for emergency repairs undertaken by the Hydro Commission and an accompanying letter explaining that you are at fault since you did not request an underground locate. The letter also states that all your past invoices will be held and that you will not be awarded further contracts until the matter is paid in full and would you please deposit the plan in the registry office.

How will you handle this situation? (5 marks)

Question 6

15 marks

The Association of Ontario Land Surveyors is referred to as a "self-governing body."

Explain what is meant by self-governing. (4 marks)

What are the obligations of our self-governing body? (4 marks)

Name or briefly describe seven (7) measures that our Association has in place to ensure that the public is served and/or protected. (1 mark each – total of 7 marks)

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Question 7

8 marks

You have been asked to prepare a reference plan over a broken farm lot. The only severances from the lot have been a tier of cottage lots fronting on the lake lying at the north of the lot. A right of way over the farm lot was been granted to one of the cottagers by a metes and bounds description, registered in February of 1956. You discover from your field work that the right-of-way has never been travelled, but rather another means of access across the farm lot has always been used. Explain what you will show on your reference plan and indicate how you would advise your client to proceed. Support your answer with appropriate legislation and case law. Assume the land you are surveying has been converted to Land Titles Conversion Qualified and the thumbnail description includes a subject-to statement for the 1956 right-of-way. (5 marks)

the thumbnail description includes no mention of a right-of-way. (3 marks)

Question 8

15 marks

Client A retains your firm, for a fee of \$17,000, to prepare a commercial SRPR on a property the client is currently purchasing. The client signs and returns your proposal letter together with a retainer of \$7,000. You hire a sub-contractor to complete the field work because you are currently short of field staff. The title searching, field work and calculations are all completed, and the drafting is almost complete when the client calls and cancels the job. The purchase has fallen through. The client states that they are unable to pay any more money.

a) What are your options and probable success at securing payment? (4 marks)

Assume the \$7,000 retainer is the only payment you receive:

b) What is your responsibility and liability to the subcontractor? (2 marks)

c) What measures could have been included in the contract with Client A to protect you from taking a loss? (3 marks)

10 months later Client B approaches you for the same commercial SRPR Client A requested. Having driven by the site regularly, you don't think anything has changed on the commercial property.

d) What price do you quote Client B? Explain your rational for arriving at this amount. (4 marks)

e) Is there any issue with ownership of data if you reuse the products from the Client A survey? (2 marks)