

November 2009 Professional (Cadastral) Examination

Question 1

(10 marks)

A lawyer approaches you on behalf of a client who owns 4 apartment buildings on a Block on a Registered Plan of Subdivision. The owner wishes to convert the apartment buildings into two Condominium Corporations, each encompassing two buildings. The land is in the Registry System and the Municipality has authority for consent under the Planning Act.

- a) Write the lawyer a letter outlining the steps that are required to register these Plans of Condominium and your involvement in the project as an Ontario Land Surveyor. Assume you can separate the four buildings into groups of two without sharing services, parking, access, etc. (6 marks)

Do not sign the letter.

- b) What additional steps would have to be taken if you have to take into account that the services, parking, rights-of-way, etc., have to be shared between the two Condominium Corporations? (4 marks)

Question 2

(15 marks)

In 1962, Mr. Jones purchased a piece of property and subsequently decided to sell it all. In 1963, he sold to Mr. Smith, land described as the "west 13 acres" and in 1964, he sold to Mr. Brown, land described as the "east 13 acres." Mr. Smith has now contracted you to survey "his property." Consider and answer the following situations. State any assumptions you wish to make in each case.

- a) If the 26 acres is mature bush, how and where would you establish the line between Mr. Smith's and Mr. Brown's properties? (5 marks)
- b) Assume the 26 acres consists of 2 cultivated fields rectangular in shape separated by a fence (approximately 40 years old) traversing the lot from north to south within 40 feet of half the measured width of the 26 acres. At one point along the fence line, the fence abruptly jogs around a small man-made pond. How and where would you establish the limit between Mr. Smith's and Mr. Brown's properties? (5 marks)
- c) You are to prepare a first application to land titles for Mr. Smith. On the east boundary, it is apparent Mr. Brown has been travelling across Mr. Smith's land to avoid a gully in his field too deep for his farm vehicles to cross. How does this impact on the survey, and how would you present the information on the plan? (5 marks)

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Question 3

(10 marks)

There are two AOLS committees that deal primarily with the education of surveyors.

- a) Name them. (2 marks)
- b) Under what authority are they created and are they mandatory? (4 marks)
- c) What is the primary focus of each committee? (4 marks)

Question 4

(5 marks)

The principle of proportional division is frequently used by surveyors when re-establishing boundaries.

- a) Describe the circumstances in which this principle may be employed. (1 mark)
- b) Describe four instances when this principle is not applicable. (4 marks)

Question 5

(10 marks)

A client has asked you to survey a farm that he has recently purchased. He intends to build a golf course on the property and subdivide estate lots to adjoin the course. One of the main reasons that he chose this property was because of a large creek that splits the farm and could be used to irrigate the golf course. The original crown patent made no mention of the creek but simply transferred the whole Township lot to a predecessor in title. As part of the survey you have to determine if the creek is navigable.

- a) In *Coleman v Attorney-General for Ontario*, (1983) Justice Henry set out a number of tests to determine navigability. Describe three of the tests. (3 marks)
- b) Assuming that the creek was deemed navigable what advice would you give your client with respect to his rights to use the creek for irrigation purposes? What issues would you have considered in forming your opinion. (3 marks)
- c) Assume that your client only purchased the lands on the South side of the creek. Your client acquired the property by use of a metes and bounds description that described his Northerly boundary as being to and along the South bank of the creek running through Lot 6 Concession 4 to the Easterly limit of said lot 6. Assuming that the creek is non navigable discuss how you would determine where your clients Northerly limit should be illustrated on your reference plan. (4 marks)

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Question 6

(12 marks)

A client calls and invites you to submit a proposal to provide the survey services necessary to convert a 100 acre lot into an industrial subdivision. As your reply will form the “contract for services”, you must address all issues considered good business practice in your letter.

NOTE: Marks will be only given for business/contract issues, so be brief in describing the actual survey work. Do not do a cost estimate, just insert a dollar figure.

Do not sign the letter.

Question 7

(10 marks)

- a) You are to complete a survey of Lot 27, Registered Plan 43, the rear boundary of which coincides with the rear boundary of parts of Lots 13 and 14, Registered Plan 32. Your research indicates that your firm previously surveyed Lot 14, Registered Plan 32, and reestablished, (but did not monument), the rear Lot corners at Registered Plan distance from the reestablished front corners of Lot 14.

The field notes indicate a careful retracement of the street line across the front of Lot 14 and reestablishment of the front corners of the Lot on good evidence, then setting 90° , (Registered Plan angle), from the street line.

You now find a little more than two feet extra depth for Lot 27, Registered Plan 43, as compared to Registered Plan 43 dimensions to the rear line set by the prior survey. There is no other evidence to consider.

Provide a summary of your opinion of the method and approach for the previous rear boundary location, and outline with support, the principles you rely upon for accepting or rejecting the previously reestablished rear boundary, while providing your solution. (5 marks)

- b) You are to complete a survey of Lot 30, Registered Plan 50, the westerly sideline of which coincides with the rear boundary across Lots 26, 27, 28, and 29 of the same subdivision. Your research indicates that your firm previously surveyed Lot 27 and reestablished, (but did not monument), the rear Lot corners at Registered Plan distance from the reestablished front corners of Lot 27. Also, another firm previously surveyed Lot 28 and established, (but did not monument), the rear Lot corners by proportioning between the retraced street line across the front of Lot 28 and the retraced street line at the easterly end of the block.

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The field notes for the Lot 27 survey indicate a careful retracement of the street line across the front of Lot 27 and reestablishment of the front corners of the Lot on good evidence, then setting 90° , (Registered Plan angle), from the street line. The field notes for the Lot 28 survey indicate a careful retracement of the street line across the easterly end of the block, and agreement with the Lot 27 survey for retracement of the street line across the front of those Lots. However, the proportioned depth for Lot 28 is 0.4 ft. less than the Registered Plan dimension. There is no other evidence to consider along the westerly boundary of Lot 30; however, there is a well established and settled old fence comprising the easterly limit of Lot 30 which does not fit Registered Plan dimension from either end of the block, and does not fit the proportion across the block.

Provide a summary of your opinion of the method and approach for the previous common boundary locations, and outline, with support, the principles you rely upon for accepting or rejecting the previously reestablished westerly boundaries of Lot 30, while providing your solution. (5 marks)

Question 8

(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?

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Question 9

(15 marks)

Several years ago you (an OLS) conducted a survey of a large industrial property finding or setting all of the bars and preparing and signing a Plan of Survey showing the improvements on the property.

Now five years later your original client calls to say he has agreed to sell the property and he must provide an up to date survey. The client advises the buildings and fences are unchanged and the adjacent lands are still vacant. The client also states that since he has a fixed price for the land he wishes to minimize his expenses and if your price is too high he will call for competitive bids.

- a) Explain what work you would perform and why. (5 marks)
- b) How would you address your client's statement regarding your fee? (4 marks)
- c) List in order of preference, with a brief explanation, six (6) best ways to ensure you will be paid for the survey. (6 marks)

Question 10

(5 marks)

You have just completed a SRPR on a parcel of land, where the ownership was recorded under the Polaris system as Land Titles Qualified (LTCQ) in 1990. The subject lands, and many of the abutting parcels, were created in the 1940's and 1950's, utilizing metes and bounds descriptions. Many of these original descriptions were prepared by conveyancers and were not based on actual survey. The Property Index Map shows all the parcels in the area of your survey as being aligned with Township Fabric. You re-established the parcel limits by careful reading of the original severing documents, compared these to physical evidence (old pipes, fencing, eave lines, etc) found during the field survey, and were able to reconcile the evidence found with the linear distances called for in the various documents (given the accuracy that these parcels were likely originally laid out). However, the orientation of the sidelines is significantly different from that shown on the PIN maps, and what is called for in the underlying deeds. The solicitor has called to tell you that you can't rely on adverse possession to survey now that Land Titles is in effect. Write a reply, utilizing relevant statute and case law.

Do not sign this letter.