

## May 2015 Professional (Cadastral) Examination

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### Question 1

(10 marks)

By the results of your investigation of the northerly and southerly boundaries of a parcel of land that lies west of a Concession Road Allowance and east of a lake, you concluded that the occupation represented the boundaries of Inst. 123456, as originally established and settled, rather than the description dimensions. You prepared a DRAFT version of your reference plan, with PART 1 representing the whole of Inst. 123456, to provide a new description for the parcel. You forwarded it to your client, the owner's solicitor, together with a brief report, for review and comment prior to deposit.

In pencil on the DRAFT, print you indicated the location of the subject and abutting parcel boundaries in accordance with the description to illustrate the "theoretical locations" of the boundaries for the solicitor's information, as follows:

- the 'description' southerly boundary would be situate twelve feet northerly of, and not parallel to, the settled old post and wire fence that the abutting owners have accepted, and you have recognized as the boundary.
  
- the 'description' northerly boundary would be situate thirty five feet northerly of, and not parallel to, the remains of the old post and wire fence that the abutting owners have accepted, and you have recognized as the boundary.

The solicitor returns the print, stating that he wishes you to prepare the plan showing 3 PARTs, one for each of the overlapped and overlapping properties to enable him to contact the abutting owners to prepare and register quit claim documents so that the owner of Inst. 123456 ends up with the lands as occupied.

Making reference to costs, time, relevant boundary principles, and your liability:

- a) Outline, in point form the arguments for proceeding in accordance with the lawyer's instructions, (4 marks)
  
- b) Outline, in point form the arguments against proceeding in accordance with the lawyer's instructions, (4 marks)
  
- c) Indicate how you would proceed, and why. (2 marks)

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### Question 2

(10 marks)

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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]

Making reference to relevant case law, outline how the presumption that an upland parcel extends to the water's edge may be rebutted, and what research must be completed to determine if the presumption is rebutted.

### Question 3

(5 marks)

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The title search for an Application for Absolute Title to Land Titles, finds the following:

- 1953: A pipeline company conducting route selection acquires an easement over an entire 100-acre farm as in Instrument 12345.
- 1955: After construction is completed a new easement document Instrument 12789 is prepared describing the route along a specific corridor.
- In 1992: A notice of claim is deposited by the pipeline company referring to Instrument 12789.
- 1997: A neighbour, Mr. Brown, filed a statutory declaration attesting to "long and uninterrupted use of the pond to water cattle."
- November 1998: Real Roofing deposits a notice of lien for unpaid services.

You have been retained to prepare the First Application plan of the 100-acre farm and the pipeline still exists.

Explain how you would determine what rights exist, how you would handle them, and what you would show on your plan.

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### Question 4

(15 marks)

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The attached Surveyor's Real Property Report contains many errors and omissions.

- a) Check the plan and identify the errors or omissions in red pen on the plan. (10 marks)
- b) Prepare the Part 2 report for this plan. (5 marks)

**Note: Do not write your name on the plan and do not sign your name to the report.**

### Question 5

(10 marks)

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List in logical order, ten (10) key elements you would address in a contract for services letter.

### Question 6

(9 marks)

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As the sole proprietor of a land survey business, you have in your employ an Ontario Land Surveyor who is not a part owner of the firm. It is found that this employee has been negligent in the performance of his professional duties in that he has not followed proper techniques and not searched for and based his survey on available evidence. As a result, the information provided to the client is found to be erroneous and you agree that due care was not taken.

You are taken to court in this matter and also brought before the Discipline Committee of the Association.

Outline the legal responsibilities of the employee and employer in both the court action and the disciplinary proceedings.

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### Question 7

(8 marks)

Mr. Smith phones for a verbal quotation for a Surveyor's Real Property Report that would facilitate his receiving a loan from a financial institution.

You search your records and give a quote of \$1800.00 for such a survey.

Mr. Smith then tells you that his mortgage broker will also accept Title Insurance and that this would only cost \$250.00.

What is your reply?

### Question 8

(10 marks)

You are preparing a reference plan for a client on a fairly large property that has been converted to LTQ. The PIN abstract does not indicate the existence of any easements, however the field survey discloses the existence of a sanitary sewer and telephone cables. The title search indicates that there was an easement for both registered in 1940 and no subsequent record of a notice of claim. The parcel has changed hands 5 times in the last 10 years and the deed description states that it is subject to an easement in favor of Bell Canada.

- a) What is the status of the telephone easement? (2)
- b) What is the status of the sewer easement? (2)
- c) What would you show on the plan? (2)
- d) What would you recommend to your client to remedy the situation? (4)

### Question 9

(11 marks)

While in the process of completing a roadside survey, a Party Chief is struck by an automobile. He sustains serious, but not life threatening injuries. You are the employing O.L.S. of the Party Chief.

- a) Immediately upon learning of the accident and over the next few days who should you ensure is contacted and informed of the incident? (3 Marks)
- b) What are your general legal duties and obligations to protect workers against health and safety hazards? (4 Marks)
- c) What safety features or policy could have been implemented to help avoid such an accident? (4 Marks)

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### Question 10

(12 marks)

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a) You are approached by a landowner whose land was recently included in the automation of a local Land Registry Office. The land was formerly registered under the Registry Act, but has now been converted to LTCQ. The land is an entire lot on an old Registered Plan of Subdivision, and the landowner believes he has a potential claim for adverse possession. The neighbour who would be adversely affected is willing to sign any documents required to resolve this issue.

Explain the procedure for receiving 'official' recognition of the existing situation, and being entered as the proper owner, with LT Absolute Plus Title. (6 marks)

b) You are approached by a landowner who owns a large rural property that was initially registered under the Registry Act. Following automation, it was not converted to Land Titles but remains now as a Registry Act non-convert. Your client wishes to have the land entered as LT Qualified.

Explain the requirements for this conversion process. (6 marks)