

MANUAL OF PROCEDURES  
FOR THE  
FEES MEDIATION COMMITTEE  
OF THE  
ASSOCIATION OF ONTARIO LAND SURVEYORS

Version 1.3  
Updated to February 6, 2015

Approved by Fees Mediation Committee:

Wally Kowalenko  
Presiding Officer

Date: February 6, 2015

Approved by Council:

Travis Hartwick  
President

Date: November 25, 2015

## TABLE of CONTENTS

1.0	Introduction	Page 3
2.0	Definitions	Page 4

### PART 1 – THE FEES MEDIATION COMMITTEE

3.0	Statutory Committee	Page 5
4.0	Terms of Reference	Page 5
4.1	Aims	Page 5
4.2	Objectives	Page 5
4.3	Responsibilities	Page 5
4.4	Registrar's Role	Page 6
4.5	Committee Structure	Page 7
4.6	Conflict of Interest and Confidentiality	Page 7
4.7	Committee Member Training	Page 7
4.8	Meetings and Quorum	Page 8
5.0	Committee Documentation	Page 8

### PART 2 – ADMINISTRATIVE PROCEDURES

6.0	Fees Mediation Processing	Page 9
7.0	Committee Meetings	Page 10
8.0	Mediation	Page 10
9.0	Arbitration	Page 11
10.0	Identifying a Conflict of Interest	Page 11
11.0	Manual Publication	Page 12

### Appendices

Appendix A	Conflict of Interest & Confidentiality Declaration	Page 13
Appendix B	Fees Mediation Help Form	Page 14
Appendix C	Consent to Arbitration Form	Page 17
Appendix D	Acknowledgement Letter to Complainant	Page 18
Appendix E	Letter Sending Complaint to Surveyor	Page 19
Appendix F	Decision Format	Page 20
Appendix G	Sample Letter Sending Decision to Complainant	Page 22
Appendix H	Sample Letter Sending Decision to Surveyor	Page 23
Appendix I	Sections 9, 23 and 29 of the <i>Surveyors Act</i>	Page 24
Appendix J	Sections 15, 16 Regulation 1026 of the <i>Surveyors Act</i>	Page 25
Appendix K	Code of Ethics Reg. 1026 Sections 33, 34, 35	Page 26

## 1.0 Introduction

- 1.1 The Fees Mediation Committee receives its Legislative Authority from the *Surveyors Act*, R.S.O. 1990, c. s.29, as amended 2009, c. 33, Sched. 22, s.11. (hereinafter referred to as the "Act").
- 1.2 This Manual is to be used as a guideline for the Fees Mediation Committee in order to ensure consistency, openness, and fairness in the treatment of a complaint regarding fees charged.
- 1.3 The Manual is composed of 2 Parts.

**PART 1** relates to the Fees Mediation Committee, its functions and operations, and

**PART 2** relates to the administrative procedures to be followed in the processing of a complaint.

- 1.4 This Manual is to be treated as a document that is continuously under review (audit) and subject to change and revision. At least once a year the Manual should be reviewed by members of the Fees Mediation Committee, amended as required and subsequently reapproved by Council.
- 1.5 Once every 5 years an audit is to be performed of the Manual and the operations of the Fees Mediation Committee by the Registrar or other person appointed by Council.
- 1.6 Members of the Fees Mediation Committee who have edited and approved this manual:

W. Kowalenko, Presiding Officer, O.L.S., O.L.I.P. (Ret.)

K. Gowanlock, member of the AOLS Council appointed by the Lieutenant Governor in Council

J. Merriles, O.L.S., O.L.I.P.

B. Larocque, O.L.S., O.L.I.P.

## 2.0 Definitions

- 2.1 "Act" refers to the *Surveyors Act*, R.S.O. 1990, Ch. S29
- 2.2 "Regulation" refers to Regulation 1026, R.R.O. 1990
- 2.3 "Association" or "AOLS" refers to the Association of Ontario Land Surveyors.
- 2.4 "Client" refers to a person or company who engages an Ontario Land Surveyor for professional advice or services.
- 2.5 "Client Representative" refers to a person who acts on behalf of the client or company, with the client's or company's written permission, to help the client interpret, relate to and/or understand the issues discussed. (example: Client Representative helps overcome a language barrier).
- 2.6 "Committee Member" refers to a member of the Fees Mediation Committee
- 2.7 "Council" refers to the Council of the Association.
- 2.8 "Fees Mediation Committee" or "Committee" refers to the Fees Mediation Committee of the Association.
- 2.9 "LGA" refers to a Lieutenant Governor's Appointee (lay member) of AOLS Council.
- 2.10 "Mediation Agreement" refers to the resolution of a fee dispute between a surveyor and client which is negotiated through mediation.
- 2.11 "Member" refers to a member of the Association.
- 2.12 "Parties" refers to the parties to a complaint.

# PART 1

## THE FEES MEDIATION COMMITTEE

### 3.0 Statutory Committee

The Fees Mediation Committee is a Statutory Committee constituted in accordance with Section 9(1)(f) and 23 of the *Surveyors Act*. Its composition, duties and authority are explained in Section 29 of the Act and in Sections 15 and 16 of Regulation 1026 of the Act. The obligations of the AOLS members on the Fees Mediation Committee from which additional authority can be derived are set out in the Code of Ethics, Sections 33, 34 and 35 of Regulation 1026. The provisions of the Act and regulation recited in this paragraph are set out in Appendices I, J and K, respectively.

### 4.0 Terms of Reference

#### 4.1 Aims

To ensure fair, open and complete fulfillment of Section 29 of the Act and Regulation 1026.

#### 4.2 Objectives

- 4.2.1 The Committee will consider and investigate in a timely manner all fees complaints that are presented in a form consistent with the Act and Regulation.
- 4.2.2 The Committee will maintain complete and accurate records of each complaint file during the course of its deliberations and send final copies of its reports, agreements, decisions and other documents to the Registrar, and when necessary to Council.
- 4.2.3 The Committee will ensure that confidentiality is maintained of files and all associated committee materials used during and after its deliberations.
- 4.2.4 The Committee will ensure that all new committee members are provided training and sufficient materials, including this manual, to assist the member in serving on the committee.
- 4.2.5 The Committee will inform and educate all parties to a complaint of the surveyor's roles and responsibilities.
- 4.2.6 The Committee will explain to all parties to a complaint the aims, objectives and powers of the committee and the reasons for each decision.

#### 4.3 Responsibilities

- 4.3.1 The duties of the Fees Mediation Committee are derived from Section 29 of the Act and Sections 15, 16 and 34. (h) of the Regulation.

4.3.2 The Committee may refuse to consider or investigate a complaint if in the opinion of the committee the complaint is frivolous, vexatious or an abuse of process.

4.3.3 If the Fees Mediation Committee refuses to consider or investigate a complaint the Committee shall give written notice of its decision and of the reasons for it to the complainant and the member who is the subject of the complaint.

#### **4.4 Registrar's Role**

4.4.1 The Registrar of the Association shall administer the operation of the Fees Mediation Committee but shall not be a member of the Committee.

4.4.2 When a complaint is filed, the Registrar shall give written notice of the complaint to the member and advise the member and the complainant that the committee can mediate or, with the written consent of all parties, arbitrate the dispute.

4.4.3 If the parties consent to arbitration, the Registrar will advise them that they must submit a brief written statement of the dispute, signed by all parties, to the Registrar within ten days of filing the consent. The Registrar may extend the time limit for filing a statement as appropriate.

4.4.3 The Registrar will prepare a paper file for each complaint and ensure that a copy of all documentation relating to the complaint is kept in the file and that an electronic file containing a copy of all documents is maintained in a secure location of the internal computer system of the Association, and is also posted in the secure and confidential Fees Mediation Committee section of the AOLS website.

4.4.4 The Registrar will ensure that a copy of each signed Arbitration Decision or Mediation Agreement is mailed to both parties to the complaint.

4.4.5 If the Registrar declares a conflict with a particular file or other matter under consideration by the Committee, the Deputy Registrar will act in the capacity of the Registrar for said file or matter.

## **4.5 Committee Structure**

4.5.1 The Fees Mediation Committee members will be appointed each year by Council. This will normally occur at the first Council meeting following the Annual General Meeting. The Committee members will be notified of their appointments.

4.5.2 As per Section 15(1) of the Regulation, the Fees Mediation Committee shall be composed of:

- (a) Three or more members of the Association to be appointed by the Council; and
- (b) One LGA, to be appointed by the Council

Section 29(1) of the Act states that no person who is a member of the Complaints Committee or the Discipline Committee shall be a member of the Fees Mediation Committee.

4.5.2.1. An alternate Fees Mediation Committee members list composed of 3 or more members of the Association and 1 LGA shall be maintained by the Registrar.

### **4.5.3 Quorum**

For the purpose of transacting business, a quorum of the Fees Mediation Committee consists of three members of the Committee, one of whom is a person who was appointed to the Council by the Lieutenant Governor in Council.

4.5.4 If a member of the Committee becomes unable to act after the Committee commences a hearing, its remaining members may complete the hearing in the member's absence, if they constitute a quorum. If the remaining members do not constitute a quorum, one or more members may be selected from the alternate members list to allow the dispute to continue to its conclusion.

4.5.5 The term of office for the Fees Mediation Committee is not specified in the Act, however it is preferable that members serve for a period of not more than 10 years. It is also preferred that the Committee consist of members from diverse areas and occupations within the province.

## **4.6 Conflict of Interest and Confidentiality**

4.6.1 The Registrar shall ensure that all Committee Members sign a Conflict of Interest and Confidentiality Statement within 30 days of appointment to the Committee. This shall be in the Form attached as Appendix A and kept on file at the office of the Association.

4.6.2 Fees Mediation files are confidential and the contents are not to be acknowledged or discussed other than among committee members or by AOLS staff as required for administrative purposes.

## **4.7 Member Training**

- 4.7.1 All new Committee Members will receive a copy of the terms of reference and the Procedural Manual of the Committee. Committee members are also obligated to attend the next available Administrative Law seminar hosted through the Association. Existing members are also encouraged to attend these seminars to maintain currency with existing legislation and case law.

## **4.8 Meetings & Quorum**

- 4.8.1 Meetings of the Fees Mediation Committee will be held at the discretion of the Chair.
- 4.8.2 The Registrar will circulate a draft agenda to Committee Members at least one week before the scheduled date of a meeting of the Fees Mediation Committee.
- 4.8.3 Minutes will be kept for all meetings of the Fees Mediation Committee and will be distributed to Committee Members within one week of the meeting.
- 4.8.4 Official meetings of the Fees Mediation Committee may be held by teleconference, Internet Meeting software or face to face, as determined by the Chair.
- 4.8.5 Meetings of the Fees Mediation Committee require a quorum of three Committee Members, at least one of whom must be a LGA.

## **5.0 Committee Documentation**

- 5.0.1 The Registrar is to have overall administrative responsibility for all files, agendas and minutes of the Fees Mediation Committee.
- 5.0.2 Fees Mediation files will include all correspondence and materials received from and sent to the parties to the complaint, as well as copies of any decisions, letters or other documentation issued by the Committee in relation to the complaint.
- 5.0.3 Copies of Committee meeting agendas and minutes will be kept by the Registrar and electronic copies will be kept in a secure location on the Association's internal computer system and will also be posted on the secure and confidential Fees Mediation Committee page of the Association website.

## PART 2

### ADMINISTRATIVE PROCEDURES

#### 6.0 Fees Mediation Processing

##### 6.1 Filing a Complaint

The Act requires that a complaint must be filed in writing. A "Fees Mediation Help Form" (Appendix B) is available on the AOLS website. A hard copy will be sent to complainants upon request. This form is not mandatory but provides guidance to complainants to ensure that all necessary information is submitted.

##### 6.2 Initial Processing

The initial processing of a Fees Mediation file will proceed as follows:

- The Registrar will mail an acknowledgement letter to the complainant (Appendix D), explaining the committee's ability to either mediate or arbitrate the complaint and inviting the complainant to select one of these options. This letter will include a copy of the Consent to Arbitration form (Appendix C)
- The Registrar will mail a notification letter (Appendix E) including a photocopy of the Consent to Arbitration form (Appendix C) to the O.L.S. Email or Fax may be used in addition to regular mail to improve the timelines of information exchange.
- Paper copies of the complaint submission and the signed letters are placed in a secure physical file in the Registrar's office and electronic copies are posted in the confidential Fees Mediation section of the AOLS website and stored in a secure folder on the Association's internal computer system.
- The responses from both parties are placed in the physical file and an electronic copy is posted and stored as above.
- Any additional correspondence is also filed, posted and saved.
- The Registrar will forward all correspondence to the Chair of the Fees Mediation Committee who will set a date for the next Committee meeting.

##### 6.3 Confidential Information

In some cases one or both of the parties may request that information be kept confidential. The Committee shall consider such requests and may grant them at its discretion.

## **7.0 Committee Meetings**

Committee members will familiarize themselves with the current file(s) as materials are posted and will be prepared to discuss each active file during the meeting.

The Committee will review each file and will decide whether additional information or investigation is required.

The Committee may direct the Registrar to request additional information from either party. The Committee Chair may assign a committee member to prepare a draft decision based on the deliberations at the meeting.

The draft decision will be circulated to all Committee members for their comments and the final version will be presented for approval at the next committee meeting or if appropriate through email or other electronic means.

## **8.0 Mediation**

A person-to-person meeting involving the parties and the mediator is highly desirable, albeit not strictly necessary. If distances are prohibitive, conference calls, Skype, etc. may be used. Before holding a meeting or conference call, the committee should solicit all relevant documentation and a written summary of each party's position.

Throughout the process, the mediator must take care not to side with any one party. Impartiality is crucial to the mediator's effectiveness. It is important not only to be impartial, but also to appear impartial.

The committee members or mediator sits down at the negotiation table with both parties (and often their counsel) and assists the parties to negotiate more effectively. The mediator establishes the order of discussions, helps the parties identify common ground, helps them to get rid of irrelevancies or unproductive discussion, defuses anger or hostility, keeps the parties focused on the issues, moves the parties from fixed positions, helps the parties to develop creative solutions, helps the parties do "reality testing" and encourages compromise.

At the conclusion of the process, a report by the committee would be highly desirable. The report should set out the matters on which an agreement was reached and provide the particulars of the agreement. The report should also set out the matters still in dispute. Although there is no hard-and-fast rule against a mediator making a recommendation or expressing an opinion on the disputed matters, to do so incurs the risk of appearing partial.

## 9.0 Arbitration

The Registrar will advise both parties of the date of the meeting and the time they may attend to speak to their submission or answer questions of the committee on the same.

- 1 The committee will meet and review documentation provided, and:
  - Prepare a list of questions, if appropriate, for parties.
  - Determine whether an estimate or firm price was quoted by the surveyor.
  - Determine if there was confirmation of the price, by the surveyor? Was this accepted by the client?
  - Determine if the price was increased with concurrence of client? Again how?
  - If no estimate was given, the committee will deal with what is a reasonable cost for the survey.
- 2 If either party attends the meeting, a brief statement is made by the chair on the purpose of the Committee to the party or parties. The parties are then allowed to make presentations to the Committee and answer questions.
- 3 After the parties leave, the committee will review the case, summarize the facts that the committee has accepted and make the decision.
- 4 The Decision, with reasons, is prepared and sent to the Chair for signature.
- 5 The Registrar mails the written Decision to both parties and, if necessary will file the Decision with the Superior Court of Justice.

## 9.1 Withdrawal of a Complaint

Where the complainant and the O.L.S. agree independently of the Fees Mediation Committee to withdraw a complaint, the Fees Mediation Committee may continue the investigation if the matter concerns issues of public protection.

## 10.0 Identifying a Conflict of Interest

- 10.0.1 It is up to each Committee member to determine, in good faith, whether they have a real or perceived conflict of interest and to disclose forthwith that such a perceived or real conflict of interest exists.

10.0.2 Any Committee member must exclude him or herself from the appropriate part of a meeting if they have any direct business interests or dealings with any party to a complaint. This does not include carrying on business as a surveyor in the same general geographic area as the member who is the subject of the complaint.

10.0.3 The minutes of each Fees Mediation Committee meeting will record any conflicts of interest declared, including the name of the committee member(s) and the subject file(s).

## **11.0 Manual Publication**

The Fees Mediation Committee will arrange for this Manual to be available on the web site of the Association in the public viewing area in order that both members and the public can readily determine the process involved in ensuring that Fees Mediation are dealt with in an appropriate manner.

## Conflict of Interest & Confidentiality Declaration

I \_\_\_\_\_ hereby accept appointment to the Fees Mediation Committee of the Association of Ontario Land Surveyors. I understand that I am governed by Section 36 of the *Surveyors Act* and I confirm that I will treat as confidential, except as allowed by Section 36 or as may be required by law or by professional standards, all information and material that I receive as a participant on this Committee.

I further confirm that to my knowledge I have no personal or business conflict of interest with any matters currently being dealt with by the Committee. Should such a conflict of interest arise during Committee deliberations, I will so declare and remove myself from the Committee discussion and decision on those matters.

I further undertake to perform my duties, within the Terms of Reference of the Committee, and with independence and objectivity.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
(Member's Signature)

\_\_\_\_\_  
(Witness' Signature)

\_\_\_\_\_  
(Member's Name)

\_\_\_\_\_  
(Witness' Name)

# Fees Mediation Help Form

A complaint relating only to fees charged by a member should be directed to the Registrar, who will refer it to the Association's Fees Mediation Committee.

## Information about you:

Your full name: \_\_\_\_\_

Your full address: Street No. \_\_\_\_\_ Street Name: \_\_\_\_\_

Apt. No. \_\_\_\_\_ City: \_\_\_\_\_

Province: \_\_\_\_\_ Postal Code: \_\_\_\_\_

Home Telephone: ( ) \_\_\_\_\_

Work Telephone: ( ) \_\_\_\_\_

Fax Number: ( ) \_\_\_\_\_

E-mail: \_\_\_\_\_

May we contact you at work? Yes  No

May we contact you at the e-mail address above? Yes  No

## Information about the Surveyor:

*Please be aware that the Surveyor about whom you are complaining will be sent a copy of your complaint. Your complaint and the Surveyor's response will be considered by the committee. The committee may request additional information from either party, as they deem appropriate.*

Surveyor's (or company's) Name: \_\_\_\_\_

Surveyor's Address: Street No. \_\_\_\_\_ Street name: \_\_\_\_\_

Suite No. \_\_\_\_\_ City: \_\_\_\_\_

Postal Code: \_\_\_\_\_

*Your replies to the following will help the Committee to better understand the nature of your complaint:*

1 Were you the client of this Surveyor? Yes  No

If not, what is your relationship to this complaint? \_\_\_\_\_

\_\_\_\_\_

2 If applicable, describe your understanding of the surveying services to be provided. For example, a Surveyor's Real Property Report required for a sale or purchase, property boundaries to be established and marked out, topographic survey, site plan, etc.

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3 If applicable, please provide details of any cost estimate or quotation. Include a copy of any written estimate, quotation or confirmation of work ordered. If verbal only, please describe your understanding of the fee arrangements.

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4 Did the scope or nature of the work change after the job was started? Please provide copies of any change orders, etc. or describe new arrangements.

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5 Please describe or outline the nature of the complaint in your own words. (Use a separate sheet of paper if required, and attach to this form. Include copies of any supporting information)

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6 Have you tried to discuss your complaint with the surveyor? Yes No  
If yes, what was the result? \_\_\_\_\_

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7 What would you consider to be an appropriate resolution of your complaint?

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**ASSOCIATION OF ONTARIO LAND SURVEYORS**

**FEEES MEDIATION COMMITTEE**

**CONSENT TO ARBITRATION**

IN THE MATTER OF the dispute over a fee charged for services in the Practice of Professional Land Surveying provided to: (Name of client)

by: (Name of Surveyor or Firm)

for a survey in: (Describe location of survey)

I hereby consent to Binding Arbitration by the Fees Mediation Committee of the Association of Ontario Land Surveyors according to subsection 29(3) of the Surveyors Act, C.S.29, R.S.O. 1990.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

Name in print: \_\_\_\_\_

Statement of dispute:

Sample Acknowledgement Letter to Complainant

June 15, 2015

Private and Confidential

Mr. & Mrs. Complainant  
P.O. Box 666  
Urbanite, Ontario  
P0M 1N0

Re: **Bob Plumb, OLS, OLIP**  
**Fees Mediation Committee File # FM-15-01**

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Dear Mr. & Mrs. Complainant:

This will formally confirm receipt of your (fax/email/letter) dated June 14, 2015, in which you file a complaint regarding the fees charged by Mr. Bob Plumb, OLS of Excellent Surveys Limited for the surveying services provided for (Describe location of survey).

We ask that you complete and submit the enclosed Fees Mediation Help Form, which will ensure that we receive all of the information required to process your complaint.

The *Surveyors Act* states that the Fees Mediation Committee of the Association shall mediate a written complaint in respect of a fee charged for services in the practice of professional surveying or, with the written consent of all parties, may arbitrate the dispute. In the case of arbitration the decision of the committee is binding on all parties.

Should you be willing to accept arbitration you must complete and submit the enclosed Consent to Arbitration form. If the surveyor agrees to arbitration the Act requires that a brief written statement of the dispute, signed by all parties shall be filed with the Registrar within 10 days of the filing of the consent. Should the surveyor not agree to arbitration the committee will attempt to mediate the complaint.

Once a reply has been received from Mr. Plumb-as well as any other information that the Fees Mediation Committee may require-your complaint will be forwarded to the Committee for consideration.

We will be in further contact after the Committee has reviewed the material.

Yours truly,

W. D. Buck, O.L.S., C.L.S., P. Eng.,  
Registrar

Enclosures

**Sample Letter Sending Complaint to Surveyor**

June 15, 2015

Private and Confidential  
Bob Plumb, OLS, OLIP  
Excellent Surveys Ltd.  
414 Avenue Boulevard  
Coboconk, Ontario  
H0H 0H0

Re: Mr. and Mrs. Complainant  
Fees Mediation Committee File # C-15-01

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Dear Mr. Plumb:

Please find enclosed a copy of a complaint sent by Mr. and Mrs. Complainant and received by us on June 14, 2015.

Section 29 of the Surveyors Act requires the Fees Mediation Committee to mediate, or with the written consent of all parties, arbitrate any fees complaint submitted in writing to the Registrar. In the case of arbitration the decision of the committee is binding on all parties.

Please submit your response, including all supporting information to the attention of the Registrar no later than June 30, 2014. Should you be willing to accept arbitration you must also complete and submit the enclosed Consent to Arbitration form. If the complainant agrees to arbitration the Act requires that a brief written statement of the dispute, signed by all parties shall be filed with the Registrar within 10 days of the filing of the consent. Should the complainant not agree to arbitration the committee will attempt to mediate the complaint.

Once replies and consents, if any, have been received from all parties, as well as any other information that the Fees Mediation Committee may require, the complaint will be forwarded to the Committee for consideration.

We will be in further contact after the Committee has reviewed the material.

Yours truly,

W. D. Buck, O.L.S., C.L.S., P. Eng.  
Registrar

enclosures

Sample Decision Format

IN THE MATTER OF the *Surveyors Act*  
R.S.O. 1990, c. S.29

AND IN THE MATTER OF the written complaint  
of I. B. Complainant (complainant)  
against J. Surveyor, O.L.S.(surveyor complained against)

**FEES MEDIATION COMMITTEE**

Surveyor X, O.L.S., Chair  
Surveyor Y, OLS, Liaison Councillor  
Surveyor A, OLS  
Surveyor B, OLS  
Person E, Lay Councillor

Re: Fees Mediation Committee File No. FM-YY-##

**DECISION OF THE COMMITTEE**

**1. Complaint**

In a letter (or Fees Mediation Help Form, etc. as appropriate) dated June 15, 2015, Mr. Complainant alleges that (summarize the complaint)

**2. Investigation**

The Fees Mediation Committee, in its consideration of the matter, reviewed the following material:  
(List all materials considered by the Committee)

- i)
- ii)

**3. Issues** (Describe the issues considered by the Committee)

Did J. Surveyor, O.L.S. conduct .....

## Sample Decision Format

## 4. Decision

The Committee directs, pursuant to Section 29(3) of the *Surveyors Act* that the contract for services is limited to \$300.00 plus disbursements, plus H.S.T. beyond the total invoiced as of November 13, 20\_\_.

The Committee further rules that J. Surveyor, upon receipt of payment in the amount of \$452.00 (see below) will proceed without delay to finalize and deposit the Reference Plan. Mr. Surveyor will provide to Mr. Complainant six copies of the deposited plan.

Invoice #2477 of J. Surveyor Surveying Ltd. dated June 21, 2015 is revised as follows and represents the final invoice for the preparation and deposit of the Reference Plan.

- Undisputed Additional Costs	\$1,000.00
- Disbursements (Deposit Fees, Submission Sticker etc.)	<u>100.00</u>
	1,1000
H.S.T.	<u>143.00</u>
Total	\$1,243.00
	=====

## 5. Reasons (Provide detailed reasons for a decision)

A contract for professional survey services was established and the invoices submitted by Mr. Surveyor appear to be a fair and accurate representation of the work performed, however there was disputed evidence received regarding the total consideration for the services provided.

The Committee reviewed evidence that after receiving an interim invoice dated November 13, 20\_\_, Mr. Complainant contacted Mr. Surveyor concerning "how much more would be billed". The Committee is satisfied that there was an understanding that if the additional costs were to exceed \$300.00 Mr. Surveyor would advise Mr. Complainant. The Committee received no submissions that Mr. Surveyor so informed Mr. Complainant.

Dated the    th day of    , 200

\_\_\_\_\_  
Surveyor X, O.L.S.  
Chair of the Fees Mediation Committee

Sample Letter Sending Decision to Complainant

February 6, 20

Private and Confidential

Mr. J. Q. Public  
6868 Sierra Morena Blvd.  
Toronto, ON  
H0H 3R6

Re: J. B. Good, OLS, OLIP  
Fees Mediation Committee File FM-14-\_\_

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Dear Mr. Public:

Enclosed is a copy of the Decision of the Fees Mediation Committee relative to this matter. The Decision was rendered at the Committee's January 25, 20\_\_ meeting.

In accordance with Section 29.(3) of the *Surveyors Act*, this decision is binding on all parties to this dispute and may be enforced in the same manner as a decision by the Superior Court of Justice.

Yours truly,

W. D. Buck, O.L.S., C.L.S., P. Eng.  
Registrar

Enclosure

Sample Letter Sending Decision to Surveyor

February 6, 20

Private and Confidential

Mr. J. B. Good  
29 Curvelinear Blvd.  
Toronto, ON  
H0H 3R6

Re: J. Q. Public Complaint  
Fees Mediation Committee File # FM-14-\_\_

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Dear Mr. Good:

Enclosed is a copy of the Decision of the Fees Mediation Committee relative to this matter. The Decision was rendered at the Committee's January 25, 20\_\_ meeting.

In accordance with Section 29.(3) of the *Surveyors Act*, this decision is binding on all parties to this dispute and may be enforced in the same manner as a decision by the Superior Court of Justice.

Yours truly,

W. D. Buck, O.L.S., C.L.S., P. Eng.  
Registrar

Enclosure

Surveyors Act  
Sections 9, 23 and 29

R.S.O. 1990, CHAPTER S.29

Consolidation Period: From June 1, 2011 to the [e-Laws currency date](#).

Last amendment: 2009, c. 33, Sched. 22, s. 11.

### Committees

[9. \(1\)](#) The Council shall establish and appoint as provided in this Act the following committees:

...

(f) Fees Mediation Committee,

### Complaints Review Councillor

[23. \(1\)](#) There shall be a Complaints Review Councillor who shall be appointed by and from among the members of the Council appointed by the Lieutenant Governor in Council. R.S.O. 1990, c. S.29, s. 23 (1).

### Idem

[\(2\)](#) The Complaints Review Councillor is not eligible to be a member of the Complaints Committee or the Fees Mediation Committee. R.S.O. 1990, c. S.29, s. 23 (2).

### Fees Mediation Committee

[29. \(1\)](#) No person who is a member of the Complaints Committee or the Discipline Committee shall be a member of the Fees Mediation Committee. R.S.O. 1990, c. S.29, s. 29 (1).

### Duties of Fees Mediation Committee

[\(2\)](#) The Fees Mediation Committee,

(a) shall, unless the Committee considers it inappropriate to do so, mediate any written complaint by a client of a member of the Association or of a holder of a certificate of authorization in respect of a fee charged for services in the practice of professional surveying provided to the client; and

(b) shall perform such other duties as are assigned to it by the Council. R.S.O. 1990, c. S.29, s. 29 (2); 2009, c. 33, Sched. 22, s. 11 (44).

### Arbitration by Fees Mediation Committee

[\(3\)](#) The Fees Mediation Committee, with the written consent of all parties to the dispute, may arbitrate a dispute in respect of a fee between a client and a member of the Association or a holder of a certificate of authorization and in that case the decision of the Fees Mediation Committee is final and binding on all parties to the dispute. R.S.O. 1990, c. S.29, s. 29 (3).

### Application

[\(4\)](#) Where the Fees Mediation Committee acts as arbitrator under subsection (3), the *Arbitrations Act* does not apply. R.S.O. 1990, c. S.29, s. 29 (4).

### Enforcement

[\(5\)](#) A decision by the Fees Mediation Committee under subsection (3), exclusive of the reasons therefor, certified by the Registrar, may be filed with the Superior Court of Justice and when filed the decision may be enforced in the same manner as a judgment of the court. R.S.O. 1990, c. S.29, s. 29 (5); 2006, c. 19, Sched. C, s. 1 (1).

**Regulation 1026 of the *Surveyors Act***  
**Sections 15, 16**

**Surveyors Act**

**R.R.O. 1990, REGULATION 1026**

**GENERAL**

**Consolidation Period:** From June 7, 2010 to the [e-Laws currency date](#).

Last amendment: O. Reg. 218/10.

15. (1) The Fees Mediation Committee is continued and shall be composed of,
- (a) three or more members of the Association to be appointed from time to time by the Council; and
  - (b) one member of the Council appointed by the Lieutenant Governor in Council to be appointed to this Committee from time to time by the Council. R.R.O. 1990, Reg. 1026, s. 15 (1).
- (2) Three members of the Fees Mediation Committee, one of whom is appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for the purpose of conducting mediation or arbitration under section 29 of the Act. R.R.O. 1990, Reg. 1026, s. 15 (2).
- (3) All decisions of the Fees Mediation Committee require the vote of a majority of its members present. R.R.O. 1990, Reg. 1026, s. 15 (3).
- (4) The Council shall select from among the members of the Fees Mediation Committee a person to be its presiding officer. R.R.O. 1990, Reg. 1026, s. 15 (4).
- (5) The presiding officer, or in his or her absence another member of the Fees Mediation Committee designated by the presiding officer, shall preside at all meetings and hearings of the Committee. R.R.O. 1990, Reg. 1026, s. 15 (5).
- (6) If a member of the Fees Mediation Committee becomes unable to act after the Committee commences a hearing, its remaining members may complete the hearing in the member's absence, if they constitute a quorum. R.R.O. 1990, Reg. 1026, s. 15 (6).
16. (1) If, under subsection 29 (3) of the Act, parties to a dispute agree to arbitration by the Fees Mediation Committee, the written consent to arbitration, signed by all of the parties to the dispute, shall be filed with the Registrar. R.R.O. 1990, Reg. 1026, s. 16 (1).
- (2) A brief written statement of the dispute submitted to arbitration, signed by all of the parties, shall be filed with the Registrar within ten days after the filing of the consent to arbitration. R.R.O. 1990, Reg. 1026, s. 16 (2).
- (3) The Registrar may extend the time limit for filing a statement of the dispute. R.R.O. 1990, Reg. 1026, s. 16 (3).

Code of Ethics  
Sections 33, 34, 35, Reg 1026, Surveyors Act

Surveyors Act  
R.R.O. 1990, REGULATION 1026  
GENERAL

Consolidation Period: From June 7, 2010 to the [e-Laws currency date](#).

Last amendment: O. Reg. 218/10.

**Code of Ethics**

33. (1) Members shall abide by the code of ethics of the Association. R.R.O. 1990, Reg. 1026, s. 33 (1).

(2) The code of ethics of the Association requires that every member shall,

...

(e) ensure that clients are aware of the complexity of the type of surveys recommended and the nature of fees for service;

34. (1) Professional members shall maintain the standards of practice prescribed by this section in the performance of their practice of professional surveying. R.R.O. 1990, Reg. 1026, s. 34 (1); O. Reg. 218/10, s. 17 (1); O. Reg. 327/12, s. 12 (1).

(2) The standards of practice of the Association require that,

(g) every member shall comply with any written or oral request received from the Association, the Registrar, the presiding officer of any committee of the Association within the time specified in the request and shall supply such information and copies of such material, other than material concerning a member's health or financial status, as may be requested;

(h) every professional member shall report to the Registrar any gross or consistent practice or omission of another professional member, of which the member is aware, that may constitute professional misconduct or incompetence;

...

**Professional Misconduct**

35. "Professional misconduct" means,

1. Contravention of the Act or the regulations or of any Act or regulations relating to professional land surveying in Ontario.

...

12. Charging a fee for professional surveying services not performed or knowingly submitting a false or misleading estimate, account or charge for professional surveying services rendered to a client.