

# Digital Plan (CAD file) Release Considerations

## Purpose

The following document was prepared by the Digital Plans Task Force and is intended to provide survey firms with items to consider when they seek legal advice in drafting contracts for releasing digital plans, particularly CAD files. This document does not address digital submissions to the Land Registry System. This is not intended as any form of legal advice and serves as recommendations for consideration only. Any use of this information is at the user's discretion and the Association of Ontario Land Surveyors or its committees and task forces take no responsibility or liability for its usage. It is up to survey firms to get their own legal advice and draft their own legal agreements.

## Process

The Digital Plans Task Force sent out a request to approximately 10 firms, ranging from small to large, seeking information on practices associated with releasing CAD files. The returns were reviewed and amalgamated. The summary document was reviewed and debated by the Digital Plans Task Force, which has resulted in this document.

## Observed Differences

The type of coordinates provided by survey firms vary with some providing grid coordinates and others providing assumed ground values. There is not a best practice forthcoming in this area, however it is essential to describe the coordinate system provided.

Covering letters and agreement practices varied significantly from very formal agreements to little in the way of direction to the client. Best practices in this regard are identified below.

The practice of layering in CAD files differed by firm and even by client within firms.

Calculation layers were often omitted from the product provided to the client.

## Overarching comments

CAD files are subject to copyright and as such the survey firm controls their usage and dissemination. Although there appeared to be some appetite to make use of digital signatures, in practicality no one surveyed was using them and they were seen as limiting the usage of the document. As a result, contractual mechanisms should be implemented as best practices to address integrity issues as identified below.

## Best Practices

### Release of CAD Files

CAD files should only be released to direct clients and government organizations as required. Where CAD files are to be released to third parties on behalf of the client, this should form part of a contract which should address liability and usage.

## Covering Letter/Agreements

It is important that the release of any CAD files is accompanied by a transmittal document and agreement. This is important to ensure that the client understands the content and limitations of the product to limit liability of the surveyor. Some organizations combine the cover letter and agreement, which is also an acceptable best practice. CAD files should not be released until the legal agreement has been executed.

## Transmittal Documents

Transmittal Documents can supplement information contained in the file including information about the file including file type, date, purpose the file is being provided for, coordinate type with reference system information, and if appropriate, to introduce the agreement that is included.

Where coordinates are provided in a map projection, the scale factor should be included to allow the user to convert to ground dimensions.

## Legal Agreement

It is imperative that legal agreements form part of the release of CAD files. As noted above they add to clarity in the transaction and help protect the survey firm. The agreement should be accepted by the client prior to releasing the CAD file.

The following items should be included in the legal agreement (this represent concepts only and actual wording is up to the user):

- CAD files were not prepared specifically for the recipient and are provided for convenience and do not replace the hard copy sealed plan which governs; in the event of any conflict the hard copy plan governs;
- The recipient bears the risk with using the CAD file and the survey company is not liable for any usage of the CAD file;
- Ownership and copyright of the CAD file and its content remains with the survey firm and is not transferred to the recipient;
- The precision of the coordinates contained in the CAD files is a function of the scale, software and processes used in creating the CAD file, and is not an indication of the accuracy of the coordinates;
- The CAD file may be updated by the survey firm and the update may not be provided to the recipient;
- The recipient bears responsibility for any change they make to the CAD file and will indemnify and save harmless the survey firm for any damage, cost, or liability resulting from changes made;
- While reasonable care has been used to ensure that the transfer medium and the material are free of computer viruses, the survey firm accepts no responsibility in this regard; and
- Passing on the file to any other organization should only be done if in accordance with the purpose of the plan described and all recipients of the file agree to be bound by the provisions above and to not pass on the file on any further. Your lawyer should advise you of specific provisions related to downstream and third-party users.