

May 2009 Professional (Cadastral) Examination

Question 1

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)

Question 2

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 surveys. The Property Index Map shows all the parcels in the area of your survey as being aligned with the 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.

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Question 3

10 marks

You have been retained to survey a 63 acre property in a rural area of Western Ontario. In 1946 a Municipal Survey was completed that set concrete monuments at either end of the Concession you are working on. The roads were not built within the road allowances, and the property that you are surveying lies between two forced roads. There is a very old stone fence along the east limit of the subject property, and this fence is at least 100 years old. It is your opinion that the old stone fence is the best evidence of the east limit of the subject property.

When you search the title to the property you find that the PIN map shows a mathematical lot line created by joining in a straight line between the concrete monuments on the east limit of this Lot. The stone fence lies about forty feet (40') east of the theoretic line, and the PIN sheet shows a separate PIN for this apparent gap. The thumbnail description on the PIN sheet indicates that this gap PIN lies in the adjoining Lot, and your client is not listed as the owner of the gap PIN lands. You believe that this gap PIN should be included within your subject property and within your subject Lot. What steps would you take to help resolve this issue?

Question 4

15 marks

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

- a) Explain what is meant by self-governing. (4 marks)
- b) What are the obligations of our self-governing body? (4 marks)
- c) How is the public served and/or protected by our Association? (7 marks)

Question 5

10 marks

Describe the principal elements of ownership, and distinguish between ownership and possession.

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Question 6

15 marks

Mr. Client comes into your office to report he has just returned from a two week vacation to find that his rear boundary fence has been removed, and a new fence has been erected across his lot and part of his abutting neighbour's lots by the new owner of the lot that abuts him to the rear. The new fence is three feet inside Mr. Client's property as compared to the old fence. The neighbour relied on a recent survey by one of your competitors to locate the new fence.

Mr. Client retains you to provide a professional opinion as to the location of the boundary and the fencing.

Your research and investigation results in the following evidence:

- Registered Plan 10 was laid out in 1922 as a street and a tier of lots, and the southerly rear boundary of the subdivision is along the centreline of a drainage ditch which is shown as a straight line across the subdivision. Witness wood stakes were set along the northerly top of the ditch for each sideline. No survey records, other than the plan can be currently located. Mr. Client owns Lot 5, Registered Plan 10.
- Registered Plan 30 was laid out in 1932 as a street and a tier of lots, and the northerly rear boundary of the subdivision is along the centreline of the same drainage ditch as along the rear of Registered Plan 10. Again, the centreline of the ditch is shown as a straight line across the subdivision and witness wood stakes were set along the southerly top of the ditch for each sideline. No connections were shown to Registered Plan 10. No survey records, other than the plan can be currently located. The neighbour owns Lot 12, Registered Plan 30, which abuts all of Lot 5, and parts of Lots 4 and 6, Registered Plan 10.
- The drainage ditch was filled in, in 1940.
- In 1962, Surveyor A surveyed Lot 5, Registered Plan 10 and set iron pipes at the four corners. His notes indicate that, finding no evidence of the rear witness stakes, he set plan depth from the Registered Plan 10 street to set the rear lot corners.
- In 1967, Surveyor B, with a different firm, surveyed Lot 12, Registered Plan 30. He did not find rear witness stakes and did not find the rear iron pipes set by Surveyor A. Surveyor B's notes indicated he set the rear boundary at plan depth from the Registered Plan 30 street. He did not monument the rear corners. His plan showed the location of a post and wire fence across Lot 5, Registered Plan 10 to be located three feet south of his location of the rear boundary of Lot 12, Registered Plan 30.

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- Two weeks ago, Surveyor B2, a successor to Surveyor B, completed an SRPR survey of Lot 12, Registered Plan 30 for the new purchaser. He repeated the methodology of Surveyor B, monumented the rear corners and found the now old post and wire fence across Lot 5, Registered Plan 10 to be standing three feet south of his surveyed location for the rear boundary of Lot 12, Registered Plan 30.
- The new owner of Lot 12, Registered Plan 30, unable to contact the owner of Lot 5, Registered Plan 10 could wait no longer and cut down the old fence posts to erect a new privacy fence around his property, in accordance with his survey.
- Your field research located Surveyor A's iron pipes for his rear corners of Registered Plan 10 at each end of the row of cut off posts, and you found that they are at plan distance from the front of the lot and are three feet south of the monumented line by Surveyor B2.
- Your field research also determined that the monumented line by Surveyor B2 is at plan distance from the front of Lot 12, Registered Plan 30.

Considering the above to be complete, and without repeating all the information:

- a) Prepare a letter to Mr. Client outlining your opinion as to the location of the rear boundary of Lot 5, Registered Plan 10. Deal with his (former) fence and the current fence, relative to your boundary location. Advise Mr. Client of his options to proceed upon your opinion. Do not sign the letter. (5 marks)
- b) Discuss the principles relied upon by Surveyor A, Surveyors B and B2, and yourself and outline the reasons for your rejection(s) or agreement and the basis of support for your view. (10 marks)

Question 7

15 marks

A potential client contacts you, as an OLS, requesting a proposal for a boundary survey of his property, which consists of one whole township lot situate in the area of your usual practice.

Prepare a typical business letter to the client confirming his request.

As this letter will form the sole business agreement, be sure to address all matters pertinent to a good business contract.

NOTE: Marks will only be 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.

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Question 8

10 marks

Check the attached plan. Indicate in red any amendments or corrections. You may want to use a yellow marker to note the correct items although no marks will be provided for this aspect. There are at least 10 items to be corrected, and 1 mark will be awarded for each correctly identified item to a maximum of 10 marks.

NOTE: Write your candidate number on the top of the plan in the space provided.

Do not write your name on the plan.

Question 9

10 marks

Your client, a utility company, has asked you, Surveyor X, to produce a reference plan in order to describe and define a proposed 2 metre square easement at the corner of one lot on a recently registered Plan of Subdivision. Surveyor Y registered the Plan of Subdivision. The Plan of Subdivision indicates that all monumentation had been set at all corners. You conducted a Land Registry Office search, in-office research of the subject and adjacent lands, and requested and received field notes from Surveyor Y. Upon commencement of your field operations it is noted that a number of survey monuments on the lot you are surveying are not present. In fact the ground has not been disturbed and there is no evidence that the monuments were ever set.

Read all of the questions before answering

- a) As a professional land surveyor your duty is to uphold the standards of the Association, and as such, what initial actions or measures would you take with Surveyor Y to resolve the situation? (3 marks)
- b) If Surveyor Y has not conducted him or herself in a professional manner or is unwilling to correct the situation, who would you contact at the association in order to submit a complaint? (2 marks)
- c) Once a formal complaint has been submitted to the Association, outline all the possible outcomes that such a complaint could take within the Association? (Name all officials and/or committees and/or departments, within the Association, that could deal with an official complaint.) (5 marks)