

**SCHEDULE “A”**

**ALLEGATIONS OF PROFESSIONAL MISCONDUCT AND  
PROFESSIONAL INCOMPETENCE**

CANADA )  
          )                   **IN THE MATTER OF the *Surveyors Act***  
          )                   **R.S.O. 1990, Chapter S.29, as revised.**  
          )  
PROVINCE OF )                   **AND IN THE MATTER OF William J. Plaxton, O.L.S.**  
          )  
          )  
ONTARIO )                   **AND IN THE MATTER OF a Disciplinary Hearing of the**  
          )                   **Discipline Committee of the Association of Ontario Land**  
          )                   **Surveyors held in accordance with sections 26 and 27 of**  
          )                   **the said Act.**

I, WILLIAM D. BUCK, O.L.S., C.L.S., P. ENG., of the Town of Markham, in the Region of York, am the Registrar of the Association of Ontario Land Surveyors.

1. The Council of the Association of Ontario Land Surveyors (AOLS) pursuant to Section 25(7)(a) of the *Surveyors Act*, by a Motion dated June 4, 2012, directed that Mr. William J. Plaxton be referred to the Discipline Committee.
2. It is alleged that William J. Plaxton is incompetent within the meaning of Section 26(3)(a) of the *Surveyors Act* in that he has displayed in his professional responsibilities a lack of knowledge, skill or judgment of a nature or to an extent that demonstrates that he is unfit to carry out the responsibilities of a person engaged in the practice of professional surveying.
3. In addition, it is alleged that William J. Plaxton, O.L.S. (herein referred to as “Mr. Plaxton”), in his personal capacity, and as the official representative for the firm William J. Plaxton Limited Ontario Land Surveyors, is guilty of professional misconduct within the meaning of Section 35 of Regulation 1026, R.R.O. 1990, as amended.
4. The particulars of the allegations in paragraphs 2 and 3 above are as follows:
  - (a) On or about October 14, 2011 the Registrar of the AOLS received a submission from Mr. P. Douglas Reitsma, O.L.S., acting Manager of the AOLS Survey Review Department, regarding the results of the recent Comprehensive Review of Mr. Plaxton’s surveying practice.
  - (b) The review of Mr. Plaxton’s practice indicated numerous instances of non-compliance with the standards, regulations and other applicable rules for surveys such that the average number of demerit points per plan for the eight plans reviewed was 66.75, which exceeded the maximum threshold of 25 points per plan, and after which Survey Review Department policy requires that the member be referred to the Registrar.
  - (c) The report of Mr. Plaxton’s review indicated many serious deficiencies, including the following:
    - (i) In all of the eight files examined there was insufficient documentation to confirm that a thorough search of Land Registry records and the records of other survey firms had been carried out for the subject and the adjacent properties, contrary to Section 8(a) of O. Reg. 216/10 of the *Surveyors Act*;
    - (ii) In four of the eight files examined it was found that evidence on both sides of the boundaries being re-established was not considered, contrary to Section 8(b) of O. Reg. 216/10 of the *Surveyors Act*;
    - (iii) The field notes for all of the eight files reviewed contained serious omissions of the information required to illustrate everything found, observed and done in the field, contrary to Section 15 of O. Reg. 216/10 of the *Surveyors Act*;
    - (iv) Two of the eight files reviewed contained drawings that were entitled as sketches, however, they were portrayed as being valid surveys and included an outdated Surveyor’s Certificate signed by Mr. Plaxton; contrary to Section 4(3) of O. Reg. 216/10 of the *Surveyors Act*;

- (v) None of the eight files reviewed contained sufficient documentation regarding the member's communication with his client, contrary to Section 4(1) of O. Reg. 216/10 of the *Surveyors Act*;
- (d) The eight plans reviewed in Mr. Plaxton's Comprehensive Review contain numerous other issues which demonstrate a general lack of knowledge of or a disregard for the Statutes, Regulations, Guidelines and other rules related to the practice of cadastral surveying thereby constituting professional incompetence pursuant to Section 26 (3)(a) of the *Surveyors Act*;
- (e) Mr. Plaxton failed to meet any of the due dates required for his submissions to the Survey Review Department, neglected to contact the department prior to said due dates, and on several occasions failed to respond to the questions raised by the manager of the Survey Review Department in a timely and professional manner, contrary to Section 34(2)(g) of Regulation 1026 of the *Surveyors Act*;
- (f) The Registrar considered that the deficiencies noted in Mr. Plaxton's review were of such a serious nature that they warranted a referral to the Complaints Committee of the AOLS;
- (g) In the Reasons section of the Complaints

Committee's Decision for the said complaint, the Committee noted that Mr. Plaxton's work did not meet AOLS standards, thereby constituting a contravention of the Code of Ethics set out in Regulation 1026 of the *Surveyors Act*;

- 5. It is alleged that the member failed to comply with the *Code of Ethics* of the AOLS in that he has repeatedly failed to abide by the standards of practice which is contrary to Section 33(2)(b) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Code of Ethics* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.
- 6. It is alleged that the member failed to comply with the *Code of Ethics* of the AOLS in that he signed survey plans which did not comply with all relevant legislative requirements and all standards of the Association, which is contrary to Section 33(2)(f) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the *Code of Ethics* constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.
- 7. It is alleged that the member has committed acts of professional misconduct as defined by Sections 35(1), 35(2), 35(3) and 35(21) of Regulation 1026, R.R.O. 1990, as amended, of the *Surveyors Act*.

Dated at Toronto, Ontario, this 18th day of July, 2012.

## DISCIPLINE DECISION

IN THE MATTER OF the *Surveyors Act*, R.S.O. 1990,  
Chapter S.29, as amended

AND IN THE MATTER OF William Plaxton, O.L.S.

AND IN THE MATTER OF a Disciplinary Hearing  
Of the Discipline Committee of the Association of  
Ontario Land Surveyors held in accordance with  
Sections 26 and 27 of the said Act

### Decision and Order

This Panel of the Discipline Committee convened on October 3, 2012. Mr. Plaxton, O.L.S., was present and represented by Counsel, Danniak Baker, Barrister and Solicitor. The Association was represented by Izaak de Rijcke, Barrister and Solicitor.

On convening, the Panel was presented with a Joint Submission as a proposed resolution of the matter.

The proposed Joint Submission, as originally signed by both Mr. Plaxton, O.L.S. and Mr. Bill Buck, O.L.S., C.L.S. and Registrar of the Association was marked as Exhibit 5 to the proceedings. A copy of the Joint Submission as presented to the Panel is attached to this Decision and Order as Appendix A. After considering the proposed Joint Submission, the Panel advised Counsel of certain concerns that it had with respect to the proposal. The parties, through their respective

Counsel, agreed that certain amendments to the Joint Submission were appropriate. The agreed amendments are:

- 1. Paragraph 3 of Appendix A is amended to say:
  - a. that the Mentor will report to the Registrar every **2 months** on the progress and implementation of skills on the part of the Member;
  - b. In addition to the Mentor's role for the first 12 months identified, a Monitor selected by the Registrar and paid for by the Member will further review the work and practise of the Member for a second 12 month period, ending October 14, 2014. The Monitor will report to the Registrar every 3 months during the second 12 month period on his/her observations of the Member's work and

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advise whether or not it is of a satisfactory standard;

- c. In addition to the provisions of paragraph 8, in the event that the Mentor or Monitor provides an unsatisfactory assessment of the Member's progress, implementation of skills or work product, forthwith on receipt of such an unsatisfactory assessment the Registrar will refer all matters concerning the Member to Council of the Association for its consideration regarding further action with respect to the Member.

This Panel accepts the Joint Submission subject to the

enumerated amendments noted above, and as agreed between the parties through their respective Counsel.

This Decision and Order may be signed in counterparts, and electronic copies of the Panel's signatures will suffice.

Oral Decision given October 3, 2012.

Gary Auer, O.L.S.

Rick Miller, O.L.S.

Tom Packowski, O.L.S.

Peter Moreton, O.L.S.

Mark Spraggett, Lieutenant-Governor Appointee

## APPENDIX A

### JOINT SUBMISSION TO DISCIPLINE COMMITTEE ON CONSENT OF ALL PARTIES

The Association of Ontario Land Surveyors (the "Association") and the Member, William Plaxton, O.L.S. (the "Member"), make joint submission to the Discipline Committee under the *Surveyors Act* in respect of this matter by asking the Discipline Committee to issue a consent Order on the following terms:

1. The Member pleads guilty to the charges and allegations of professional misconduct against the Member (the "Charges") as alleged.
2. The Member's Licence shall be suspended for a period of one year from October 15, 2012, such suspension to be deferred for a period of one *year*.
3. The Member shall provide a written undertaking (herein "the Undertaking") that will be signed and delivered to the Registrar of AOLS on the same day as the hearing before the Discipline Committee in this proceeding, that he will co-operate fully with a mentor who will be selected by the registrar and the payment shall be by the Member. That mentor shall supervise the work and practice of the Member for one year beginning October 15, 2012. In addition to overall practice supervision, each project which the Member undertakes shall be discussed and reviewed by the mentor with the Member so as to ensure consistent quality in the end product for the Member's clients. The mentor shall report every 3 months during the one year appointment to the Registrar of AOLS on satisfactory progress and implementation of skills on the part of the Member.
4. The Member shall also include in the Undertaking a duty to enroll in, and successfully complete the courses known as *Survey Law 1* and *Survey Law 2*, or their equivalents, within one year of the date of this joint submission and provide to the Registrar of AOLS satisfactory proof of having done so.
5. The Member shall also include in the Undertaking a duty to immediately adopt and implement office and communications equipment for the Member's practice, so that the Member shall be accessible to the public and to the Member's surveying colleagues. Such equipment shall

include, as a minimum, a telephone number that can record messages which the Member will check and respond to at least once every 24 hours, a fax machine and number and an email address which is checked and responded to by the Member at least once every 24 hours.

6. The Member shall be reprimanded and the reprimand will be recorded on the Register of the Association.
7. The Member agrees to pay to the Association the sum of \$10,000.00 plus HST (\$11,300.00) for costs by way of 12 post-dated cheques, 11 of them for \$1,000.00 and dated November 15, 2012 to September 15, 2013 and a final cheque dated October 15, 2013 for \$300.00, such cheques to be delivered to the Association no later than October 15, 2012. The Association may move for judgment in Small Claims Court for the amount owing or unpaid by the Member and the Member shall deliver a consent to judgment in favour of the Association and to be held by it as further security in the event that any one or more post-dated cheque remains unpaid.
8. The Member shall be required to comply with the terms of the Order or Decision in all respects, failing which, the deferral of the suspension referred to above shall be revoked. The member further undertakes and agrees that the failure of the Member to comply with any aspect of the Order resulting from this joint submission shall be deemed to constitute professional misconduct and serve as a basis for fresh allegations before the Discipline Committee against the Member.
9. The terms of this Joint Submission are fair and reasonable and protect the public interest.
10. The Member acknowledges having been advised to obtain and has had the benefit of independent legal advice.
11. This Joint Submission and agreement thereto by the Member may be set up as a complete bar and answer by the Association to any appeal or judicial review of the Order or Decision of the Discipline Committee resulting therefrom.

DATED at Toronto, Ontario, this 3<sup>rd</sup> day of October, 2012.