



Fifth Annual Boundary Law Conference

*Waterfront Properties in Ontario:
Best Practices for Reducing Ownership Conflict*

POSTPONED

It has become clear that the stated goals of the conference require progressing beyond defining the issues and positions from the different professional perspectives. A road map – a *common ground* framework – is needed to problem solve waterfront ownership and boundary issues. To that end, presenters will be participating in the development of this road map with the view of refocusing their contributions accordingly. This intervening step promises to make the revised conference: “*Advancing a Consistent and Practical Approach to Waterfront Ownership and Boundary Issues in Ontario*” an even higher-value CPD event.

You are encouraged to go to 4pointlearning.ca to pre-enrol¹ at no cost in order to get notification of the date and venue for the revised conference. If you have questions, please call 519-837-2556 or email inquiry@4pointlearning.ca.

The fifth annual conference responds to the confusion created by a series of seemingly inconsistent decisions concerning waterfront properties over the last decade. Presenters – lawyers, surveyors and government representatives – will explore a common set of recent court cases and provide insight and analysis focused on problem-solving waterfront ownership and boundary issues from their unique professional perspectives. The day will end with a multidisciplinary panel discussion that aims to establish broad consensus on emerging best practices to reduce conflicts among stakeholders, mitigate the risk for professionals, and minimize uncertainty for members of the public in this complex area of boundary law.

By participating in this conference, you will:

- consider the latest decisions affecting title and boundaries at the waterfront;

¹ You will be asked to login. If you have not already created an account, see registration [instructions](#).

- revisit the legal principles applicable to waterfront boundary retracement;
- take into account the broader issues when transacting in or surveying waterfront properties;
- gain insights into practical solutions that reduce uncertainty (and thus, potential conflict);
- explore strategies to better manage risk when communicating the results of your work to clients.



This program has been accredited by the Law Society of Upper Canada for TBD *Professionalism* hour.

This program has been accredited by AOLS for 12 *Formal Activity* CPD hours.

The conference takes place on ~~Monday, November 13, 2017~~ at the Delta Guelph Hotel & Conference Centre. The cost is \$495 plus HST and includes:

- complimentary light snacks and drinks at the pre-conference meet and greet on ~~Sunday, November 12, from 7-9 pm;~~
- complimentary continental breakfast, lunch, refreshments and parking for the day;
- binder of materials;
- access to copies of materials and presentations for future reference.

DRAFT AGENDA

8:00am – Arrival, Complimentary Hot Breakfast Buffet
8:30am

8:30am – **Welcome and Opening Remarks: Today’s Theme and What to Expect**
8:50am

TBA

8:50am – **Expectations of Waterfront Ownership and Accessibility by the Public: Considerations and Experiences that Demonstrate the Nature of the Problem**
9:20am

Virginia Tinti
Lawyer

The public has an expectation that beaches and waterfronts are part of the natural resources of this province and are accessible to be enjoyed by all. This is reflected in the listings for waterfront property posted by Realtors and is used as a factor in adding market value by Appraisers. How realistic is this expectation? This presentation will

explore factors leading to the current state of affairs and evaluate the extent and seriousness of a problem resulting from misinformation and failed expectations.

9:20am – 9:55am **Expectations of Title to the Waterfront: A Review of Several Cases that Use Seemingly Different Methods of Analysis**

Scott Fairley
Lawyer

Certainty and predictability in the law are goals that lawyers and courts are very familiar with. When it comes to land title and boundaries, the courts often use principles of law that support an outcome which will meet reasonable expectations. While members of the public, as laypersons in the law, may have certain hopes and expectations regarding their entitlement and ability to enjoy land, an effective way to communicate what this means, should be found.

9:55am – 10:30am **The Role of Title Insurance: What are Expectations from Title Insurers When Use of, and Title to, the Beach are Disputed?**

Ray Leclair
Lawyer
TitlePLUS

The purchase of Title insurance in conjunction with the purchase of residential real estate in Ontario has become the norm. While some waterfront property may be considered as “recreational”, title insurance is invariably available to respond to a claim made by the property owner when the beach use and title come under attack. How do title insurers respond? What qualifies as a valid claim? What do members of the public and their representatives need to know?

10:30am – 10:50am Refreshment Break

10:50am – 11:30am **What Surveyors have been Doing at the Waterfront: A Review of Approaches and Factors that have Proven to be Problematic**

Ron Stewart
OLS and
CLS

In this presentation a number of examples will be reviewed to illustrate the different approaches that land surveyors have used in the Province of Ontario. Some approaches have been endorsed by the Courts while others have added to inconsistency in practice and approach. Insight to the variability in approach is used to identify potential areas of consensus.

11:30am – 12:10pm **Approaches used by Surveyors in Surveying the Waterfront Across Canada**

Brian Ballantyne
Consultant

Problems and challenges in the surveying of beaches and waterfront properties are not isolated to Ontario. By understanding how other jurisdictions in Canada struggle with similar problems, and how they offer solutions, this presentation will offer

insights to other potential means for a coherent and consistent approach in Ontario.

12:10pm – Complimentary Lunch

1:25pm

1:00pm – **Surveyed Lines and Boundaries: Using the *Surveys Act* When There is No Ambiguity**

Susan MacGregor
O.L.S.
Surveyor
General

The circumstances involving the retracement of boundaries shown on plans of subdivision have demonstrated variability in the approach and methods to be used. There have been failed expectations on the part of the public and professionals are often on the “front line” of resulting disputes. The *Surveys Act* includes methods by which to approach retracements and the need for consistency is greater today than ever before as the use of natural Waterfront resources come under increasing pressure.

1:50pm – **Boundaries and Surveys: Retracement of Property Lines and the Use of Evidence**

Ken Wilkinson
O.L.S.
Examiner of
Surveys

Boundaries at the waterfront appear on plans of survey and these in turn are used to prepare block maps and other products that are used by laypersons when involved with land parcels. While not plans of survey, block maps are often assumed to be accurate representations of the extent of ownership interests and serve as a starting point for research into land records at a local Land Registry office. The assessment of survey plans when received for deposit or registration includes waterfront property and this presentation will review and discuss the factors to be considered when receiving such survey plans for deposit.

2:40pm – Refreshment Break
2:55pm

2:55pm – **Title to Beaches: What can Lawyers do in Assisting with the Resolution of Title Problems to Beaches and the Waterfront**

Panelists This panel discussion of lawyers will explore the challenges in giving a title opinion to land at the waterfront. Whether the waterfront has been a historic public beach such as in *Gibbs v. Grand Bend*, or a private beach, the roadmap to a solution will be explored and discussed.

3:30pm – **Boundaries of Beaches: What can Land Surveyors do in Assisting with a Resolution of Competing Interests at the Waterfront?**

Panelists This panel discussion of land surveyors will build on the previous panel discussion and

offer guidance on best practices when asked to survey a waterfront property that may have open use by others of the beach area itself.

4:05pm – **Concluding Remarks – Common Threads in the Emerging Trends for Best Practice in Title and Boundary Matters at the Waterfront**
4:30pm

TBA