



LE/ESSE 4660 Cadastral Surveys and Land Registration Systems (aka Survey Law 1)



Course Director: Adjunct Professor Izaak de Rijcke, OLS, LL.M.

Course Syllabus and Information for Fall, 2017

LE/ESSE 4660 meets the requirements for licensure as an Ontario Land Surveyor by the Association of Ontario Land Surveyors. It may also meet the requirements for a professional licence in many other jurisdictions of Canada through reciprocity and mobility recognition.

CLASS TIMES AND LOCATION

Classes are scheduled for Monday and Wednesday evenings from 6 pm to 7:30 pm. The course is offered using a blended delivery system which allows remote participation and recording of classes for later viewing. The lectures will be conducted at 122-355 Elmira Rd North, Guelph. “Labs” are part of this course and involve self-study using the resources and materials available at 4pointlearning.ca.

Please note that despite the scheduling of classes from 6 pm to 7:30 pm on Mondays and Wednesdays, there may be occasional classes which may not be possible due to the instructor’s other commitments (e.g., an out of town trial or hearing). Accordingly, you should be prepared to occasionally see some of the classes turn into a single 6 pm to 9 pm event on either a Monday or a Wednesday. We will try to provide as much advance notice of such circumstances as possible.

INSTRUCTOR

This course is taught by Izaak de Rijcke – a practising lawyer and land surveyor. Izaak can be contacted by email at izaak@izaak.ca. Occasional guest speakers will be announced during the semester.

ACADEMIC INTEGRITY AT YORK U

From York University Secretariat¹:

Having **Academic integrity** means that you have adopted appropriate principles or standards that consistently govern how you pursue your school work. A student with academic integrity earns a degree with honest effort, and knows that this degree is a true accomplishment reflecting years of hard work and genuine learning. Furthermore, practicing academic integrity means that you will develop essential lifelong skills that include conducting research responsibly, writing clearly and documenting appropriately.

You **must** familiarise yourself with [York's Senate Policy on Academic Honesty](#)². This policy defines and clarifies York's commitment to maintaining the highest standards of academic honesty. The policy:

- Recognizes the general responsibility of all faculty members to foster acceptable standards of academic conduct and of students to be mindful of and abide by such standards
- Defines what are considered academic offenses, including plagiarism, cheating, impersonation, and other forms of academic misconduct
- Defines the penalties that can be given to students found to have committed plagiarism or any other form of academic offense
- Outlines the procedures for dealing with students who are accused of committing an academic offense

While it is recognized that there are many pressures on students that may lead to academic misconduct, such as achieving high grades or meeting deadlines, each student has clear responsibility for his or her academic honesty. You are strongly advised to visit the [Academic Integrity](#)³ web site for York University, to read the section "[For Students](#)"⁴, and to complete the [Academic Integrity Tutorial](#)⁵. **There will be zero tolerance for proven academic dishonesty.**

All students are also expected to familiarize themselves with the following [Senate policies](#):

- [Student Professional Behaviour](#)
- [Research Involving Human Participants](#)
- [Academic Accommodation for Students with Disabilities](#)
- [Sessional Dates and the Scheduling of Examinations](#) (section 7 on Religious Observances)

¹ <http://www.yorku.ca/acadinte/files/beware-sayswho.pdf>

² <http://www.yorku.ca/secretariat/policies/document.php?document=69>

³ <http://www.yorku.ca/academicintegrity>

⁴ <http://www.yorku.ca/academicintegrity/students/index.htm>

⁵ http://www.yorku.ca/tutorial/academic_integrity

In addition, you are governed by the [Terms of Use](#) that apply to the course materials and resources available through [Four Point Learning](#). In the event of a conflict between the rules and requirements of Four Point Learning and York University, the rules and regulations of York University will prevail.

REQUIRED READINGS

The course book: *Principles of Boundary Law in Canada* can be purchased through Four Point Learning: http://4pointlearning.ca/4PL/Principles_Boundary_Law.pdf or at York University Bookstore: <http://bookstore.yorku.ca>. In addition, selected readings will be posted on the LMS as the course progresses.

OVERALL GOALS AND PURPOSE

The overall purpose of the *Survey Law 1* course is to provide a foundation for professional surveyors to integrate legal principles, legislation and regulations within the overall framework of property boundary surveys in Ontario. The course exposes learners to concepts and processes underlying the performance of cadastral surveying such as:

- basic concepts of real property law;
- definition of a legal boundary;
- origins of boundary law and township survey systems in Ontario;
- application of early survey systems to the recording of interests in land through the *Registry Act* and the *Land Titles Act*;
- boundary law principles arising from special circumstances and their impact on the land registration system;
- complexities of the process of legal research and investigation;
- the principles established through legislation, the courts, and practices recognized as acceptable standards within the profession in evaluating evidence.

The learning and instruction methods used in this course – namely, reading, independent research, guided questioning, lectures, discussions, and assignments – are designed to prepare learners for competency in survey law issues, as they relate surveyors, by requiring them to:

- understand the nature of law and the legal system;
- wade through much material from various sources that contributes to and informs a surveyor's judgment as to the location of a retraced boundary;
- clearly communicate – verbally and in writing – the results of their research as well as the reasoning underlying their opinions;

- discover how survey law – and the application of legal principles to facts established through evidence – impacts a professional surveyor’s work and responsibility.

COURSE REQUIREMENTS

- Participation in classes and study questions forums.
- Completion of readings. You will need to be prepared to discuss these readings in class.
- Completion of written assignments and quizzes.

COURSE EVALUATION GUIDELINES

The criteria guiding the Instructor's evaluation of performance are as follows:

1. Assignments (3 of them, weight: 20% each)

The assignments are evaluated in terms of competency in:

- demonstrating critical thinking in the application of theory to a solution of the problem;
- correctly interpreting the applicable regulations, statutes, and case law;
- explaining the legal principles used in arriving at the proposed solution/position/opinion;
- communicating effectively through professional presentation, grammar and referencing the sources used to construct the arguments.

2. Quizzes (2 of them, weight: 10% each)

Each quiz consists of 10 True/False questions covering the key concepts explored in the Annotated Readings, classes, and the course book, *Principles of Boundary Law in Canada*.

3. Contribution (weight: 20%)

The overarching objective for both Survey Law courses is: *“To provide the analytical framework and the process or best practice to follow in working through evidence in order to reach conclusions of fact which serve as the foundation for the professional surveyor’s opinion.”*

To that end, the study questions are constructed to reflect the analytical thinking skills required of a cadastral surveyor. Further, they are designed to have **no** obvious, one-size fits all answer. Instead, they aim to develop competency in reasoning through complex issues. The emphasis is therefore on *“giving an interpretation or explanation to”* the question’s topic.

The evaluation the *Contribution* component is not limited to how well the *thought process* used to reach the answer/opinion is explained. It also encompasses competency in evaluating, deliberating, considering propositions, and being open to further information as demonstrated in the quality and relevance of responses to peer postings. The grading rubric is as follows:

Criterion	Proficient (5-4)	Satisfactory (3-2)	Needs Improvement (1-0)
Critical Thinking	<ul style="list-style-type: none"> addresses key elements from the study question presents rationale for position/opinion prompts further exploration of topic by raising issues 	<ul style="list-style-type: none"> includes all relevant information but no attempt to develop a particular position/opinion provides some thought, insight, and analysis 	<ul style="list-style-type: none"> incomplete or inaccurate information no evidence of analysis or insight, limited to recitation of facts
Relevance	<ul style="list-style-type: none"> contains fully developed ideas, connections, or applications references sources used to construct the arguments builds upon or challenges peers' contributions 	<ul style="list-style-type: none"> content discussed at surface level, lacks depth and/or detail sources are referenced few responses to posts from peers or limited to "I agree with..." statement 	<ul style="list-style-type: none"> content too brief (appears hasty) or is off track sources not referenced no responses to posts from peers
Timeliness	<ul style="list-style-type: none"> all study questions answered early in the related section of the course 	<ul style="list-style-type: none"> all study questions answered but some not in time for peers to respond 	<ul style="list-style-type: none"> some study questions not answered most posts at the last minute or after the Section of the course has passed
Grammar/ Stylistics	<ul style="list-style-type: none"> few grammatical or stylistic errors content organized in a clear and concise manner 	<ul style="list-style-type: none"> several grammatical or stylistic errors weak organization, not always direct and clear communication 	<ul style="list-style-type: none"> many grammatical or stylistic errors which interfere with understanding content content not organized, difficult to follow

SCHEDULE OF CLASSES AND TOPICS

The outline of topics is a general overview only. The nature of this material makes it difficult to learn in a linear fashion. Accordingly, we expect to occasionally jump ahead and to also loop back. *The outline below is only meant for your convenience – it is not meant to fetter the instructor's presentation or the range of topics to be discussed.* Since there are 2 classes scheduled for each week, the outline below is directed to a general weekly coverage. PLEASE BE PREPARED TO DISCUSS ALL TOPICS BELOW IN CLASS.

SECTION 1: *The Nature of Property and Estates in Land*

Sep 11 & 13 The nature of Property Rights; Common Ownership or Lack of Property Rights; The Tragedy of the Commons; a brief history of English Land Law. [Chapter 1 and Appx 1]

- Sep 18 & 20 Title, Tenure and Land Holding in the New Confederation; Property Rights and Capitalism; Property Rights and the Charter of Rights and Freedoms; Freedom of Expression on Public Property; Relativity of Title and Types of Tenancy. [Appx 1]
- Sep 25 & 27 Easements and Rights of Way; Easements and Proprietary Estoppel; Licences and *profits à prendre*; Equity; Co-Ownership. [Chapter 5]
- Oct 2 & 4 Restrictive Covenants: Intention for the burden to run with Land and ascertainability. [Chapter 5]

SECTION 2: *The Nature of Boundaries*

- Oct 9 **Thanksgiving – No class**
- Oct 11 Introduction to topic; what is a boundary? - the often unasked question; Ownership of a Hedge and Legal Boundaries; Settlement Policies; Patterns of Settlement and Imposition of Survey Lines; Colonization and Settlement Schemes; The Development of Township Surveys in Ontario; Early Land Surveys in Southern Ontario. [Chapter 2]
- Oct 16 & 18 Understanding the Crown Land Granting Process; Applying for a Land Grant: Land Petitions; District Land Boards; Settlement companies; Sample List of Ontario Colonization Roads; Government Authorized Survey Lines; the Hierarchy of Evidence and when it does not apply; the Professional Surveyor's Duty; Township Land Records. [Chapter 1]
- Oct 23 & 25 Background History of the Land Tenure System in Ontario; History of the Land Registry Office; Registration of Deeds Versus Registration of Title; short History of Land Registration in England and Wales; Developing Land Registration Systems for Developing Countries; When is a Land Registration System necessary? [Chapter 7]

SECTION 3: *Issues in the Survey of Specific Boundaries*

- Oct 30 & Nov 1 Introduction to topic; Adverse possession – Overview; Who can exercise a property right vs. Who is entitled to exercise that right; Case law; *animus possidendi*; Nature of Ordinary Use; Inconsistent Use; Inconsistent Use as a Test; Claims through non-exclusive use; Conversion of Title from LTCQ to LT+. [Chapter 4]
- Nov 6 & 8 Appeals under the *Land Titles Act*; the role of the land surveyor when appearing as a witness in a title related matter; Proof of Adverse Possession and Limitations; Case law; Legal Uncertainty of a Boundary Location, or Uncertainty of Remedies for the Resolution of Boundary Disputes? [Appx 3]

SECTION 4: *Special Boundaries — Public Roads and Highways*

- Nov 13 & 15 Introduction to topic; relocation of Original Road Allowance; Lack of Use; Property Owner’s Intention; subdivider’s Intention; establishing a Highway; Land Dedication for Use as Public Highway; Intention to Dedicate; Dedication and Acceptance. [Chapter 6]
- Nov 20 & 22 Highways as having a special status; public commons and parks; aboriginal title; community property and what results from the nature of this property insofar as boundaries are concerned. [Chapter 9]
- Nov 27 & 29 Survey Evidence of Public Roads; *Surveys Act* provisions; case law; *Road Access Act* and implications for land surveyors. [Chapters 6 and 9]
- Dec 4 Review of last assignment; tie-up of several threads and outcomes for this course.

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