The Boundary Point
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Case Commentaries on Property Title and Boundary Law

The Boundary Point is published by Four Point Learning as a free monthly e-newsletter, providing case comments of decisions involving some issue or aspect of property title and boundary law of interest to land surveyors and lawyers. The goal is to keep you aware of decisions recently released by the courts in Canada that may impact your work.

In this month's issue of *The Boundary Point*, we explore two decisions that originate in the small claims courts of Canadian provinces, but have both wound their way to appellate courts – and with different outcomes. The expeditious and cost effective resolution of a boundary dispute has been long regarded as deserving of importance – and rank alongside the need to avoid such disputes in the first place.[1] If the monetary value of the land is relatively small (and falls within the monetary limit of a small claims court's jurisdiction), then why would the adjudication of the dispute not be possible in that forum? Keep in mind though that the jurisdiction of small claims court is set by statute and in British Columbia, for example, this jurisdiction does not deal with interests in land. If it is possible in some Provinces, what then is the role of the land surveyor in assisting the court in understanding the evidence? This issue of *The Boundary Point* will be of interest to land surveyors who may be asked to provide assistance in the resolution of a boundary dispute between neighbours.

Boundary Jurisdiction and Survey Opinions in Small Claims Courts Across Canada

Key Words: *surveyor's role, jurisdiction, remedy, expert witness, ethics, adjudication*

The need for expeditious and cost effective mechanisms for the resolution of boundary disputes will at times see neighbours seeking a decision on a boundary location in a lower court where rules allow for more informality, lawyers may not be required, and surveyors are expected by one or other neighbour to give evidence – even assist in the process itself.

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[1] The words of Lord Hoffmann in *Alan Wibberley Building Ltd v Insley*, [1999] EG 66, (1999) 78 P & CR D19, [1999] 24 EG 160, [1999] NPC 54, [1999] 2 EGLR 89, [1999] 2 All ER 897, [1999] 1 WLR 894, [1999] UKHL 15, [1999] WLR 894, (1999) 78 P & CR 327, are apropos:

> Boundary disputes are a particularly painful form of litigation. Feelings run high and disproportionate amounts of money are spent. Claims to small and valueless pieces of land are pressed with the zeal of Fortinbras's army. It is therefore important that the law on boundaries should be as clear as possible.

In the first decision from the Prince Edward Island Court of Appeal in *MacKay v. MacKenzie*,[2] released in October, 2016, the court articulated the role of the land surveyor as a public officer and confirmed the importance of a land surveyor's opinion. The case was first initiated before the Small Claims Court in PEI as a question of trespass to land. While that reported decision has substantive interest for land surveyors, and will be considered below, its application across Canada as an example of where boundary disputes might be taken is somewhat qualified.

The reason why Small Claims Courts may not have jurisdiction in all Canadian provinces in respect of boundary disputes is explained in another decision from the Nova Scotia Small Claims Court that centred on the question of the misuse and abuse of an easement. In *Marchbank v. Rutherford*,[3] the Nova Scotia Supreme Court dealt with an appeal from a decision of the Small Claims Court that challenged the court's jurisdiction to hear a matter concerning the nature of an easement. This decision, too, has substantive interest for land surveyors and will be discussed below.

Small Claims Courts were created as an expeditious and inexpensive forum in the courts system for very specific claims – generally, these are claims of a lower monetary value. Small Claims Courts find their jurisdiction in the relevant statues of each province. Accordingly, there are subtle, but distinct limits on the matters falling under their jurisdiction and the appointment of decision-makers to these courts. A matter that may be properly addressed by the Small Claims Court in one province may fall outside the Small Claims court jurisdiction in another province for reasons beyond only the differing monetary limits on damages. Are Small Claims courts generally an appropriate venue for boundary disputes? Subject to the jurisdiction and the outcome sought, it appears as though the answer to this question is a qualified "yes."

MacKay v. MacKenzie

The nature of the dispute and issues in *MacKay v. MacKenzie* was summarized by the Appeal Court:

> Mr. MacKay … retained a surveyor to re-establish the legal boundary. He hired a commissioned land surveyor, Serge Bernard, P.Eng., PEILS; and then after Mr. Bernard provided a preliminary opinion showing the boundary line was west of the trees, which Mr. MacKay rejected, Mr. MacKay fired him. Mr. MacKay then retained another commissioned land surveyor, James Clow, PEILS, of Genivar, to re-establish the legal boundary line. Mr. Clow produced a survey showing a boundary line favourable to Mr. MacKay's position.
>
> Mr. MacKenzie then retained Serge Bernard to carry out a survey in order to re-establish the boundary line. Upon conducting his research and fieldwork, Mr. Bernard found the

[2] *MacKay v. MacKenzie*, 2016 PECA 16 (CanLII), http://canlii.ca/t/gv3ml

[3] *Marchbank v. Rutherford*, 2016 NSSC 251 (CanLII), http://canlii.ca/t/gtvcv

boundary line was a straight line that was located approximately two feet west of the tree stumps. This meant that the trees that Mr. MacKenzie cut down were on his own property, and the proximity of the trees and the boundary line was substantially as Mr. MacKenzie had asserted. Mr. Bernard also shared his findings with Mr. Clow, as a result of which Mr. Clow revised his opinion and his survey to more closely align with Mr. Bernard's opinion. Mr. Clow found the boundary line ran through five of the tree stumps rather than approximately 16 that had been cut down (the Clow survey shows 20 stumps, some are small), while Mr. Bernard's line showed that the line probably intersected with only one tree stump.

Mr. MacKay commenced an action for trespass against Mr. MacKenzie in the Small Claims Section of the Supreme Court. He based his claim on the location of the legal boundary. Mr. MacKenzie defended the action, and he made a counterclaim against Mr. MacKay for damages claiming that Mr. MacKay wrongfully knocked down the woodpiles he had made with the felled trees, twice.[4]

The line of trees along the property line appears intact in 2009 in the Figure 1 image below:

Figure 1: The property line is situated to the left of the driveway.[5]

By 2013, an image of the same site shows many of the trees no longer present:

[4] *MacKay v. MacKenzie*, *supra*, fnote 2, at paras. 3 to 5

[5] From: Google Streetview®, ©Google Inc., 2016. All rights reserved.

Figure 2: The same location with property line to the left of the driveway, but fewer trees.[6]

The trial judge flat out rejected the evidence put forward by the defendant, Mr. MacKenzie and members of his family and further rejected the evidence of both land surveyors, accepting only the submissions of the Plaintiff, Mr. MacKay finding trespass and awarding damages based on the value of the felled trees. The matter was appealed by MacKenzie, who asserted that the judge had made reversible errors of law including "*mischaracterizing the role and legal duty of the surveyor, thereby disregarding the evidence and substituting expert opinion with his own unfounded opinion.*" The appellate court then articulated the role and legal duty of the surveyor; it reflected on the surveyor's role (like that of other professions), as a public officer representing the public at large, rather than the singular interests of the client. The court further noted that this role involves a weighing of evidence, much like that taking place within a court and there is a degree of expertise deserving of some deference, or at least requiring that a judicial decision-maker substantiate conclusions where the court summarily rejects a surveyor's opinion.

> A land surveyor is a public officer. In establishing a client's boundaries he does not represent a single client; instead he represents society at large. A surveyor must be fair and impartial to all parties; he cannot give undue consideration to his client's interest and disregard the interests of his client's neighbour and potential adversary. His responsibilities are quite different than those of a doctor, lawyer or accountant each of whom normally only have the interests of one party in mind. As quoted in *Survey Law in Canada,* at §11.03, p. 472:

[6] From: Google Streetview®, ©Google Inc., 2016. All rights reserved.

> He must preserve in all his work the judicial mind and the impartial attitude of an arbiter, rather than the bias of an advocate

A land surveyor is a gatherer of facts. His duty is to determine the physical and topographic characteristics of a parcel of land and to establish the facts as to the position of the boundaries on the ground. Based on these facts, he must form an opinion as to the location of all boundaries and the extent and shape of the parcel. In searching for evidence of those boundaries he is obligated, firstly, to conduct an exhaustive search for the original location of the boundary monumentation; secondly, to document precisely all evidence and measurements defining those boundaries; and thirdly, to re-monument those boundaries for the benefit of future generations. In exercising these functions a land surveyor is acting in the capacity of an officer of the state.

A retracement survey is based on evidence. It is not more or less than an exercise in collection and assessment of evidence and the formulation of opinion based on that evidence.

The best evidence to use to determine a boundary line would be that of an expert surveyor. In this case, the trial judge dismissed the survey evidence. It appears that the source of this error is that he mischaracterized the sharing of information between surveyors, and this apparently led him to discount the credibility of the survey evidence. He found the surveyors attempted a "*bargaining process,*" initiated by one surveyor in search of a unified conclusion. This appears to have undermined his view of the value of their evidence. This is an incorrect view. Mr. Bernard, who was qualified to give an expert opinion on such matters, attempted to make the point with the trial judge during an exchange that occurred within his testimony that it is readily understood and accepted at common law and by the surveyors' bylaws that surveyors act in accordance with their legal duty when they discuss and share the evidence they gather and rely upon to determine boundaries. A surveyor cannot give undue consideration to his/her client's interests and in turn disregard the interests of a neighbour. A surveyor has a duty to search for the best evidence, be impartial, and consult with other surveyors and to share data in an effort to determine as far as the circumstances allow the location of the original boundaries of land.

A surveyor's opinion can be challenged in court, and the court can decide the boundary, which is a legal issue. However, there needs to be judicially supportable reason to reject a properly researched, evidence based, and firmly held opinion. A surveyor acts in a quasi-judicial capacity, and upon being qualified is treated as an expert and accorded deference appropriate to those attributes. While the court has the final decision, the survey profession views it as a tribute that upon searching through reams of Canadian court decisions one finds very few surveyors' decisions have been set aside by the judiciary.

The surveyors Clow and Bernard came to a similar conclusion about the boundary line. They both used the evidence of an old wire fence that demarcated the boundary. They both

found the boundary line was a straight line. The only difference was that Bernard placed the boundary 0.2 metres (less than a foot) west of the line established by Clow, after adjustment. Bernard explained this difference, and why on an evidentiary basis his conclusion is the "*best fit.*"

The evidence demonstrates that the opinion of surveyor Bernard was thoroughly researched through fieldwork and firmly held. Mr. Bernard testified as to his points of reference and his reason for ultimately rejecting the outlier evidence.

Misunderstanding the role of the surveyor, the trial judge did not treat their evidence properly.[7]

In coming to its conclusion, the Court of Appeal made specific reference to the record of the proceedings before the Small Claims Court judge — likely in an effort to lead by example and clearly demonstrate that its decision was derived from the available evidence:

The boundary lines established by the surveyors and put forward before the trial court were similar. The difference was less than a foot over a distance of 363 feet. Mr. Bernard was qualified to give an expert opinion, while Mr. Clow, who is a respected certified land surveyor, was not qualified and was limited to giving lay evidence of his survey work and conclusions.

Mr. Bernard gave a detailed opinion that demonstrated how he came to and verified his conclusion. His opinion is thorough and reasoned. In testimony he said:

[Serge Bernard - Direct/G. Connolly]

A. Yes, I was made familiar to that work after my services were terminated. I had advised Mr. MacKay on April, on May 27th that from my measurements, I had found that the line was amazingly straight. I had evaluated the evidence on the south side of the road in isolation and produced the best-fit line and pushed it north and I was hitting an old fence post there, within inches. So I felt that, okay, I should reconsider the evidence on the north side of the road equally with the evidence on the south side of the road, south of Mr. MacKay's building in the undisturbed area.

Q. Umhum.

A. And that's when the bits of barbed wire along the affected area became outliers to me. Because they were in excess of two to three feet off line. What I also found interesting was that when I did a best-fit line of the centre of the trees, centre of the stumps, they were amazingly parallel to the best-fit line that I determined and exactly two feet to the east of my boundary. So on May 27, 2012, I called Mr. MacKay and advised him that, well look, it's amazing, the evidence shows and it fits really well, it's very tight, I'm

[7] *Ibid.*, paras. 11 to 18

quite confident that, and the noise level is quite low in fact, the boundary that I have determined is as straight as a die.

. . . . .

A. Yes, so but I felt that the line was amazingly straight with a relatively low noise level and what corroborated my boundary, the location of the boundary, as I had determined it, was the fact that the trees were exactly parallel and exactly two feet to the east of the boundary that I had established. If my boundary line was crossing the hedge, then I would suspect something's wrong or maybe I should re-evaluate the evidence and that sort of thing. But it seems that one was corroborating the other. So on May 27th I advised Mr. MacKay of my findings and that's when he terminated my services that day.

. . . . .

A. Where I had obviously better evidence in the terms of the fence, the straight wire and three strands of round wire south of that location, and the fence post hole, and all of the evidence located north of the road, I felt was to be associated a greater weight in determining the true boundary. That, combined with the fact that when I looked at all the stumps and evaluated a straight line, independent of the line, that it was exactly parallel to my, to the boundary where I had determined it, corroborated as well, you know.

Mr. Bernard also explained the difference in his and Mr. Clow's results.

[Serge Bernard - Cross/N. MacKay]

A. His first attempt at establishing the line, you are correct, did not rely on any evidence north of the road. He had ten measurements, nine of which were in, on the fence south of your property and one was a small bit of wire east of your garage. And all of that evidence was weighted equally in his determination of the boundary and that's what skewed his results. And I had access to that information directly.

He responded to extensive questions by Mr. MacKay on cross-examination. His opinion appears sound, and for the reasons stated is preferred. We view it as reliable, and see no reason in the record not to accept it.[8]

The question of jurisdiction of the Small Claims Court was not raised in *MacKenzie* since the claim was for damages for $8,000.00 and it arose out of the tort of trespass. These were both a subject and an amount within the jurisdiction of the Small Claims Section of the PEI Superior Court. However, in arriving at a decision on the tort matter, and although there was no declaratory order, the court was impliedly required to make a determination on the boundary of lands owned by the properties. The tort of trespass and the question of property boundaries

[8] *Ibid.*, at paras 34 to 37

are intimately connected. Indeed, most boundary related matters before the courts where a declaration on boundaries *is* sought by an applicant have, at their very heart, an issue of trespass – one wants to confirm that their actions are not a trespass onto their neighbour's land or the other seeks to prevent further trespass onto a neighbour's land; to do so requires a clear declaration of where the boundary lines are located. A decision on trespass has little teeth for the owner if it is not linked to a clear determination on the extent of one's title that will hold for future encounters with a neighbour or a neighbour's successor. However, this type of declaration may appear to be outside the scope of the jurisdiction of the Small Claims Court in PEI.

In Prince Edward Island, the Small Claims Court is constituted as one of four sections of the Supreme Court – the others being Estates, Family and General.[9] More specifically, the jurisdiction of the Small Claims Court is set out in Section 15 and includes matters *(a) in all personal actions of debt, covenant, assumpsit, and tort, where the debt or damages claimed do not exceed the prescribed sum*[10] *(presently $8,000.00).* In Ontario, jurisdiction of the Small Claims Court is set out in the *Courts of Justice Act,* and limited to actions for the payment of money (up to $25,000) or the recovery of *personal* property where the value of that property does not exceed $25,000.[11]

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[9] *Judicature Act*, RSPEI 1988, c J-2.1 at ss. 12-17

[10] *Judicature Act,* RSPEI 1988, c J-2.1 at s. 15(1)(a)

[11] *Courts of Justice Act,* RSO 1990, c C.43 at s. 23. However, a Small Claims Judge in PEI is a Supreme Court Judge. This may not be the case in other provinces. For example, in Ontario, a Superior Court judge is a Small Claims Court judge, however, a Provincial Court Judge or appointed "Deputy Judge" may also preside over a Small Claims Court matter. See:

> 22 (3) Every judge of the Superior Court of Justice is also a judge of the Small Claims Court.

Composition of court for hearings

> 24. (1) A proceeding in the Small Claims Court shall be heard and determined by one judge of the Superior Court of Justice. R.S.O. 1990, c. C.43, s. 24 (1); 1996, c. 25, s. 9 (17).

Provincial judge or deputy judge may preside

> (2) A proceeding in the Small Claims Court may also be heard and determined by,
>
> (a) a provincial judge who was assigned to the Provincial Court (Civil Division) immediately before the 1st day of September, 1990; or
>
> (b) a deputy judge appointed under section 32.

While there is *some* overlap between roles of the superior and small claims court in Ontario, and complete concordance in PEI, there is distinct separation in the jurisdiction of Nova Scotia where, under the *Small Claims Court Act,* RSNS 1989, c 430, matters are presided over by an appointed "adjudicator." The jurisdiction of the Small Claims Court in Nova Scotia is defined by what is ***not*** included and, more specifically at section 10 (a) of the Nova Scotia *Act,* claims for the "recovery of land or an estate or interest therein" are not included.

Marchbank v. Rutherford

In contrast with *MacKenzie,* the question of jurisdiction of the court in *Marchbank* was at the heart of the dispute before the Small Claims adjudicator. It was described by Supreme Court Justice Campbell as follows:

> Section 10(a) of the *Small Claims Court Act* R.S.N.S. 1989, c. 430 says that claims for the "recovery of land or an estate or interest therein" are not within the jurisdiction of the court. The existence of a right of way and the ownership of the two properties are not in question. The respective rights of the parties to use and maintain the right of way are. To determine the case a court will be required to make a finding about the nature, scope and attributes of an easement granted in 1921. The dispute is about the actions of the owners, Penelope Marchbank and Elizabeth Rutherford, but the claim as set out in the Notice of Claim makes it clear that it is also about the relationship of the easement to the land over which it runs. "The nature and extent of the rights conveyed are at issue."
>
> The claim is about the recovery of an interest in land because Ms. Rutherford is seeking to recover her interest in her land from Ms. Marchbank who she claims has abused the easement which is in favour of the land that she owns. It is a dispute between two people but also between two interests in land…
>
> Rather than hearing the matter and putting the parties through that inconvenience and expense the adjudicator issued a concise decision on the jurisdictional issue. It is significant that the decision makes no findings of fact that would establish a factual record for the appeal. The decision indicates that the defendant, Ms. Marchbank, argued that because the dispute involved the nature and attributes of a right of way it was not within the jurisdiction of the Small Claims Court. The adjudicator agreed with Ms. Marchbank that the decision of Adjudicator Patrick L. Casey, Q.C. in *Swaine v. Hackney* 2010 NSSM 83 (CanLII) supported her position. He did not agree with Adjudicator Casey's reasoning in that case. Adjudicator Lederman said that "To expand the meaning of 'recovery' to include every dispute about real property rights is, in my view, unreasonable."
>
> The adjudicator provides further insight into his reasoning in the Summary Report, dated March 31, 2016. He says that in the case of an existing right of way, issues of ownership and possession do not arise and the court here is simply being asked to determine the respective rights of the parties to use and maintain the right of way. He noted that he would restrict the concept of recovery in this context to questions of ownership and possession of land. Where, as here, the right of way is existing and not in dispute, issues of ownership and possession do not arise. The court is simply being asked "to determine the respective rights of the parties to use and maintain the right of way."…
>
> The claimant is Elizabeth Rutherford. She says that there is a right of way over her land in favour the land now owned by Penelope Marchbank. The right of way was established by a

> deed in 1921 and reserves a "right of way to Edmund M. Johnson and his heirs and assigns from the gate of the main road in a Southerly direction to a gate leading to the meadow." Ms. Marchbank now has the legal right to use that right of way. Ms. Rutherford claims that Ms. Marchbank has abused and misused the easement. She says that Ms. Marchbank has "overextended" her use of the easement causing damage to her property by filling ditches with debris, damaging the road bed and unnecessarily removing established trees and hundreds of saplings. The claim says that Ms. Marchbank was given notice that she was in breach of the easement and was responsible for damages as a result of her unlawful use of it. Ms. Rutherford claims damages of $18,279.25.
>
> Ms. Marchbank contests the claim. She says first that the Small Claims Court has no jurisdiction with land disputes. She also says that any work that was done on the road was "within reasonable guidelines according to right of way laws". She adds that Ms. Rutherford has also used heavy equipment on the right of way and has damaged it through her own use.
>
> Those claims and the defences to those claims are the only evidence that can be considered in this matter. The facts are the nature of claims and defences. There have been no other findings of fact and nothing put forward by the parties in the appeal establishes further facts.
>
> The parties cannot tailor the claims and responses now to fit their arguments. This is a claim about whether Ms. Marchbank has abused, misused, or overextended her use of the easement. The pleadings do not put the width of the easement in issue. But the claim as filed clearly sets out that "The nature and extent of the rights conveyed are at issue." It says that "The plaintiff brings a claim for damages from an abuse and misuse of the easement, drawing a distinction between the right of ways [sic] purpose, and the mode in which this purpose was accomplished."[12]

As noted above, and unlike *MacKenzie*, the claim in *Marchbank* was not based in trespass, but rather but rather involved an abuse and misuse of the easement. Also, one must keep in mind the differing jurisdictional limits of the small claims courts in the two provinces.

> This case is not the same as claim for damages for trespass made against a stranger. It is a dispute about the interaction between two interests in land; a deed and a right of way. The case could not be resolved without making a finding about the nature and extent of those competing interests. In that sense it is like a case in which a boundary is decided based on the interpretation of an old deed.
>
> In *Swaine* Adjudicator Casey addressed the interpretation of the word 'recovery" and held that it was not limited to recovery of a debt but included obtaining a right of property. Recovery is something of value received as a result of a judgment of the court. In this

[12] *Marchbank v. Rutherford*, 2016 NSSC 251 (CanLII), at paras 2 to 12

> context recovery of land or an interest in land is an order respecting land or an interest in land. That order might confirm the right asserted by one party or the other…
>
> Jurisdiction has to be determined on the face of the pleadings. The pleadings here put before the court the issue of the nature and extent of the rights conveyed in the 1921 easement in favour of the land owned by Ms. Marchbank. The case is about the relationship between the right of way that pertains to Ms. Marchbank's land and the rights of ownership that pertain to Ms. Rutherford's land. The effect of the decision would be to determine the nature and extent of the competing interests that flow with the title to the two pieces of property involved.[13]

Had the facts in *MacKenzie* occurred in Nova Scotia, would there have been an issue of jurisdiction? Likely not, if it continued to be framed as an issue of trespass, since the damages sought were also within the Nova Scotia court's monetary limit. However, note how the Court in *Marchbank* described the purpose and jurisdiction of Small Claims Court *in the context of boundary disputes*:

> The *Small Claims Court Act* has as its purpose the establishment of a court to informally and inexpensively adjudicate claims in accordance with established principles of law and natural justice. Ms. Rutherford argues that the purpose of the legislation would mean that it should be given an interpretation that would make the court more available to people seeking to have disputes resolved rather than making it less available. In a claim of this magnitude it would be very helpful to be able to seek a resolution through the Small Claims Court.
>
> Boundary disputes are not within the jurisdiction of the court. But the Small Claims Court has dealt with contractual disputes arising from Agreements of Purchase and Sale and claims of trespass to land. In each situation real estate was involved. The problem is where the line is drawn between disputes that are about where a line is drawn and disputes that otherwise involve land.[14]

Had the parties in *MacKenzie* framed their claim not as an action for the recovery of damages associated with trespass but rather as a declaration on the location of a boundary, this proceeding would have been outside the jurisdiction of the Prince Edward Island Small Claims Court – just like the Nova Scotia Small Claims Court. In fact other jurisdictions in Canada have similar restrictions.

[13] *Ibid.*, at paras 26 to 31

[14] *Ibid.*, at paras 16 to 17

In reflecting on these recent cases, land surveyors may need to be cautious about their potential involvement in the lower courts when the only question is one of location of a real property boundary.[15]

Editor: Izaak de Rijcke[16]

Cross-references to *Principles of Boundary Law in Canada*

The decisions in *MacKay* and *Marchbank* are helpful in understanding that boundary resolution procedures and jurisdiction in common law Canada is very province-specific. This is not to say that a decision that applies boundary retracement principles in order to locate a boundary as a collateral issue to a dispute between neighbours is unhelpful; rather, the procedural steps are unique to each Canadian court system.

MacKay v. MacKenzie is especially helpful in affirming the underlying principles that apply to a retracement of boundaries. In that respect, the material found at *Chapter 3 – The Role of Intention in Retracing Boundaries* (at page 65), is reinforced and confirmed by the court's decision in *MacKay*. Furthermore, the ethical and professional conduct principles discussed in *Appendix 3 – Boundaries and Ethics* (at p. 497), are underscored by the comments made by the appellate court on this same theme in *MacKay*.

FYI

There are many resources available on the Four Point Learning site. These include self-study courses, webinars and reading resources – all of which qualify for *formal activity* AOLS CPD hours.[17] These resources are configured to be flexible with your schedule, range from only a

[15] As a further example, consider the limitations on jurisdiction in British Columbia:

> "There are some kinds of cases that cannot be handled in small claims court, no matter how little money is involved. The resolution of certain disputes between residential landlords and tenants, as well as libel and slander suits and ***cases involving the title to land***, cannot be tried in small claims court."
>
> From: http://www.ag.gov.bc.ca/courts/small_claims/info/guides/what_is.htm

[16] The assistance and work of Megan Mills, counsel, in the preparation of this issue of *The Boundary Point* is gratefully acknowledged.

[17] Please note that the designation of CPD hours is based on the estimated length of time for the completion of the event. The criteria used are those set out in GeoEd's *Registered Provider Guide* for Professional Surveyors in

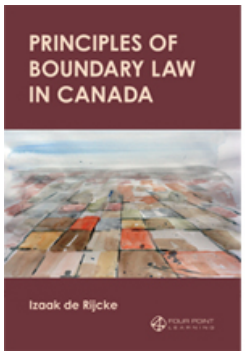
few hours of CPD to a whole year's quota, and are expanding in number as more opportunities are added. Only a select few and immediately upcoming CPD opportunities are detailed below.

Fourth Annual Boundary Law Conference

We thank all who attended this year's conference: *Boundaries of Public Highways: New Developments and Practices.* [18] This full day revisited traditional assumptions about the nature of boundaries and introduced new mindsets better aligned with what the courts do and conclude. For the convenience of professionals who reside in northern Ontario or otherwise were unable to attend in person, the online version of the conference will includes the presentations, papers and slide decks from presenters.

Principles of Boundary Law in Canada

A boundary is an attribute of every parcel of land in Canada – a parcel cannot exist without boundaries. Providing secure and predictable results in recording title and identifying the extent of title are elements that operate hand in hand in order to give certainty to the immense value tied up in real estate in Canada. In the context of (1) the complex and ever-evolving nature of boundary law, (2) the challenges of doing legal research in this area, and (3) the constant interplay between land surveying practice (as a regulated profession with norms codified in statutes) and common law principles, land surveyors need a current reference work that is principle-based and explains recent court decisions in a manner that is both relevant and understandable. Moreover, the education and training needs of new members to the cadastral surveying profession are best served by a reference work that not only provides comprehensive coverage of the material but is organized and indexed in a manner that supports the formation of professional opinions.



See *Principles of Boundary Law in Canada* for a list of chapter headings, preface and endorsements. You can mail payment to: ***Four Point Learning*** (address in the footer of the first page of this issue of *The Boundary Point*) with your shipping address **or** pay online Buy Now (*NB: A PayPal account is not needed.*)

Canada. Other professions may qualify under different criteria. References to AOLS are to its Continuing Education Committee. Elsewhere in Canada, please confirm your eligibility for claiming CPD hours.

[18] This conference qualifies for 12 *Formal Activity* AOLS CPD hours.

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