



Fourth Annual Boundary Law Conference

Boundaries of Public Highways: New Developments and Practices

This online version of the conference held November 2016 includes the recorded presentations, papers and slide decks (where applicable). The purpose of this fourth annual conference was to enhance certainty and predictability in the surveying of boundaries of public roads by learning about the latest treatment of road boundaries in our legal system and suggesting best practices.

Topics included:

- latest developments in the courts regarding roads;
- practical solutions to road boundary problems;
- better managing risks arising from road status and boundary questions;
- practical tips and problem-solving strategies for researching records for boundary evidence of roads of uncertain origin and legal status;
- development of a systematic approach or algorithm for surveying road boundaries that draws on the crowd-sourced knowledge of land surveyors; and,
- research strategy used for your work in surveying road boundaries.

This program has been accredited by

The Association of
Ontario Land Surveyors



for 12 *Formal Activity* CPD hours.

The fee for 2 months' online access is \$425+HST. Go to 4pointlearning.ca to register¹. If registering someone else or a group, download the [Registration Form](#). If you have questions, please call 519-837-2556 or email inquiry@4pointlearning.ca.

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

PRESENTATION ABSTRACTS

The Nature of a Highway: What Makes It “Public” and What Does It Mean for Boundary Location?

Izaak de Rijcke, *O.L.S., Lawyer*

Allowances for Road in original township surveys were instructed to be laid out at a stipulated width: originally 40 or 50 feet and later, 66 feet and even more. The retracement of road allowance boundaries has been generally guided by maintaining the original road width – even though occupation (even the encroachment of buildings) might indicate a different boundary location. What is it about the nature of a highway that dictates a measurement as the best evidence of a boundary when the hierarchy of evidence suggests a different approach for all other boundaries?

“Lost Highways” After *Meaford (Municipality) v. Grist*

Jeff Talbot, *O.L.S.*

As land surveyors, evidence of the boundary of a road is always comingled with evidence of the origin and sometimes even the legal status of the road as a public highway. From records of old township by-laws to decisions of the Courts of Quarter Sessions, evidence of road boundaries presupposes the legal existence today of the road itself. What is the relationship between a legal determination of road status and the location of a road boundary of a public highway – that may not “legally” exist? This presentation will review the history of roads established by Courts of Quarter Sessions in Ontario and township roads established by By-law. The former, general consensus that – by themselves – a confirmed Quarter Session Road Report or a passed municipal highway by-law, established a highway has now been put into substantial doubt by *Meaford v. Grist*.

Public Highway as an Overriding Interest in Boundary Retracement: Practical Exercises in Research

Jeff Talbot, *O.L.S.*

Due to the overriding interest of “public highway”, the retracement of parcel boundaries may be subject to a legal determination of the existence of the interest. This determination will depend upon the particular facts of a given situation and is often anything but clear. Different sources of information will be considered in the examples.

Road Reservations, and Locating the Boundaries of Roads Over Private Land Confirmations

Eric Ansell, *O.L.S.*

At various points in Ontario's history, Crown land was used as a resource to encourage tourism and to foster activities such as fishing and hunting. "Summer Resort Locations" were surveyed and laid out in attractive settings and made available for purchase. Today, the need for a means of reaching isolated parcels of land that are surrounded by Crown land serves as an impetus for some owners of these isolated properties to build roads or other means of reaching the location. How do roads under these circumstances come into existence, if at all? What guides the location of such roads and how are their boundaries determined? Which Crown Land policies apply and have these policies always remained the same? This presentation will offer insight and guidance to the location (as well as retracement) of the roads and boundaries that can and do exist in many unsettled parts of the Province.

Using AI and Smart Tools for Road Boundary Retracement

Jeff Buisman, *O.L.S.* and Izaak de Rijcke

The circumstances involving the retracement of road boundaries in a recent scenario was the subject of a "crowd-sourced" solution seeking input from many land surveyors. The problem will be explained in this workshop, but the possible solutions suggested from practitioners opens an interesting exploration of the rationale to be followed in retracing road boundaries. Using a workshop format, this presentation will use "the hands-on" example as the starting point for developing effective approaches (dare we say "algorithm"?) to how we think about road boundaries and approach their location on the ground.

The *Boundaries Act* Tribunal & Road Boundary Confirmations

Ken Wilkinson, *O.L.S.*

Once a boundary has been confirmed under the *Boundaries Act*, the location of the boundary is generally taken to be final – and there is no longer any doubt of its position. But can confirmed boundaries become "lost" again? In the 1960s, Toronto undertook a program to confirm the boundaries of many roads and streets in the former Borough of North York. What has happened to these confirmed boundaries as streets have been widened and time has passed? This presentation looks at a specific instance in which a confirmed boundary had become the subject of a later application to "re-confirm" the same boundary, and relates the importance of a reliable road and street boundary network to broader benefits to a community.

Laneway to Heaven: Private and Public Laneways

Craig Carter, *Lawyer*

Public lanes typically originate in private plans of subdivision that “lay out and dedicate” a lane for public use. Ownership becomes vested in the municipality – as well as the obligations of maintenance. In contrast, easements remain in private ownership but can be used and enjoyed by others. However, despite the ease of classification, the actual determination is often a challenge and can pit private owners against a local municipality. What indicators are available to land surveyors and lawyers alike in discerning the difference? This presentation reviews several recent court cases involving survey plans in which these questions have been addressed.

What’s in a Name? How Courts Have Interpreted the Lingo from “Avenue” to “Promenade”

Megan Mills, *Lawyer*

The names of public thoroughfares can be found on many plans of subdivision and other documents by which an area for seemingly public use has been established. In this presentation frequently encountered terms are explored in greater detail with a view to identifying what their significance was, and will become, given certain trends in court cases.