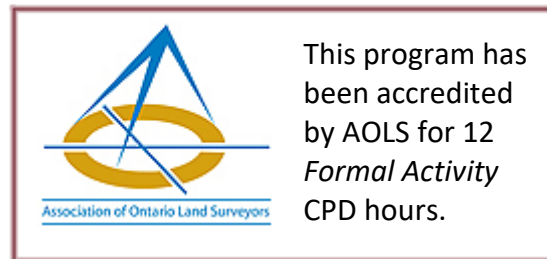




Sixth Annual Boundary Law Conference

Easements: Update and Refresher

This online version of the conference held in April-May 2019 includes recorded presentations, annotated readings and slide decks. The sixth annual conference explored recent trends and developments in both policy and the law regarding easements. The topics were configured to support the formation of professionally defensible opinions that parallel what the courts do.



The fee for 4-month online access is \$425+HST.

Go to Four Point Learning to [register](#)¹. If you have questions, call 519-837-2556 or email inquiry@4pointlearning.ca.

TOPIC DESCRIPTIONS

1. *Easements 101: From Basics to Present Day Challenges*

What are the necessary elements for an easement to exist at law... and continue to exist? How to distinguish an easement from a mere licence? How an easement status can be “lost” when constituent elements are lost or destroyed. What does a change in original use (e.g., intensification) mean for showing easements and boundaries on a survey? What can be shown on the survey plan? Scenario based on recent court decision rejecting a claim to easement.

2. *Differentiating Rights Based on Origin: Mechanisms for Easement Creation and Extinguishment*

What are the special considerations for parcels with LTCQ or Registry status when an application is made for LT Absolute Plus? When can an easement be lost through abandonment and when does “non-use” not really matter? Can a LTCQ PIN have an easement over *Registry non-convert* land based on prescription? Can section 39 of the *Land Titles Act* always validate what may not be possible at common law? Scenario based on a grant of easement in a position “to be determined at a future date”.

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

3. *Private Easements and Public Laneways: A Framework for Understanding the Difference*

Can plans showing “lanes” laid out not always create “public” lanes? What is necessary for “subdivision plans” to satisfy the definitions in s. 53 & 57, *Surveys Act*? Can public lanes “emerge” from gaps in descriptions or where never intentionally laid out? When is a lane merely a private easement? What guidance can be drawn from “laneway projects” in urban centres such as Ottawa, Toronto, and Hamilton? Scenario based on a Registry PIN still shown as a “alleyway” becoming burdened by an easement in favour of dominant PIN in LT Absolute.

4. *Encroachments, Spatial Extent and Easement Boundaries: How Easement Boundaries Differ from Property Boundaries*

The existence of an encroachment into an easement was shown on plans of survey in the past and was often cause for concern ... but less so when the decision in *Weidlich v. de Koning* in 2014 denied an application to remove the encroachment because it did not represent a “substantial interference.” What has happened in the last 5 years? Scenario considers what is “substantial” and what is not, in a 3D context.

5. *Statutory Easements and Unregistered Rights: Managing the Risks*

From Regulations under the *Electricity Act, 1998* to the *Ontario Trails Act, 2016*, there exist many forms of statutory easements in Ontario which may not appear in either the parcel register for an affected PIN or on a Block map. How can such easements be identified and shown on a plan of survey? How can attendant risk factors be reduced?

6. *Easements and Rights-of-Way over Crown Land: A Primer*

What are the basic elements of easement when configuring the spatial relationship of rights and obligations that attach to dominant and servient tenements? Several examples cover commonly encountered easements from Crown Land plans to the many kinds of easements possible under the *Public Lands Act*.

7. *Recent Developments in Condominium Law and Easement Rights: What is Changing and What Remains the Same*

The degree of complexity in condominium development in Ontario means that the former provisions on easements for utilities over common elements, or an easement for support in favour of unit owners in a high rise, may no longer be sufficient in covering all situations. Several scenarios based on Section 12 of the *Condominium Act, 1998* illustrate novel approaches to complex condominium development projects.

8. *Remedies and Solutions for Easements: From Court Orders to Title Insurance*

Why are court orders sometimes needed to solve easement problems? What other remedies are available to cure a defect or solve a failed easement? Several scenarios demonstrate how to think about delivering the survey plan product with sufficient detail and clarity to assist in obtaining solutions.