



LE/ESSE 4670 Survey Law 2



Adjunct Professor: I. de Rijcke, OLS, LL.M.

Course Syllabus and Information for Winter, 2018

LICENSURE REQUIREMENTS

This course is a sequel to LE/ESSE 4660. It meets the requirements for licensure as an Ontario Land Surveyor by the Association of Ontario Land Surveyors. This course has been accredited by CBEPS for purposes of meeting the requirements of the Cadastral Surveys course part of the CBEPS syllabus. Accordingly, it may also meet the requirements for a professional licence in many other jurisdictions of Canada and also through reciprocity and mobility recognition.

CLASS TIMES AND LOCATION

Classes are scheduled for Monday evenings from 6:00 pm to 8:00 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 resources available on the [Four Point Learning](http://FourPointLearning.ca) site.

Please note that there may be occasional classes held on a Wednesday evening instead of the Monday due to the instructor's other commitments (e.g., an out of town trial or hearing). Of course 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@4pointlearning.ca. Occasional guest speakers will be announced during the semester.

ACADEMIC INTEGRITY AT YORKU

From YorkU 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 2* 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:

- advanced concepts of real property law;
- problematic concepts of legal boundary;
- principles of boundary law and the geographics of township survey systems in Ontario;
- transformation in land registration in Ontario through automation, LTCQ and PIN maps;
- early survey systems and the descriptions of land in the recording of interests in land through the *Registry Act* and the *Land Titles Act*;
- boundary law principles as applied to the evaluation of evidence and special circumstances which impact on the land registration system;
- complexities of the process of legal research and investigation;
- approaches to research, investigation and survey report writing; and
- natural boundaries.

The learning and instruction methods used in this course — namely, considerable 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, the legal system, and their relevance to the boundary retracement process;

- assimilate 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; and
- 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

- Attendance and active participation in all classes. You are expected to attend every class meeting. If you are ill and cannot attend, please notify me to excuse yourself, if possible.
- Completion of *Annotated 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 is one class 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: *Property Records — Land Registration — Conventional Boundaries*

- Jan 8 Welcome, introductions, and discussion of course syllabus and course requirements; Introduction to Land Registry office title searching and land registration systems; the doctrine of notice. [Chapter 7]
- Jan 15 Conventional boundaries and equitable estoppel; title insurance. [Chapter 2 @p.55ff]

SECTION 2: *Property Records — “Title Searching” — Transacting the Parcel*

- Jan 22 Title Insurance continued – impacts on survey fabric and the modern cadastre. [Chapter 10]
- Jan 29 Part III *Registry Act* and boundaries of parcels in *Land Titles*. [Chapter 7]

SECTION 3: *Descriptions, Deeds, Retracement, Evidence and Canada Lands*

- Feb 5 Interpreting descriptions and intention. [Chapter 3] Canada Lands and First Nations: the *Indian Act* [Chapter 9]
- Feb 12 Documentary evidence, fact finding and the application of law to facts; the surveyor as expert witness. [Appendix 3]
- Feb 19 **Reading Week — No classes**

SECTION 4: *Reports, Evidence and Condominiums*

- Feb 26 Surveyor as expert witness and the writing of reports. [Appendix 3]
- Mar 5 Condominiums. [Chapter 2 @p. 58ff]

SECTION 5: *Water Boundaries and Report Writing*

- Mar 12 Introduction to topic, *Beds of Navigable Waters Act* and Water Boundary Issues — Canadian water boundary regimes: tidal, non-tidal. [Chapter 8 and Appendix 3]
- Mar 19 Erosion, accretion and water’s edge; public lands; offshore and UNCLOS. [Chapters 8 and 10]
- Mar 26 Navigability. [Chapter 8]
- Apr 2 Apportionment of accretions. [Chapter 8]

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