



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 affect your work.

You are welcome to
show your appreciation
for this free resource:

[Contribute](#)

As land surveyors we may find that a survey plan that we have prepared means that we get called to give evidence in court in order to explain what it shows. Such was the case in *Berryhill v. Trendle*,¹ where a survey did not resolve a dispute and neighbours embarked on expensive litigation after having lived peacefully next to one another for many years.

In Ontario again, we consider a decision which illustrates the costs of ignoring a survey plan.

A Survey Plan May Have Avoided a Costly Dispute Over an Encroachment

Key Words: *encroachment, survey plan, GIS property maps, dispute resolution*

Despite a trial that lasted for 4 days, the final decision was brief, comprising less than 5 pages of reasons. In what started as two neighbouring families getting along for many years, was described by the court as a sad culmination of a dispute that was unnecessary – if only the parties had acted reasonably. In the words of the court,

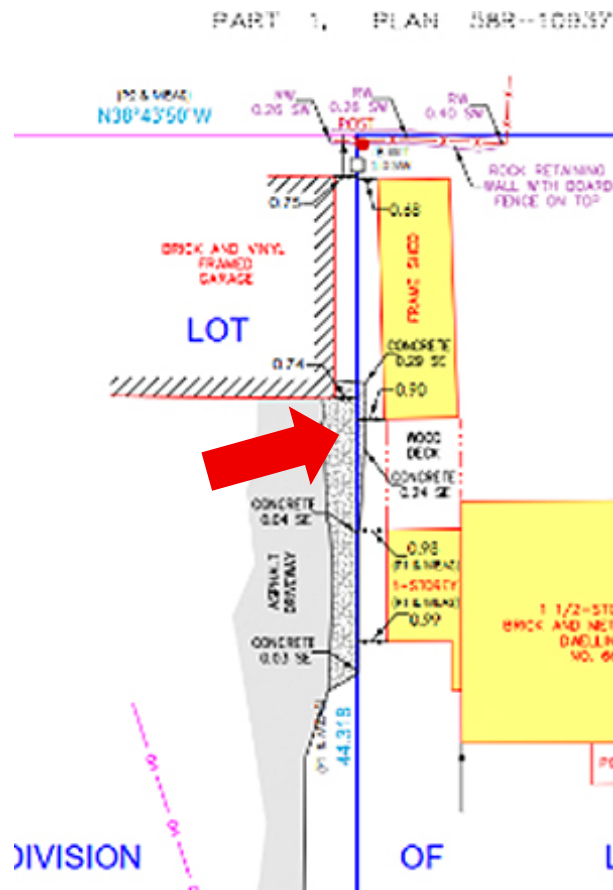
“This dispute, although it might objectively be described as trivial, has become almost Shakespearian in its tragic effect of poisoning the relationship between the parties and leading each to endure years of rancour, culminating in this litigation. This misery has been largely self-inflicted. There were numerous ways that this dispute could have been resolved by acting reasonably. Each of the parties has acted badly during the course of the dispute, in ways that unnecessarily aggravated and prolonged it. Each has engaged in petty provocations.”²

¹ *Berryhill v. Trendle*, 2026 ONSC 4326 (CanLII), <https://canlii.ca/t/km7mq>

² *Ibid.*, at para 2. The defendant’s partner brought a counterclaim.

The decision even became the subject of a periodic column in *The Toronto Star* newspaper,³ in which the author wrote, “When a neighbour dispute begins over inches ... the lesson for homeowners is simple: get a survey, read it carefully and try hard not to turn those inches into miles.”⁴

As might often help, a copy of a survey plan or some graphic to illustrate the extent of the dispute appears below as a generous contribution from the survey firm which prepared it.⁵



It may seem incredulous that the event which seemed to trigger the dispute and bring an end to harmony was the pouring of a concrete extension to the driveway by the neighbour on the left to encroach over the property line by a maximum distance of just 0.29 metre. Even more disappointing was the belief that the encroachment was more substantial than it was, based not on a recent survey, but as explained by the court,

³ Aron, Bob, *These Waterloo neighbours went to trial over a few inches of concrete. It cost them \$150,000 in legal fees*, August 21, 2026, *The Toronto Star* at https://www.thestar.com/business/personal-finance/these-waterloo-neighbours-went-to-trial-over-a-few-inches-of-concrete-it-cost-them-150000-in-legal-fees/article_f1207b49-9a59-4faf-87af-bf18ad8bd6a8.html All rights reserved.

⁴ *Ibid.*

⁵ Partial copy of SRPR prepared by Van Harten Surveying Inc. All rights reserved.

“...[the plaintiffs] became convinced that the concrete pad extension encroached significantly on their property and demanded that it be removed. This belief may have originated in an aerial Google Maps photograph which depicted lot lines superimposed on an aerial photograph (which was a general depiction and not a survey).”⁶

Framed initially as an action in trespass and nuisance, with damages claimed for emotional distress and diminution of property value, the court noted a narrowing of the claim midway through the trial:

“The [plaintiffs] have not established nuisance or loss of quiet enjoyment. The encroachment of the cement pad by a few inches, and the activities of [one defendant] in momentarily stepping onto their property, were trivial. Nor were they unreasonable in the circumstances. Moreover, the encroaching portion of the cement pad has been removed.

The [plaintiffs] have acted unreasonably throughout this dispute and there is no basis upon which to grant their claim for general damages. They refused to accept the result of the survey and persisted on an unreasonable and contrived basis for the acceptance of a property line of their own devising, spraying orange paint lines which they mistakenly insisted long past the point of reasonableness marked the property line between the two properties. [One plaintiff] in particular is the author of her own misfortune in her claimed emotional distress, which appears to have originated in her irrational obsession with the property line dispute.

The encroachment of the cement pad onto the [plaintiffs’] property was caused by the bending of a wooden form board when the pad was poured, resulting in a curved portion which encroached by a small amount onto the [plaintiffs’] property. After protracted dispute, one defendant] removed the encroaching portion. The momentary entries of [one defendant] into the space between the buildings on the two properties to access materials on the side of his garage were transient and not unreasonable.”⁷

Note that the encroachment had been removed before trial, but the parties persisted in the litigation.

The result was a dismissal by the court of both the claim and counterclaim and a declaration that the property line was the boundary as depicted on the survey plan which was marked as an exhibit in evidence. Each side was ordered to pay their own costs.

We end with the court’s opening quote, which seems so apropos:

“Heat not a furnace for your foe so hot that it do singe yourself”

Shakespeare, Henry VIII, Act 1, Scene 1

⁶ *Berryhill v. Trendle*, at para 3. This is a serious concern and speaks to the risks in using an online mapping application with a property line fabric overlay. Despite disclaimers that such products are not surveys, their misuse persists - perhaps even to the point of being relied upon to embark on costly litigation.

⁷ *Ibid.*, at paras 13 to 15

One may wonder how costly and futile disputes like this can be avoided. Should lawyers be more proactive in dispute resolution? Should the remedies available to a tribunal under the *Boundaries Act* be expanded to award compensation for encroachments found to exist over a confirmed boundary? Is there merit in land surveyors having increased skills in defusing boundary disputes? However one might answer these questions, the overarching take-away may just be that we desperately need to find a better way.

Editor: Izaak de Rijcke

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

A discussion of encroachments can be found at pages 163-164, and throughout the book.

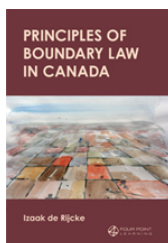
FYI

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.⁸ These resources are configured to be flexible with your schedule, range from only a few hours of CPD to a whole year's quota.

Course: *Survey Law 2*

Survey Law 2 builds on *Survey Law 1* with a special emphasis on evaluation of evidence and special circumstances encountered in problematic and natural boundaries. This course will be taught online Wednesday evenings by Izaak de Rijcke, starting January 6, 2027. For more information, consult the [syllabus](#). Please go to Four Point Learning to [register](#).

Principles of Boundary Law in Canada



This comprehensive treatment of the principles of boundary law lies at the intersection of law and land surveying. Although the textbook has its foundation in the law of real property in Canadian common law jurisdictions, it is intended as a resource which bridges two professions. For real estate lawyers, it connects legal principles to the science of surveying and demonstrates how surveyors'

⁸ 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 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.

understanding of the parcel on the ground has helped shape efficient systems for property demarcation, conveyancing and land registration.

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** [purchase](#) online. (NB: A PayPal account is not needed.)



This publication is not intended as legal advice and may not be used as a substitute for getting proper legal advice. It is intended as a service to land professionals in Canada to inform them of issues or aspects of property title and boundary law. Your use and access of this issue of *The Boundary Point* is governed by, and subject to, the [Terms of Access and Use Agreement](#). By using this issue, you accept and agree to these terms.

If you wish to contribute a case comment, email us at TBP@4pointlearning.ca.

If you wish to unsubscribe, please [email](#) us your request. To receive your own issues of *The Boundary Point*, complete a [sign-up](#) form at the Four Point Learning site.

© 8333718 Canada Inc., c.o.b. as Four Point Learning, 2026. All rights reserved.

ISSN: 2291-1588