

# Ontario Professional Surveyor



*on the cover ...*

**Deerhurst Resort, Huntsville, ON  
Site of the 128th AOLS AGM**

**also in this issue ...**

**Know your History - Part 3  
A New Mediation Option for AOLS  
Discipline Cases  
How David Thompson found  
Latitude and Longitude in 1790**

**plus our regular features**

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## ON THE COVER ...

The 128<sup>th</sup> AOLS Annual General Meeting will be held at Deerhurst Resort in Huntsville, Ontario from February 26 to February 28, 2020. More information about the meeting can be found on the AOLS Website at [www.aols.org](http://www.aols.org)

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# President's Page

By Al Jeraj, O.L.S.



Throughout the year, as I have participated in the President's Forum at the AGMs of our Sister Associations, the topic of separating the regulatory role from the advocacy role within each Association is a common agenda item. Across the country, provincial governments are increasingly demanding that regulators act in the public interest by implementing standards and developing policies that are transparent and hold their members accountable for their actions. The expectation that the public can trust that all self-governing professions will act in the public's interest is standard and if the government finds that this trust has been breached, it will not hesitate to step in and take control of the regulatory body. In this issue, our Executive Director writes about some recent examples of this happening.

For a small Association such as ours, separating the two roles can be challenging since an argument can be made that advocacy is in the public's best interest. For instance, by promoting surveying and raising our profile, aren't we serving the public's best interest if the public knows our role in society? After all, everyone knows to go to a doctor when they are sick, but does everyone know to call a surveyor when erecting a fence along a property line? Despite how well intentioned our reasons are to advocate for our profession, governments are beginning to draw clear lines in the sand for self-regulating professions to ensure they only play in the regulatory sandbox, not the advocacy one.

So, how does our Association fare? This year, we have completed the following tasks that reinforce our role as a regulator:

- Hired a new Executive Director;
- Adopted an AOLS Transparency Policy;
  - Published Council minutes online
- Developed and adopted a New 5-year Strategic Plan;
  - Drafted and sent Regulation changes to members for review
  - Held a full day Risk Management workshop focusing on public risks which has resulted in several initiatives
- Improved SRD timelines for Comprehensive Reviews and the Exit Survey was redeveloped;
- Implemented a strengthened Plan Check component for the Professional Exam;
- Developed a new Check List to help strengthen members' practices;
- Put on an Administrative Law Course for Council and committee members with several members attending;
- Addressed Complaints and Discipline files within reasonable time frames;

- Developed a new Mediation Guideline for Discipline; it was used in one mediation, and the result was accepted by Council;
- Approved a National Memorandum of Understanding (MOU) to encourage collaboration on Regulatory matters.

For a relatively small organization such as ours, I believe that is an impressive list. We are doing many things right, but as we all know, there is always room for improvement. I hope that as our Association continues to evolve in the coming years, the Government can continue to be assured that we are indeed protecting the public's trust and interest.

In addition to our regulatory responsibility, the Association also has to take care of administrative items. The following list highlights what we've accomplished to further our administrative responsibilities:

- Developed a new Website scheduled to be in operation by early 2020;
- Reviewed AOLS technology and strengthened some components;
  - Approved a staff & IT policy
  - Upgraded the AOLS server software to a current version
  - Implemented daily offsite backups
  - Implemented a new version of accounting software (SAGE)
  - Purchased Cyber Insurance
- Developed and approved a Record Retention Policy;
- Cleaned up, reorganized and catalogued the Association's library;
- Repaired the brick work on the AOLS Office chimney which was becoming a safety hazard.

All of the above accomplishments are in addition to the day-to-day responsibilities that AOLS staff and committee members have. I keep emphasizing how valuable our staff and volunteers are to the success of our Association and I firmly believe that they are our greatest strength.

Each Past President to whom I have spoken has told me the term goes by fast. Just as you're getting into your groove, you find yourself writing your last article and wondering where the time went. It is no different for me. The old adage, time flies when you're having fun, is true and serving as President for this incredible organization was not only a true honour but it was also a blast! My wife Sam and I thoroughly enjoyed representing Ontario at our sister associations and participating in each of their AGMs. We look forward to returning the favour for the visiting delegates at our AGM in February. Speaking of our AGM, I hope each of you has booked your hotel rooms. I

*cont'd on page 4*



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# Executive Director's Notes



By Brian Maloney

In late October I had the privilege of attending the Canadian Network of Agencies for Regulation (CNAR) annual conference in Quebec City. The event consisted of a pre-conference workshop and two days of plenary and concurrent sessions. It was attended by over 550 leaders in professional regulation and featured speakers who addressed trends and best practices in regulation. Topics ranged from governance issues right down to how to conduct a good investigation of a complaint.

I focused on sessions that related to governance and trends and came away with mixed emotions. The AOLS has put in place a lot of good practices and processes but has many areas it can improve on. There is no doubt that we need to continue to focus on improving our regulatory processes and practices.

One of the most significant trends is a movement towards some form of oversight of professional regulators. One of the speakers described Canada as one of the last bastions of traditional self-regulation. Many countries have been moving towards some form of oversight and these can range from complete government control to a government-controlled organization that sets standards for self-governing professions. The Professional Standards Authority (PSA) in the United Kingdom is seen as a leader in regulatory oversight. They report directly to government and accredit and oversee regulators. They have developed a set of standards that is recognized worldwide. They have the power to appeal decisions of the regulator to their High Court if they feel that a regulator has not acted appropriately. They also have the power to direct a regulator to change, although this power has yet to be used. These standards have been used to review regulators here in Canada and they were used as a reference in this year's strategic planning process. Another example of regulatory oversight comes from the Australian Health Practitioner Regulation Agency (AHPRA). They set standards for all registered health professionals. In 2010, Australia put in place a complicated scheme that distributes rights and responsibilities across multiple organizations. It still has boards that register practitioners using accreditation standards, set prac-

tice standards and address complaints and discipline.

Within Canada we have seen significant regulatory change over the last few years. Most recently the Alberta government fired the Board of their Real Estate Commission and took it over. Similarly, in British Columbia the government now completely controls their Real Estate Council and has left few realtors involved with the Council. British Columbia has also put in place an Office of the Superintendent of Professional Governance. It applies to the Institute of Agrologists, Applied Science Technologists and Technicians, College of Applied Biology, Engineers and Geoscientists, and the Association of Forest Professionals. The Superintendent may establish guidelines related to governance of professions, perform audits and make rules with respect to complaints and investigations. The Professional Governance Act that enabled this set of new rules for the professions includes: Council make up (7 registrant councillors and 4 lay councillors chosen on a merit-based system), subjecting companies to registration, allowing Councils to make bylaws without registrant (member) approval, mandatory competency and conflict of interest declarations, and whistleblowing requirements. While the regulations are still being worked out, clearly government is taking a stronger arm in how these professions will govern themselves.

Beyond these examples, other professions are under scrutiny and several professions have taken it upon themselves to have independent reviews performed. Close to home, Professional Engineers Ontario (PEO) had an external review undertaken which produced 15 recommendations. PEO has agreed to adopt all recommendations.

It should not be surprising to us if at some point we are subjected to scrutiny of our regulatory affairs. To be prepared, we need to further the good work that has been done to date and keep the public interest at the forefront of all decisions that we make.



## President's Page (cont'd from page 2)

am proud of our program this year. I have been working with the AGM Committee and we have lined up some great speakers and seminars that we think the membership will enjoy. I want to give a quick shout out to the AGM Committee as they have been working hard since the summer to put on a great meeting.

For those who have read the Council minutes, you will have noticed that during my term I started each Council meeting with a reflection of thanks, whereby each Councillor would share something they are grateful for and I think it is fitting I end on the same note. First, I would like to thank my wife Samra and my two sons Mikhail and Azeez for supporting me

during my term. Second, I would like to thank Council for their commitment, wisdom and support and especially for participating in my grateful exercise! Third, I would like to thank the AOLS staff, committee chairs and volunteers for their dedication and work ethic. I would encourage our membership to take some time and say thank you when you see them for they truly deserve it. And finally, I would like to thank the membership for allowing me to stand as your President. I will never forget this experience and having the opportunity to lead our great Association is something I will forever be grateful for.

I hope to see all of you at our AGM in February.





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# Evidence-based Risk Management for Advertisers

## An opinion about online and offline promotion

By Grant Lee, BA, MA, RPP (Ret.), CPM

*Grant Lee of AGL Marketing Limited is a long-time Associate Member of the AOLS. He began his career as a survey technician in the early 70s, spending years on the boards drafting plans on linen and Mylar. His interests led to a career as a Registered Professional Planner and now a Chartered Professional Marketer. AOLS has been a client of AGL Marketing Limited since 1999. Throughout that period, Grant has contributed to strengthening the Association's marketing and public awareness activities and contributed to the growth in membership. Advertising is one of many elements of marketing that falls under 'promotion' in the marketing mix. Awareness of evidence-based risk management for advertising will help AOLS members be more effective in online and offline advertising.*

Ontario Land Surveyors can promote their services and products and remain in compliance with the Surveyors Act, R.S.O. 1990, c. S.29.<sup>1</sup> The Canadian Code of Advertising Standards, overseen by Ad Standards<sup>TM2</sup> sets the criteria for acceptable advertising in Canada. It contains 14 provisions so that advertising is truthful, fair, and accurate. Canada's anti-spam legislation (CASL)<sup>3</sup> may affect the use of electronic channels to promote a business or non-profit-organization. There is another element of advertising, however, that is seldom considered beyond regulations and codes. That consideration is the level of risk that a company or individual is willing to place in an online or offline advertisement.

Shopify publishes a contemporary definition of advertising: 'A marketing tactic involving paying for space to promote a product, service, or cause. The actual promotional messages are called advertisements, or ads for short. The goal of advertising is to reach people most likely to be willing to pay for a company's products or services and entice them to buy.'<sup>4</sup> An ad can be used to change a perception or action of a targeted audience while having nothing to do with an exchange of currency. In this case, think of advertising in election campaigns.

Where promotion becomes interesting is at the creative stage. This is where the level of risk in a display advertisement or video begins. There is a very good research paper by Dr. Jaafar El-Murad and Professor Douglas C. West, Westminster Business School, University of Westminster,

London<sup>5</sup> that investigates risk and creative advertising. It was the first empirical study of the relationship between risk and creativity in advertising. The study finds that when firms perceive that they are performing well, they are risk averse. When they perceive that they are performing poorly, they are more willing to take risks.

Because many small to medium-sized professional firms equate advertising with marketing, it is no wonder that in times of recession or a sluggish local economy, there is a scramble to "do marketing and get out there" to find more work. Ad campaigns of the desperate may in fact appear edgy and aggressive. When times are good, there is minimal effort placed in marketing, clients are easier to attract, there is a demand for products and services, and promotion through advertising tends to take a back seat to engagements with prospects and clients through networking activities. Any display ads published online or off are likely to be product or service-related with less messaging about issues and more about why a product or service should be favoured from an enterprise with a friendly face. Think of "Fun Friday" and "Throwback Thursday" in online social media promotions by the private sector and their associations. Desperate tones in messaging appear to be all but absent when times are good.

It is during challenging times that a company may have a greater awareness of risk and the benefits of taking on more risk in a marketing strategy. Greater risk, however, must be



AOLS display ad placed in print publications

cont'd on page 8



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Falcon 8



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carefully considered and measured. There must be some level of empirical evidence or credible anecdotal information to underlie support for unusual creative work. As references in the El-Murad-West paper point out, an incorrect strategy can result in serious “collateral damage.”

Advertising campaigns can be undertaken over online delivery systems such as Facebook, LinkedIn, Instagram, and email marketing services like Constant Contact and Mailchimp. The metrics provided by online campaigns are almost instantaneously giving an advertiser evidence-based feedback that can be used to alter campaigns quickly, strengthen the messaging in words and graphics, or change course to conserve resources and mitigate pushback to the messaging before control is lost.

Display advertising in print media is time critical and time dependent. Ads must be placed with messaging that will be relevant by the time of publication which may be weeks or months ahead. Industry issues must remain constant, as well as the market environment. Perhaps the reason for conservative advertising in professional journals and industry publications is a deliberate lower level of

risk-taking. Once an ineffective or damaging ad is published, the messaging cannot be taken back. It is there to see in print for a long time. On the other hand, an effective creative will shower welcome attention to the advertiser and may help drive sales or change a perception. In either case, metrics are much slower than online to collect, analyze and form opinions for decision making.

Risk management in advertising creative is not new. Canadian legislation and professional regulation of business behaviour is well known, and cases of abuse have been documented. What is new over the past few years is the added element of almost immediate evidence to help advertisers develop strategy and identify implementation tactics. Through social media pages and sites, websites, and email marketing campaigns, we can assemble data in advance of major advertising campaigns to assist in the creative process and provide supporting copy. Such data and information can be extended to offline campaigns to present audiences with exciting graphics and copy that people will embrace. The era of evidence-based risk management for advertising creative is upon us.



Opening creative for promotional video on AOLS social media



<sup>1</sup> R.R.O. 1990, Reg. 1026: GENERAL, under Surveyors Act, R.S.O. 1990, c. S.29, <https://www.ontario.ca/laws/regulation/901026>

<sup>2</sup> Ad Standards, <https://adstandards.ca/>

<sup>3</sup> Canada's Anti-Spam Legislation, Government of Canada, <https://www.fightspam.gc.ca/eic/site/030.nsf/eng/home>

<sup>4</sup> Shopify, <https://www.shopify.ca/encyclopedia/advertising>

<sup>5</sup> El-Murad and West, Risk and Creative Advertising, Westminster Business School, University of Westminster, London, 2003; [https://www.researchgate.net/publication/233495959\\_Risk\\_and\\_Creativity\\_in\\_Advertising](https://www.researchgate.net/publication/233495959_Risk_and_Creativity_in_Advertising)

# Calendar of Events

**February 11 to 13, 2020**

**ORCGA Damage Prevention Symposium**  
*Ottawa, Ontario*  
<https://orcga.com>

**February 24 to 27, 2020**

**Canadian Hydrographic Conference**  
*Quebec City, Quebec*  
<http://www.chc2020.org>

**February 26 to 28, 2020**

**128th AOLS Annual General Meeting**  
*Huntsville, Ontario*  
[www.aols.org](http://www.aols.org)

**March 23 to 25, 2020**

**International LiDAR Mapping Forum**  
*Washington, D.C.*  
<https://www.lidarmap.org>

**May 7 to 9, 2020**

**GISTAM 2020**  
*Prague, Czech Republic*  
<http://www.gistam.org/Home.aspx>

**May 10 to 14, 2020**

**FIG Working Week 2020**  
*Smart Surveyors for Land and Water Management*  
*Amsterdam, the Netherlands*  
<http://www.fig.net/fig2020>



# NEWS FROM 1043

## Changes to the Register

### MEMBERS DECEASED

Thomas Richard Windsor	1218	Aug. 31, 2015
William "Bill" James Plaxton	1161	Sept. 8, 2019
Albert "Ab" Henry Heywood	1177	Sept. 24, 2019
W. Doug Smith	1403	Sept. 29, 2019
William "Bill" Charles Carmichael	1210	Nov. 7, 2019
Robert Terrence Stephenson	1113	Nov. 20, 2019

### RETIREMENTS/RESIGNATIONS

Murray LeGris	1367	Dec. 31, 2019
Michael Marlatt	1540	Dec. 31, 2019
P. Doug Reitsma	1495	Dec. 31, 2019
Tom Jones	1950	Dec. 31, 2019
Richard Murray	1341	Dec. 31, 2019
David Black	1702	Dec. 31, 2019
Kenneth Ketchum	1577	Dec. 31, 2019
Kerry Ferguson	1615	Dec. 31, 2019
William "Bill" Buck	1295	Dec. 31, 2019
Paul Sheehy	1633	Dec. 31, 2019
Wayne Turpel	1348	Dec. 31, 2019
Dan Dolliver	1521	Dec. 31, 2019
Mark Springate	CR176	Dec. 31, 2019

### REINSTATEMENT

Richard Preiss	1539	Dec. 1, 2019
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### COFAS APPROVED

South Western Surveying Ltd.  
Port Stanley, Ontario  
October 17, 2019

Valard Geomatics (Ontario) Ltd.  
Ottawa, Ontario, November 13, 2019

SBM Geomatics Ltd.  
London, Ontario, December 10, 2019

### COFA RELINQUISHED

Richard W. Murray, O.L.S.  
Essex, Ontario, December 31, 2019

## Surveyors in Transit

**Brian Kerr** is now with **Annis O'Sullivan Vollebakk Ltd. (Kemptonville)** in Kemptonville, ON.

**Robin L. Fleguel** is now with **WSP Geomatics Ontario Limited** in Thornhill, ON.

**Bruno Iavacoli** is now with the **Surveyor General Branch of Natural Resources Canada** in Toronto, ON.

**Blake Campbell van der Veen** is now the managing OLS at **South Western Surveying Ltd.** located at 147 Harrison Place, Port Stanley, ON, N5L 1A1. Phone: 226-377-8071.

**Ron Bridges** is now the managing OLS at **Valard Geomatics (Ontario) Ltd.** located at 160 Elgin Street, Suite 2600, Ottawa, ON, K1P 1C3. Phone: 780-436-9876.

**Gavin P.T. Seaman** is now the managing OLS at **SBM Geomatics Ltd.** located at 1599 Adelaide Street North, Suite 301, London, ON, N5X 4E8. Phone: 519-471-6667.

**MacDonald Tamblyn Lord Surveying Ltd. (A Division of J.D. Barnes Limited)** and **ACI Survey Consultants (a division of J.D. Barnes Limited)** have moved and are now sharing an office at 4273 King St. East, #100, Kitchener, ON, N2P 2E9.

**Topotec Inc.** has moved its office to 211 Consumers Road, Unit 101, Toronto, ON, M2J 4G8. Phone: 416-219-9956.

**Hopkins Chitty Land Surveyors Inc.** has moved its office to 401 Advance Avenue, Unit 3, Napanee, ON, K7R 3Y7. Phone: 613-354-5420.

Field Notes and Records for **Richard W. Murray, O.L.S.** are now with **Krcmar Surveyors Ltd.** in Thornhill, ON.

### CORRECTION

In the Fall issue of the OPS, Denis Hains' first name was spelled incorrectly in the title information on page 10. The digital version has been corrected. We apologize for the error.

## THE AOLS IS PLEASED TO ANNOUNCE THAT THE FOLLOWING ONTARIO LAND SURVEYORS WERE SWORN IN:

Shawn Leroux	2058	November 29, 2019	Lauren Dawe	2060	November 29, 2019
Mojtaba Tavallaee	2059	November 29, 2019			

## EDUCATIONAL FOUNDATION NEWS

**University of Toronto (U of T)** - On November 5th, Maureen Mountjoy was invited to attend the Civil & Mineral Engineering Scholars and Donors Reception to speak about the **Jack Young Memorial Award for Survey Camp**, which was being awarded for the very first time. The award is sponsored by the members of the South Central Regional Group. Jack was a professor in the Survey Science Program at Erindale College, U of T, from 1980 until the program closed in 1999. The Civil & Mineral Engineering Department holds two (2-week) survey camps in the month of August at the Gull Lake property in Minden, ON as part of the 3<sup>rd</sup> year curriculum. **Jonal Hall**, who was present at the reception, received the award for achieving the highest average in Survey Camp #1 and **Liam Ma** received the award for the highest average in Survey Camp #2.



Jonal Hall receiving congratulations from Maureen Mountjoy at the reception.



# A New Mediation Option for AOLS Discipline Cases

By Richard Steinecke

*Sam (this is a fictitious scenario) was overwhelmed last fall. She took on more projects than she could handle and then her dad became ill and needed extra care. She failed to meet a number of deadlines and a complaint was made by one client who had an unexpectedly complicated survey. The Complaints Committee completed its investigation and reported the matter to Council with a recommendation to refer the matter to discipline. Typically this sort of matter would be referred to discipline and Sam would have to decide whether to fight the allegations or to admit her misconduct and seek a reduced penalty. Sam would almost certainly need a lawyer to navigate the discipline process which is quite legalistic.*

**H**owever, there is now another option available to Council. Under a relatively new provision, Council can put the matter “on pause” and attempt mediation before the matter is referred to a discipline hearing. Council can appoint a mediator who is independent of the discipline panel who might hear the matter to examine the facts, speak with the interested parties and see if there is a way other than a contested discipline hearing to protect the public interest. The mediator may be assisted by a public member of Council. A representative of the Association would also be part of the process to ensure that the public interest is also considered. However, the Association representative will generally take a “back seat” role.

For example, in Sam’s case, the mediator could review the file and speak with Sam and the client to hear their sides of the case. The mediator would likely also consult with the Association representative to hear their perspective on past precedents and the public interest considerations at play. All of these discussions would be “off the record” so nothing Sam (or the client) said during the discussions could be used against her if the case still went to discipline. This opportunity for “without prejudice” discussions can give Sam reassurance that she can speak freely without incriminating herself.

The mediation process would not delay the matter for long. The mediator is required to provide a report to Council within 90 days of their appointment.

The mediator’s report can take a number of directions including:

1. Recommending that there be no referral to discipline by the Council either because new information has been obtained or the mediator concludes that there are special circumstances that allow the public interest to be protected in other ways. For example, the land surveyor may have already taken steps to address the client’s specific concerns and implemented changes to ensure that similar matters do not arise in the future.
2. Recommending that the concerns can be resolved through an agreement with all three participants. For

example, the agreement could be for an undertaking to successfully complete a period of mentorship.

3. Indicating that the discussions have reached an impasse and recommending that the allegations be referred to discipline for a hearing.

Participation in the mediation is voluntary. However, there are a number of advantages for a land surveyor to enter the process. It may result in a much quicker resolution than a discipline process that can stretch out over many months. The mediation process will likely be much less expensive than a discipline process. There can be a higher degree of certainty

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as to the outcome of the process. And mediation is much less legalistic than the discipline process and thus much easier for a non-lawyer to follow. (However, land surveyors participating in the mediation process are fully entitled to retain legal counsel to advise them.) The mediation process allows the land surveyor to be heard as the complaints investigation is generally conducted in writing rather than verbally and the land surveyor may have an opportunity, either directly or through the mediator, to communicate with the client. The mediation process also allows the client to communicate with the land surveyor so that the actual client concerns can be heard and possibly addressed.

However, the land surveyor should recognize that the mediation process may not achieve all of their wishes. For example, in the absence of exceptional circumstances, it is unlikely that no action will be taken if the face of a contrary Complaints Committee recommendation. Resolving the client's concerns is likely not going to be sufficient on its own; the Association also has to ensure that the broader interests of the public in facilitating future competent and ethical conduct be addressed. Also, in this case, given the public interest nature of the Association's regulatory role, there will almost certainly be publication of the outcome of the mediation. However, the content and extent of publication may be less than would occur at discipline.

Mediation is not appropriate for serious allegations of

professional misconduct such as blatant dishonesty or breach of trust.

*In Sam's case, Council appointed a mediator before it determined what to do with the Complaints Committee's report. After speaking with Sam, the mediator communicated to the client and the Association representative about Sam's personal circumstances at the time she was failing to fulfill her professional commitments. This is Sam's first complaint. Since Sam has completed the project by this time, the client agrees to a resolution that involves a period of mentorship and a refund of all fees paid. It was also agreed that the principle of transparency requires that the undertaking by Sam be published on the Association's website and in its newsletter. Publication includes Sam's name. Sam agrees. However, there is no actual referral to discipline and there is no actual finding of professional misconduct on Sam's record. Council receives and accepts the recommendations in the report of the mediator to resolve the matter on this basis.*



**Richard Steinecke** is a lawyer with over 35 years of experience in professional regulation advising scores of professional regulators. In 2015, he received the Regulatory Excellence award from the Council on Licensure, Enforcement and Regulation (CLEAR). Richard is counsel to Steinecke Maciura LeBlanc. He can be reached by email at [rsteinecke@sml-law.com](mailto:rsteinecke@sml-law.com)

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# North Bay and Area Community Camp Land Surveyor Challenge a Success



By Cindy Brownlee

**M**embers of Girl Guides joined together at Camp Caritou in Bonfield to participate in the Girl Guides' Ontario *Land Surveyor Challenge* from September 27 to 29, 2019. The weekend outdoor camping experience brought girls from Kirkland Lake, North Bay, Callander and Powassan together. Close to 50 girls, who ranged in age from the 5 year old Spark to the 17 year old Ranger, along with their leaders and a team of volunteers, gathered together to explore the outdoors and learn some land surveyor skills, outdoor camp skills, campfire songs and make new friends!

After a wet and rainy night, the rain stopped and the day started with a welcome and introduction to the field of land surveying. The girls then travelled in their groups to check out the eight stations set up around the camp. The girls, depending on their branch, were required to complete a certain number of activities to meet the requirements of the challenge.

The stations were;

## 1. Land Surveyor Visit and Tools of the Trade Display

Professional Land Surveyor Paul Goodridge from



We were pleased to partner with Maureen Mountjoy from the Association of Ontario Land Surveyors who provided some guidance and connections for our weekend. We welcomed local Ontario Land Surveyors Lise Currie and Paul Goodridge who came out and joined us for the day to teach the girls some first-hand knowledge and try out some state-of-the-art surveying equipment.

Goodridge Planning & Surveying was there to answer questions about what a land surveyor does, tools they use, safety equipment they wear, etc. He showed them how to use survey equipment and demonstrated how they work. A little friendly contest to guess the distance was a big hit with the girls.

## 2. Becoming a Land Surveyor and Cardinal Direction Game

Lise Currie, from the Ministry of Government and Consumer Services was also on hand to answer questions about Land Surveying. She brought with her a copy of the survey map from the Bonfield area from 1881. The girls learned how to read the map and where to find Camp Caritou. She also taught





the girls the cardinal directions and showed why they are useful. Once the girls identified North, South, East and West they played a game.

### 3. Compass Games

The girls learned how to find a direction using a compass and then played a couple of compass games – Yes, even Sparks can learn how to use a compass!

### 4. Hat Craft and Map Making

Each girl got to make a hat craft that looked like a compass as a memento of her visit to Camp Caritou and a hat craft to learn about knots. They also learned the different parts of a map with a few directions and hints.

### 5. Measuring Games

Exploring how to measure and the importance of accuracy along with learning about different units of measurement were taught and then used in a measuring game – “Find the Woozle”.

### 6. Finding Level Games

What is level? Why is it important in surveying? As a team the girls played a game to find level. How many blocks can you stack up (while in a field) and still keep it



level enough to balance a marble? “Parachute Ball” and the “Tilt Table Game” were also enjoyed while learning about the importance of keeping things level.

### 7. Scavenger Hunt

The girls did not need much encouragement to find their way to treasure on a scavenger hunt!

### 8. How GPS Works

A bit of a walk down to the lake to the GPS station where our guest Gisele taught the girls how a GPS works and to find a geo-cache in the woods using a GPS. A popular session for sure.

The girls had a great day and after a delicious meal enjoyed a warm and wonderful campfire, a game of night eyes, and of course, S’mores. It was fun to listen to the girls talk about their weekend with comments like; “The Land Surveyors were interesting and it was cool how they work.”, “We



enjoyed the parachute and blocks game”, “The contest, the scavenger hunt and GPS was fun”, and “It was cool to experience tenting”

Sunday morning saw frost on the ground and ice in the wash basins but smiles on the faces of these Sparks, Brownies, Guides, Pathfinders, Rangers and leaders who had a fun outdoor camping experience, learned some great land surveyor skills, and made new friends.

### Some Thoughts on the Challenge from Paul Goodridge, OLS and Lise Currie, OLS

#### Paul Goodridge, OLS

The event was a lot of fun. It was well organized and despite the heavy rains the night before, the girls were in pretty good spirits. Lise Currie and I used a combination of enquiry-based and experiential learning techniques to engage the girls and to try to make the experience as fun and positive as possible. It is extremely tough to engage any audience by simply lecturing them on what you do and how to do it let alone with a group of young ladies, some as young as five years old, who have just spent the night in cold, damp and in some cases wet sleeping bags. Therefore, we engaged them by involving them in the opening lecture through a series of questions that let them demonstrate their knowledge and ability to figure out the answers.

My station involved a demonstration of the equipment and how to use it. I brought a GPS base station and rover, a robotic total station, a Schonstedt metal detector, a standard iron bar and a shovel. Lise contributed an old surveyor’s chain to my station also. Before the event started, I set up and measured the distance from the base station to a small tree on the far side of the clearing that I marked with orange tape. I also dropped a series of quarters at random locations around the site and obtained GPS fixes on them.



Despite all the high-priced hardware on site, most of the girls were more fascinated by the metal detector. In order to best engage the girls, they were all given an opportunity to use the metal detector. They had an opportunity to lift the SIB, getting their hands dirty in the process (paper towels were available for cleaning), and to place it a short distance away. They could then “find” the bar with the metal detector. Two survey plans were also on display, chosen because some or all

*cont'd on page 14*



of the field work for those projects had been completed by my daughter. She was sorry that she could not take part in an event all about female empowerment and making access into non-traditional roles and professions easier – she would have been excellent with the girls and I wish she could have attended with me. I showed them what a SIB looked like on a plan compared to what the actual item was. I explained that although only \$12.00, the shovel was actually the most important tool that a surveyor uses because without it we could not find the buried evidence and be unable to do any measurements.



I had them all guess the distance from the base station to the tree and record their guess on a sheet of field note paper. The closest answer from each group received a small gift certificate to Coles Bookstore as a prize. The closest was within a foot. “Darn the child labour laws”, I thought, “I am hiring this kid”.

I demonstrated how the total station functioned. In order to keep the event fun, I then asked, “Who wants to go on a treasure hunt?” No one declined –everyone loves a treasure hunt. I showed the girls how to use the stakeout function on the controller. The code for each of the point numbers where a quarter was dropped was “Treasure”. We took turns with each of the girls either carrying the rover or holding the controller and giving directions to the rover. Eventually, we came to the site and discovered the treasure. I explained that we often pre-calculate the positions of the survey bars we are trying to find and stakeout to find, what to us, is buried treasure. The distance between the base station and the quarter was also compared to the size of the quarter to give an appreciation of how accurate the equipment was over long distances.



I hoped that by having hands-on experience with the equipment, the children would learn something and remember that surveying was fun. They say that people seldom remember all the details of an event but they always

remember how it made them feel. I hope that later when it comes time for academic and career choices that the girls will remember fondly the day they spent surveying.

I know the leadership was appreciative of Lise’ and my involvement. One of the leaders asked me if we would also do a similar event for the boy scouts. I accepted by saying, “Of course, because boys can be surveyors too, you know.”


All in all, it was a good day and I was honoured to be involved.

**Lise Currie, OLS**

The camp activities were well organized by the volunteers. The participants were busy asking questions and moving from one activity to another and I was pleasantly surprised at the level of engagement of all participants, the girls and their leaders. For the most part, they wanted to know everything!

The goal for my station was to explore cardinal directions. We started with a large compass rose and a globe. We then played a game with cardinal directions where one girl gave verbal directions from a pattern laid out on a paper grid to another girl who followed the directions on the grid on the ground. We mixed it up with 2 pairs playing at the same time with different patterns and 90% of the time, they ended up in the right place. The other 10% of the time we ended up with an impromptu game of Twister.

I also brought a mounted copy of the 1881 original plan for the Township of Bonfield. Thank you to Shawn Jemmett and Michael Mathieu of MTO for plotting and mounting the plan for me. The girls identified the location of Lake Nosbonsing, the location of Camp Caritou, and the railway line that existed at the time of the original township survey. We then compared current mapping and recent aerial photography that allowed the girls to clearly identify the Town of Bonfield, roads to the camp, plots of land, the camp location and the clearing in which they were standing.

To fellow land surveyors, I highly recommend volunteering with your local Girl Guide organization. It’s a wonderful opportunity to engage young minds and introduce them to the foundations of our profession. 

More information on the *Land Surveyor Challenge* can be found on the Girl Guides’ Ontario Council website at <https://bit.ly/2Z2xtOn>





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# Registrar's Review



By Kevin Wahba, B.Eng., LL.B., O.L.S., Barrister & Solicitor

In 2014, the Academic and Experience Requirements Committee (AERC) made extensive changes to the articling process. Over the past five years, many surveyors have been licensed through this new process. As with any change, it has faced scrutiny and generated a wide spectrum of thoughts and comments on the measure of success of the new articling process versus the old.

As a personal observation, my experience in the new articling process with the Association of Ontario Land Surveyors (AOLS) was similar to my experience articling to acquire licensure under the Law Society of Ontario (LSO). Both articling experiences required the articling principal to provide the student with the necessary skills and knowledge required of a professional, and from my experience, the LSO had much less involvement with my articles than the AOLS. This is likely attributed to the much higher number of students and licensed members in LSO's organization, but looking back at both experiences, the articling process under the LSO seemed to place more of the onus on their students and their mentors to fully understand and progress through their articles.

The LSO provides information on its website pertaining to the application process, in a similar manner as the AOLS website, and inquiries could be made directly to the regulator if a pressing question needed to be answered, but a key difference that I found between the two was that articling under the LSO did not have a strict requirement that the student be exposed to any given area of the law. The Essential Areas of Knowledge put in place by the AOLS in 2014 requires that students show their articling surveyors that they have obtained knowledge in various areas of Cadastral surveying, such as water boundaries, easements, condominiums, etc. In addition, the AOLS provides articling students with assignments to supplement the work experience gained in those EAKs. No such requirement exists when articling under the LSO, and the articling experience is placed squarely on the individual mentor and the student to determine when the student has achieved a base of knowledge that would allow him/her to practice law at the required standard in Ontario.

In contrast to the AERC process, once a contract is signed by a student and principal under the LSO, the principal is expected to provide the student with the necessary knowledge and experience without specifying certain requirements such as knowledge of best practices in the areas of Wills and Estates, Criminal Law, Civil Litigation, etc. The LSO's professional exam does test the student on these areas, but it is left to the student to obtain knowledge in the procedural aspect of these areas, whether by practical experience or by

researching these topics outside of regular working hours. What the two articling processes have in common is that the majority of the responsibility rests on both the mentor and the student to understand what is required of them procedurally and substantively during the articling process, albeit, in my personal experience I found articling under the AOLS to be more clearly defined.

Under the AOLS regime, it is prudent for both the articling surveyor and student to recognize that the current articling process is designed to ensure that the student is exposed to the essential areas related to cadastral surveying. As such, the assignments provided through the learning management system (a website designed for the articling process) may not be necessary for each student if he or she has had sufficient practical experience in the subject area. The assignments are meant to supplement the student's knowledge if the articling surveyor is of the opinion that it would add to the student's knowledge base.

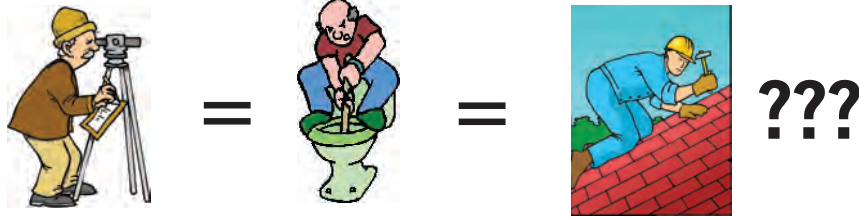
When a student has completed his or her articles, the surveyor must "sign off" on the student's completion by delivering to the Association a Certificate of Completion. When signing this document, the surveyor certifies that not only has the student fulfilled the practical experience requirements set out in Regulation 1026 under the *Surveyors Act*, but the mentor also certifies that the student has sufficient knowledge and experience in all the essential areas of knowledge outlined during the articling process. Such certification should not be taken lightly, and the surveyor should be confident that the student has the requisite knowledge and experience base which would enable him/her to practice cadastral surveying in Ontario to the standards required of such a professional.

Without a statistical analysis in place, comparisons between the old articling system and the new one may be mostly based on conjecture, but a substantive comparison can be made between the articling process between the AOLS, Professional Engineers Ontario, LSO and other regulators. Although timelines, the nature of their assessments and procedures may vary to some degree, for the most part they place the majority of the responsibility on the mentor and the student in determining what is necessary to go through an articling experience that will be successful and prepare the student for membership.

From the outset, the articling surveyor and student should both ensure that they have a clear understanding of the administrative requirements as prescribed in the articling process by referring to the website and the articling student

*cont'd on page 18*





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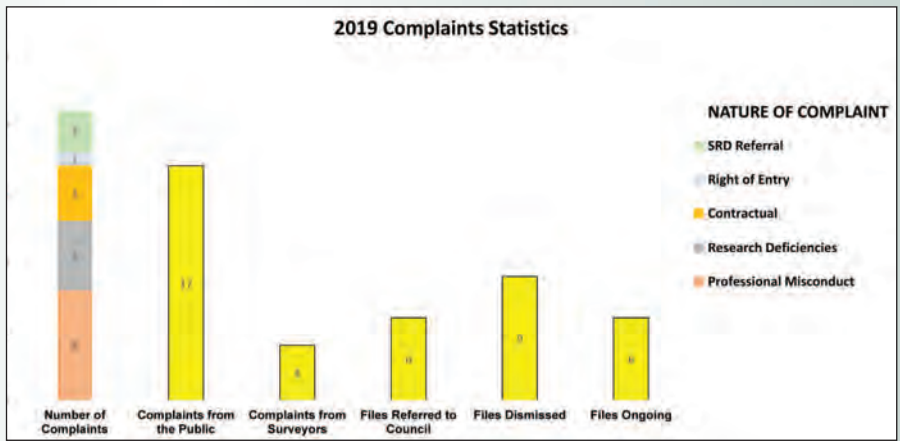
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handbook, the essential areas of knowledge and how they should be presented to the student by referring again to the student handbook, the articling contract, and the articling information session, and most importantly, recognize the fundamental duties and roles each party should fulfill. The mentor should be confident and be able to show that his/her student has completed the required number of practical experience days, completed the necessary assignments and is fully prepared and trained prior to submitting a Certificate of Completion. This will help ensure that new surveyors continue in the tradition of providing a high quality of work to the public.



Pursuant to the AOLS' new transparency policy, statistics from the Complaints Committee will be published annually in the Ontario Professional Surveyor magazine and in the Registrar's Report in the Annual Report and posted on the AOLS Website. The chart above shows a breakdown of the statistics.

## Sites to See

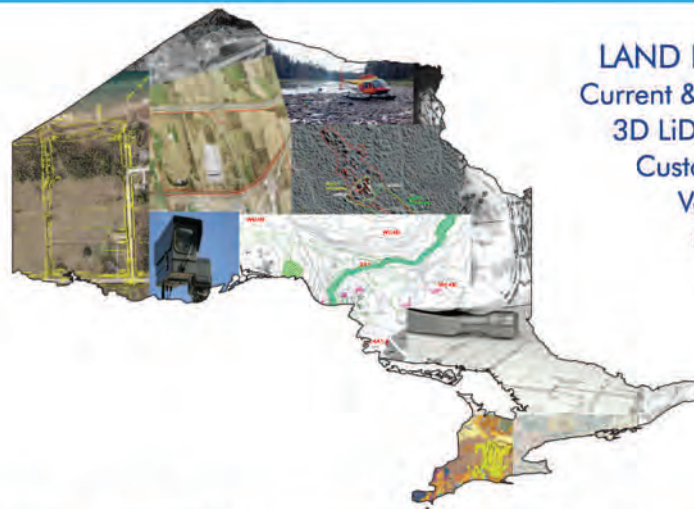
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March 8, 2020





**IN THE MATTER OF** the Surveyors Act, R.S.O. 1990,  
Chapter S.29, as amended

**AND IN THE MATTER OF** Omari Mwinyi, O.L.S.

**AND IN THE MATTER OF** a Disciplinary Hearing  
of the Discipline Committee of the Association of  
Ontario Land Surveyors held in accordance with  
Sections 26 and 27 of the said Act

### **SUMMARY OF THE DECISION OF THE DISCIPLINE PANEL**

A discipline hearing into allegations of misconduct by Omari Mwinyi, O.L.S., proceeded before a Panel of the Discipline Committee on June 18, 2019. The Association and Mr. Mwinyi jointly advised the Panel that Mr. Mwinyi was prepared to plead guilty to certain allegations; the parties had prepared an Agreed Statement of Facts as well as a Joint Submission on Order with respect to the penalty they proposed the Panel should accept.

The Statement of Facts provided facts regarding the complaint made by the Registrar, Kevin Wahba, O.L.S. Those facts can be summarized as follows.

#### The Registrar's Complaint

On or about May 15, 2013 the former Registrar, William D. Buck of the AOLS received a letter and report from Mr. J. Drew Annable, O.L.S., a consultant to the AOLS Survey Review Department (SRO) reporting that the result of the current Comprehensive Review of Mr. Mwinyi's surveying practice had exceeded the threshold of twenty-five points per plan, which required a referral to the Registrar.

The Comprehensive Review report of Mr. Mwinyi's practice indicated numerous instances of non-compliance with the Standards, Regulations and other applicable rules for surveys, such that the average number of demerit points per plan for the ten plans reviewed was 33.9, which exceeded the threshold of 25 points per plan, after which Survey Review Department policy requires that the member be referred to the Registrar.

On June 11, 2013 the Registrar informed Mr. Mwinyi by letter that a follow-up review of his practice would take place in approximately one year, said review to consist of a limited Comprehensive Review of two of his plans.

The Final Report of Mr. Mwinyi's Follow-up Review dated April 1, 2015 indicated minor improvements, however, deficiencies remained, and the demerit point average was 33 points per plan, only slightly lower than the initial review.

The Registrar considered that since the Follow-Up Review showed improvement and efforts on the part of Mr. Mwinyi to implement the recommendations of the Survey Review Department discussed in its original Comprehensive Review Report, he decided not to refer the matter, but rather wait for the results of Mr. Mwinyi's next Comprehensive Review which was scheduled to take place in 2017.

On or about September 19, 2018, Mr. Buck received a Comprehensive Review Report regarding the Survey Review Department's 2017 Comprehensive Review of Omari Mwinyi Surveying Ltd. The average valuation of the four plans reviewed by the SRO consultant was 42, triggering another automatic referral to the Registrar. The former Registrar, Mr. Buck, noted that the score increased by 9 points since Mr. Mwinyi's 2012 review and agreed with the recommendations in the Report: on November 2, 2018, he referred the matter to the Complaints Committee.

On November 2, 2018, Mr. Buck submitted a formal complaint in writing to the Complaints Committee explaining that his concerns arose due to poor comprehensive and referral reviews dating back to 2012. In response, Mr. Mwinyi delivered a reply to the Deputy Registrar, Ms. Maureen Mountjoy, acknowledging receipt of the complaint. Mr. Mwinyi did not seek or have any further discussion or documentation in his response.

On January 17, 2019 the Complaints Committee issued a final decision, which referred Mr. Mwinyi to Council with a recommendation that he be referred to the Discipline Committee. Thereafter, Council passed a motion referring Mr. Mwinyi to the Discipline Committee for a hearing on the allegations set out in the Complaints Committee's final decision.

#### Mr. Mwinyi's guilty plea

Mr. Mwinyi pled guilty to the following allegations with respect to the complaint:

1. That he had failed to comply with the Code of Ethics of the AOLS in that he had repeatedly failed to abide by the Standards of Practice, which is contrary to Section 33(2)(b) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the Code of Ethics constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.
2. That he had failed to comply with the Code of Ethics of the AOLS in that he signed survey plans which did not comply with all relevant legislative requirements and all standards of the AOLS, which is contrary to Section 33(2)(f) of Regulation 1026, R.R.O. 1990, as amended. Failure to comply with the Code of Ethics constitutes Professional Misconduct within the meaning of Section 35(3) of Regulation 1026, R.R.O. 1990, as amended.
3. All of the foregoing failures constitute breaches of sections 35(1), (2), (3) and (21) of Regulation 1026, R.R.O. 1990, as amended and the Code of Ethics at sections 33(2)(a) of said Regulation 1026.

On the basis of the agreed facts the Panel accepted Mr. Mwinyi's guilty plea.



Penalty

As stated above, the Panel was presented with a Joint Submission on Order (the “JSO”, marked as Exhibit 2) regarding the appropriate penalty to be imposed on Mr. Mwinyi. After considering and clarifying its terms, the parties agreed to the addition of the following paragraph 5(a) to the terms of the JSO:

“If the Inspector/Mentor finds sufficient concern that is reported to the Registrar, then the Registrar may request a panel of the Discipline Committee to convene in order to address that alleged non-compliance and, if necessary, to seek a cancellation of the licence suspension in order to revoke the Member’s licence.”

With this addition to the JSO, it was accepted by the Panel. The penalty imposed by the Panel is as set out in paragraphs 3 to 7 of the JSO, with the addition of paragraph 5(a) as set out above. The Panel imposed those terms on Mr. Mwinyi.

The JSO as signed by the parties, and dated June 13, 2019, is attached to this Summary as Appendix A. Reference should be made to paragraphs 3 to 7 of Appendix A to identify the penalty imposed on Mr. Mwinyi by the Panel, as well as paragraph 5(a) as set out above.

**Appendix “A”**

**IN THE MATTER OF** the Surveyors Act, R.S.O. 1990,  
Chapter 8.29, as amended

**AND IN THE MATTER OF** Omari Mwinyi, O.L.S.

**AND IN THE MATTER OF** a Hearing of the Discipline  
Committee of the Association of Ontario Land Surveyors  
held in accordance with sections 26 and 27 of the said Act

**JOINT SUBMISSION TO DISCIPLINE COMMITTEE  
ON CONSENT OF ALL PARTIES**

The Association of Ontario Land Surveyors (the “Association”) and the Member, Omari Mwinyi, O.L.S. (the “Member”), make joint submission to the Discipline Committee under the Surveyors Act in respect of this matter by asking the Discipline Committee to issue a consent Order regarding penalty on the following terms:

1. The Member represents to the Association of Ontario Land Surveyors and the Discipline Committee that, before entering into this joint submission agreement, he has been advised to obtain independent legal advice as to the consequences of signing same, that the Member has either obtained independent legal advice or he has voluntarily waived his right to obtain independent legal advice knowing the consequences of signing same and that the Member is doing so voluntarily and without undue influence or pressure from anyone.
2. The Member pleads guilty to the charges and allegations of professional misconduct against the Member (the “Charges”) as alleged by the Registrar.
3. The Member’s licence is hereby cancelled, but this provision is suspended for one year, providing that the terms and requirements of the Member in this joint submission and the Order of the Discipline Committee have been complied with. After one year, the cancellation is withdrawn.
4. The Member undertakes to the Association to fully comply with legislation, regulations and Standards of Survey as these may prevail and apply to SRPRs and all survey products and services rendered by the Member and the Firm, from time to time and to permit access to surveyor project files under his supervision and control to be inspected by an Inspector on a random basis for 12 months from the 14th day after the date of the hearing.
5. The Member shall agree to the appointment of an Ontario Land Surveyor by the Registrar, of the Registrar’s choosing as the Inspector, to act and function as a mentor (herein referred to as the “Mentor”) to assist with implementing a higher quality of survey practice in the Member’s practice and Omari Mwinyi Surveying Ltd. (herein referred to as the “Firm”), and who shall also have the delegated power of the Registrar to conduct investigations of the Member’s survey work, including all survey work produced by the Firm, on a random basis, and on a physical attendance at offices of the Firm over the next year of not less than 4 inspections, and all at the expense of the Member. [With the addition of 5(a) as set out in the Penalty]
6. The publication of the summary of allegations leading to this proceeding, as well as the contents of this Joint Submission, shall be published in the Ontario Professional Surveyor Magazine and posted on the Association website.
7. The Member shall pay to the Association the sum of \$15,000.00 for costs, inclusive of HST. Should the Member’s licence be terminated for any reason full payment of these costs will be required as a condition of the reinstatement of the Member’s licence. Should full payment not be received within the above one year period, the suspension of the cancellation of the Member’s licence will be lifted.
8. The Member and the Association acknowledge and agree that this Joint Submission document has been prepared by both parties and reflects a fair disposition of this matter, under all of the circumstances. In the event the Discipline Panel does not adopt this Joint Submission document as a basis for making its determination, finding, and disposition, the parties agree that this matter will then continue on the basis of a full hearing before a Discipline Panel on a date to be fixed by the Discipline Committee and that same shall proceed on the basis of all of the allegations set out in the Notice dated April 29, 2019.

Discipline Panel Members

Robert Jordan (Chair)	Peter Meerveld (LGA)	Leslie Higginson	Julia Meldrum Smith	Nancy Grozelle
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# Sharing some Thoughts on Retirement



By Blain Martin, O.L.S., C.L.S., M.B.A.

It is truly hard to believe that I have been retired for over 6 months! Past President Russ Hogan said that retirement is very busy and he sure is right. I thought I would share a bit of my retirement experience with you by writing a short article on my past 6 months. My main activities have been threefold and they have included working on the cottage, working with investments and figuring out my own ancestry. All of them along with the trials of everyday life have taken up all my time.

Before I talk about investing and ancestry I want to mention worries. During my term as Executive Director, I would often get up in the middle of the night to make notes about what I had to do to minimize those worries. I thought and hoped this would change with retirement but my biggest surprise is that it has not!!!

Instead of worrying about those Council meetings and minutes, that Annual Report and the AGM program my worries have been transformed to what construction activities in the cottage I am going to complete the next day. I would still get up in the middle of the night to make lists so I guess I have to just accept worrying seems to be a part of my nature!!

I really liked Julie Brough's article on the comparison of TFSAs to RRSPs which was featured in the last Ontario Professional Surveyor magazine. I would like to add that it is imperative for young people to start investing using one or the other of those vehicles. When I was young that "Wealthy Barber" book really impacted me and my retirement now is as good as it is because I started those RRSPs at a young age.

Speaking of Julie, I think I totally shocked her shortly after retiring. Many of you will recall my presentation at the last Annual General Meeting where I spoke about the fabulous returns that Julie has delivered since we moved the AOLS reserve funds to her management. Some of you may also recall me mentioning that Julie told the Finance Councillor of the year that based on the allocation in bonds (Fixed Income) vs. equities the AOLS portfolio can be expected to outperform in a down market. For instance, if the market went down 30% the AOLS portfolio would likely only go down about 10%. When Julie said this, I knew that this reduced risk was the balance of bonds versus equities that are in the portfolio.

Over the years I was so impressed with Julie's management that I went to Council and got permission to move my personal

investments to her management. Before doing this I did get Council's approval to ensure there was no conflict of interest. Like most surveyors I am one that truly thinks I can do anything including surveying, constructing, and of course financial management. The shock for Julie was when I told her I was going to take back the management of my portfolio. I really thought I could do it as effectively as she did until I went to the bank and tried to buy bonds which were not available outside of a financial management company. It took me about three weeks of working on this before I called Julie and said, "Please keep managing my portfolio!"

Researching my own ancestry has been another activity that I have found interesting. Of course everyone knows about [www.ancestry.ca](http://www.ancestry.ca) because they do a lot of advertising and I do have a membership with them because their records contain so much external information such as birth certificates, travel documents and census results. That being said there is another site that I prefer for the structure of how they portray the family relationships. The other site is called Family Search. It also has an advantage of being free of charge. Both organizations are from Utah and are affiliated with The Church of Jesus Christ of Latter-day Saints.

On a more personal note, I always knew that my Grandmother (Helena Oakley) was born January 1<sup>st</sup>, 1900 in Orillia but I did not know there were two generations before her that were in the same area. I visited the grave of her Grandfather, my own Great-Great-Grandfather, Henry Oakley (picture of gravestone attached) in a small cemetery just north of Coldwater. I also visited the grave of my Grandmother's Mother (Ellen Lousie Dunlop) and Father (Wilbert Oakley) in Richmond Hill. It is interesting that Dunlop Street, the main street in Barrie is named after Ellen Dunlop's Great-Grandfather.

One of the things I have not been involved with during retirement is Association matters. I really did need a break but as time goes on I may become involved again. I am going to attend the Annual General Meeting at Deerhurst in February and I hope to see many of you there.



**Blain Martin** retired as Executive Director of the Association of Ontario Land Surveyors in April of 2019 after almost 10 years of service. He can be reached at [blainmartin@rogers.com](mailto:blainmartin@rogers.com)





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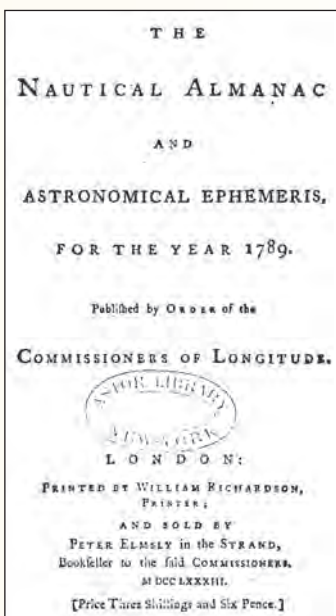


LOGAN WEALTH MANAGEMENT

# How David Thompson found Latitude and Longitude in 1790

By Ron Macnaughton

**D**avid Thompson has been called “The Greatest Land Geographer who ever lived” by cartographer J.B. Tyrrell. He not only made many exploration voyages over western North America; he also determined the latitude and longitude of many places in what was then unmapped wilderness and made an accurate wall-sized map of our Western continent, which is now displayed in the Archives of Ontario.



Credit: New York Public Library

Sea and land navigators in 1790 needed information from the Nautical Almanac (photo below of the cover of the 1789 version) which was published by the British government for anyone to use. By the 18<sup>th</sup> century, models of the motions of the Sun and Moon were accurate enough that predictions and printing could be done several years into the future. Then the copy of that book for the following year could be delivered in time to far away explorers.

Thompson needed equipment, which included two watches (even if not very accurate over months of exploration), a compass, a notebook, and a sextant similar to that shown in the picture below, which was taken at Rocky Mountain House National Historical site. This device was held with the right hand and the sextant arm (at the right) swung over the arc at the bottom. There is a mirror at the

pivot of the arm (top of box).

The picture below shows the key component of a sextant. A user would look through a small telescope (out of focus in foreground) into a part (in focus) which is half open and half mirror.



Photo credit: Ron Macnaughton

The open part might be pointed at a horizon or one object. Light from another object (often the Sun) reflects off a mirror at the top then to the half mirror then back to the observer. The surveyor swings the main arc until the two objects line up. The angle is read from the arc with a vernier to an accuracy of 1/600 of a degree. There were filters to protect the eye from the Sun.

A navigator at sea has oceans to give a flat horizon. But

(ration), a compass, a notebook, and a sextant similar to that shown in the picture below, which was taken at Rocky Mountain House National Historical site. This device was held with the right hand and the sextant arm (at the right) swung over the arc at the bottom. There is a mirror at the



Photo credit: Reid Grenier



DAVID THOMPSON TAKING AN OBSERVATION

Sketch by Charles W. Jeffreys. Credit: Library and Archives Canada, Acc. No. 1972-26-1406.



the bush, or even open country shown in the sketch on page 24, has few flat horizons. So Thompson, who is pictured in the sketch by C.W. Jeffreys, looked for an open clearing, and used an artificial horizon (prism shape) with a glass plate floating on mercury. He measured the angle between the Sun and its reflection and divided that by two to get the Sun's altitude. He kept measuring until the Sun was highest, which was local solar noon.

Then Thompson looked at the table below from the Nautical Almanac and found in the fifth column, the Sun's declination (angle north or south of celestial equator) for that date.

In the northern hemisphere:

$$\text{Latitude} = (90 - \text{Sun's altitude at local solar noon}) + \text{Sun declination that date}$$

[62] JUNE 1790: II.										
Days of the Month.	Days of the Week.	Sun's Longitude.		Sun's Right Asc. in Time.		Sun's Declin. North.		Equat. of Time. Sub.		Diff.
		S.	D. M. S.	H. M. S.	D. M. S.	D. M. S.	M. S.	S.		
1	Tu.	2. 11.	3. 51	4. 37. 58. 6	22. 7. 30	2. 36. 1	9. 1			
2	W.	2. 12.	1. 15	4. 42. 4. 3	22. 15. 29	2. 27. 0	9. 5			
3	Th.	2. 12. 58. 39		4. 46. 10. 4	22. 22. 45	2. 17. 5	9. 9			
4	F.	2. 13. 56. 2		4. 50. 16. 9	22. 29. 47	2. 7. 6	10. 2			
5	Sa.	2. 14. 53. 25		4. 54. 23. 7	22. 36. 26	1. 57. 4	10. 6			
6	Su.	2. 15. 50. 48		4. 58. 30. 9	22. 42. 41	1. 46. 8	11. 0			
7	M.	2. 16. 48. 10		5. 2. 38. 5	22. 48. 33	1. 35. 8	11. 3			
8	Tu.	2. 17. 45. 32		5. 6. 46. 4	22. 54. 0	1. 24. 5	11. 6			
9	W.	2. 18. 42. 53		5. 10. 54. 5	22. 59. 3	1. 12. 9	11. 0			

Photo credit: New York Public Library

Thompson also recorded the time of solar noon, but it was more accurate to measure the altitude in the morning, then record the time that the Sun was the same altitude in the afternoon and take an average of the readings. The time of solar noon in Toronto (not considering any Daylight Savings Time changes) can vary from 12:01 P.M. EST on Nov. 3 to 12:32 P.M. on Feb. 11. This is because the Earth moves faster in our orbit in January than in July. The mean time for solar noon over a year is found by adding or subtracting the equation of time correction in the 6<sup>th</sup> column above. Thompson calculated the local mean time and set his other watch to that.

From that it's easy to calculate:

$$\text{Longitude (west)} = (\text{Greenwich mean time (in hours)} - \text{local mean time}) \times 15$$

By 1790, navigators had very precise chronometers which could keep accurate London time on heaving ships moving between hot and cold places. Dava Sobel's book *Longitude* describes the amazing story of their invention. Some well-funded expeditions like Lewis and Clark's also had one. Poor David

Thompson just had two relatively inaccurate watches because a proper chronometer could cost up to half the value of a ship.

So because of this, Thompson used the **Lunar Distance method**. The moon moves past stars at a little more than a half a degree per hour. He used his sextant to measure the angle between the moon and one of several stars near the moon's path.

Below are Thompson's actual notes from the Ontario Archives. This is a record of local times and measured angles between the moon and the star Pollux near Cumberland House in Saskatchewan on March 20, 1790. Note in this run he did 10 observations in 11 minutes -

Date in March 1790	Local mean time at Cumberland House	Angle between moon and Pollux	Calculated longitude from these 10 readings
20	10	7. 26. 20	
		37. 44	
		39.	
		39. 50	
		10. 20	
		11. 40	
		12. 55	
		10. 50	
		12. 22	
		37. 56	
		7. 11. 32	50. 13. 22
		- 0. 50	+ 4. 16
		7. 22. 24	50. 17. 57
			102. 22 1/2

Credit: Archives of Ontario

perhaps alone. He averaged the values and made other adjustments to get the local mean time and the angle between the moon and Pollux.

The table below from the Nautical Almanac gives the predicted angles between the moon and various stars for dates in March 1790. The angles are given for every three


Nautical Almanac for March 1790										
Predicted angles between moon and certain stars for Greenwich time										
Days	Stars Names.	Noon.	3 Hours.	6 Hours.	9 Hours.	12 Hours.	15 Hours.	18 Hours.	21 Hours.	IX.
		D. M. S.	D. M. S.	D. M. S.	D. M. S.	D. M. S.	D. M. S.	D. M. S.	D. M. S.	
19						65. 17. 0	63. 49. 26	62. 21. 48	60. 54. 7	M A R C H 1790.
20	Pollux.	59. 26. 22	57. 58. 34	55. 30. 43	55. 2. 48	53. 24. 50	52. 6. 49	50. 38. 45	49. 10. 39	
21		47. 42. 39	46. 14. 19	44. 46. 7	43. 17. 56	41. 49. 46	40. 21. 38	38. 53. 33	37. 25. 32	
22		35. 57. 34								
23		71. 20. 27	69. 47. 22	68. 14. 1	66. 40. 23	65. 6. 29	63. 32. 18	61. 57. 49	60. 23. 2	
24	Regulus.	58. 47. 58	57. 12. 35	55. 36. 54	54. 0. 53	52. 24. 33	50. 47. 53	49. 10. 52	47. 33. 31	
25		45. 55. 50	44. 17. 48	42. 39. 26	41. 0. 44	39. 21. 42	37. 42. 19	36. 2. 37	34. 22. 38	
26		32. 42. 20	31. 1. 43	29. 20. 52	27. 39. 50	25. 58. 38	24. 17. 20	22. 35. 59	20. 54. 37	
27		19. 13. 16								
28	Spica	72. 17. 8	70. 31. 22	68. 45. 9	66. 58. 31	65. 11. 26	63. 23. 56	61. 36. 1	59. 47. 40	
29		57. 58. 54	56. 0. 43	54. 20. 9	52. 30. 11	50. 35. 50	48. 49. 7	46. 58. 3	45. 6. 39	
30		43. 14. 54	41. 22. 50	39. 30. 29	37. 37. 50	35. 44. 55	33. 51. 44	31. 58. 19	30. 4. 41	
31		28. 10. 49								
A. 1	Antares.	73. 50. 55	71. 57. 44	70. 4. 26	68. 11. 2	66. 17. 33	64. 23. 59	62. 30. 21	60. 36. 44	
		58. 43. 6	56. 49. 28	54. 55. 54	53. 2. 25	51. 9. 2	49. 15. 47	47. 22. 43	45. 29. 52	
		43. 37. 15	41. 44. 53	39. 52. 49	38. 1. 7	36. 9. 50	34. 18. 59	32. 28. 37	30. 38. 47	
		28. 49. 32								

Credit: New York Public Library

cont'd on page 26

hours of Greenwich Mean Time (GMT). Thompson's averaged angle (53° 17' 57") is between 12 and 15 hours for March 20, which are circled in blue. He interpolated to find the GMT of when he did the average observation and then calculated the longitude.

For his 1790 calculation of latitude and longitude at Cumberland House, he made 6 latitude observations and 34 sets of longitude observations. He was within 2.4 km in latitude and 4.3 km of longitude of what probably was his observing site. Many hours of work were needed to establish one location.

Now new cell phones are equipped with a GPS receiver with much greater accuracy! Technology has come a long way, but I am in awe of the heroic early efforts by David Thompson and others to map our country. 

**Ron Macnaughton** has a BSc in Physics and a Master of Engineering. He has an avid interest in astronomy and is a member of the Royal Astronomical Society of Canada. Ron has given many astronomy presentations including the following topics; "How Ancients Predicted Eclipses" and "How Kepler found that Planets move in Eclipses".

## Sites to See

NAD83 (CSRS) v7

<https://webapp.geod.nrcan.gc.ca/geod/tools-outils/nad83-docs.php>

The Canadian Geodetic Survey (CGS) released a new version of NAD83(CSRS) that is based on a transformation from the most recent ITRF2014, the current realization of the International Terrestrial Reference Frame. This new version improves the accuracy of NAD83(CSRS) and maintains its relationship with ITRF. The transformation was derived from the procedure agreed upon with the U.S. National Geodetic Survey by adding the incremental ITRF2008 ITRF2014 transformation, as adopted by the International Earth Rotation and Reference Frames Service, to the previously adopted ITRF2008 NAD83(CSRS) v6 transformation. This updated version is compatible with all previous versions of NAD83(CSRS) and uses the same 2010.0 coordinate reference epoch as NAD83(CSRS) v6. It provides a more accurate realization of NAD83(CSRS) for both coordinates and velocities of CACS and CBN stations.

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# Know your History — Part 3

By Tom Bunker, O.L.S., C.L.S., P.Eng., C.P.A. (Ret)

*The following article is Part 3 in a series of historical articles written by Tom Bunker. Part 1 appeared in Volume 62, No.3, Summer 2019. Part 2 appeared in Volume 62, No. 4, Fall 2019.*

## Evolution of the Distribution of Surveyors' Plans in Ontario

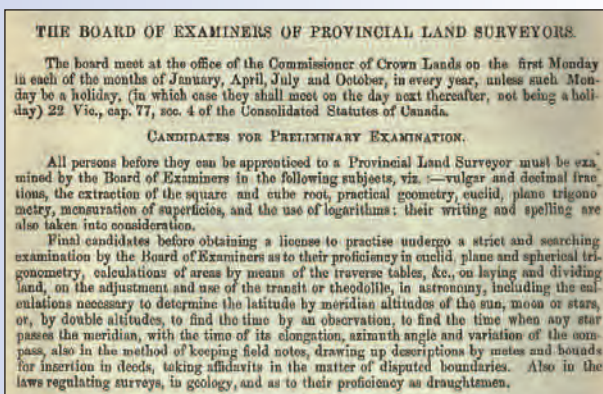
### *The Surveying Profession and Plans of Survey*

Ontario's professional cadastral surveyors have worked collaboratively with the Province to provide their expertise on the boundaries of land since the inception of the Province of Upper Canada by the Constitution Act of December 1791. One of the first acts of Governor John Graves Simcoe was to appoint D.W. Smith as acting Surveyor General in 1792 to oversee the division of the Crown's land into township lots for settlement to achieve defensive goals and commercial success.

By 1805 there were 14 Deputy Surveyors<sup>i</sup> employed by the Crown to conduct the actual land division surveys with this number growing to 106 spread across 12 Districts by 1838<sup>ii</sup>.

As lands became settled, private land transactions often required the division of the original township lots into smaller pieces. The surveys to mark the boundaries and the preparation of related descriptions (sometimes with illustrating plans drafted by the Surveyor) were under private contracts and self-employed surveyors were licensed by the Province to carry out this work.

These surveyors became known as Provincial Land Surveyors (PLS). The Act Respecting Land Surveyors and the Survey of Lands (Chapter 146 RSO) prescribed how surveyors were examined and licensed under a Board of Examiners reporting to the Commissioner of Crown Lands. The group of Preliminary Examinations to be passed prior to entering into apprenticeship included mathematical subjects. After the required term of apprenticeship, a set of Final Examinations to be passed included complex survey issues and calculations as well as "drawing up descriptions by metes and bounds for insertion in deeds,...laws regulating surveys...and.." a demonstrated "proficiency as Draughtsmen".



The drafting ability was key to a surveying practice as the only available method to create duplicate copies was the time consuming tracing of the original, all drawn on linen drawing medium.

Surveyors were generally located in towns and major villages throughout the Province, not only in County or District towns where the local Land Registry Office was located. This distribution allowed good public access to the surveyor, his records and other services required by the expanding population. The Surveys Act<sup>iv</sup> required the creation and retention of field notes of survey and access to the records by other surveyors so that there was consistent availability of boundary survey evidence contributing to a reliably built cadastre.

From 1846 onwards there were attempts made to organize an association of Provincial Land Surveyors culminating in a successful launch in 1886 of a group "for the purpose of improving ourselves and maintaining and elevating the standard of our profession"<sup>v</sup>. The group prepared a Bill for the Commissioner of Crown Lands who brought it forward to the Provincial Legislature in 1892 to incorporate the Association of Ontario Land Surveyors (AOLS) with about 200 potential active members. The AOLS thereby became a self-governing profession as to standards of entry and practice as well as dealing with complaints and discipline.

The AOLS operated virtually unchanged for about 90 years. Self-regulating professions came under scrutiny following the publication of the McRuer<sup>vi</sup> report on civil rights in 1971. The Report highlighted that the main objective of each self-regulating profession must be the protection of the public interest. The AOLS Council, assisted by a proactive Council Secretary<sup>vii</sup> in the person of Lorraine Settington, O.L.S., interpreted this to mean they should go beyond member management and consider all aspects of the surveying professional's interaction with the public, and in particular identified how the mis-interpretation and mis-use of copies of surveyors' plans<sup>viii</sup> had potentially detrimental impacts on property owners<sup>ix</sup>.

With this in mind, research and reports on the issue of Copyright were prepared<sup>x</sup>, concluding that Copyright rested with surveyors under the Copyright Act arising from their "contract for services"<sup>xi</sup>. Educational presentations<sup>xii</sup> to lawyers, realtors and others<sup>xiii</sup> on plan mis-use were undertaken throughout the Province well into the 1990's<sup>xiv</sup>.



## Plans of Survey within the Land Registration System

The two foundations of a Land Registration system are the registered documents reflecting ownership title (fee, limited interests, such as easement, etc) and the described location of the physical land.

The Land Titles Act is the governing statute in Ontario that now, after electronic conversion, covers almost all privately owned property and effectively guarantees the registered ownership reflected in the records through the registration process and an Assurance Fund (Sec 57).

**PART VIII** of the Act deals with the required **DESCRIPTIONS OF LAND AND REGISTERED PLANS**. Notwithstanding the statutory requirements for descriptions and plans registered at the Land Registry Office (LRO), Sec 140(2) of the Act denies any Provincial guarantee of the physical extent of lands to which the guaranteed registered title applies, as follows:

*The description of registered land is not conclusive as to the boundaries or extent of the land. R.S.O. 1990, c. L.5, s. 140 (2).*

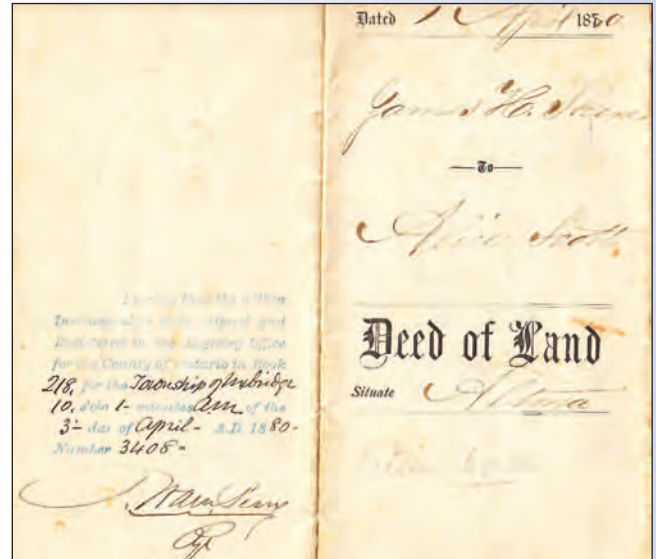
In the early 1980's discussions were ongoing between the AOLS Council and the Provincial Ministry of Consumer and Commercial Relations (MCCR) about the issues of misuse of copies of plans obtained at the LRO and surveyors' Copyright. Discussions continued with apparently no procedural resolution<sup>xv</sup>, considering MCCR Bulletin 81015 barring the placement of © or relevant wording on a plan entering the LRO.

Plans of survey were drawn from actual field survey work and have been prepared for clients for a variety of reasons. Where a transfer of land was required, the plan data (boundary line bearings and distances) was historically used to create worded "metes and bounds" descriptions inserted into the transfer document (deed of land). In complex

boundary situations the plans themselves, either copies drawn on linen until the late 1920's<sup>xvi</sup> or "blueprints" beginning in the 1910's, may have been attached to the document registered at the local LRO and would be referenced in subsequent transfers as "plan attached to INST #".

Access to the original LRO records was carefully controlled, with a total prohibition of ink based writing materials in the research area until the 1960's<sup>xvii</sup>. A similar access regime exists at the Archives of Ontario to this day.

Duplicates of registered plans were historically obtained from local surveyors as the LRO had no facility to copy any of the records. "Certified" copies were provided under the hand copying by the Registrar<sup>xviii</sup>. Duplicate copies of owner-



Privately held copy of Deed registered 3<sup>rd</sup> April, 1880

ship transfer documents required by the transfer parties were usually prepared by the solicitors conducting the transactions and duly annotated with registration details by the LRO.

This process was virtually unchanged until the late 1950's when the concept of Description Reference Plans was initiated by the Provincial Examiner of Surveys who was evaluating a complex property description with multiple easements. The Examiner reasoned that each portion of the property could be given a unique PART number and a schedule prepared on the plan listing PARTS and their relevant existing title rights. The simplified transfer description would then refer only to an assigned Plan Number and its relevant PARTS.

This process was created by statute and Reference Plans were deposited separately from transaction documents in the LRO files and referred to as needed. The current Land Titles Act **requires** all new portions of land to be so described (Sec 150(1)).

**150. (1)** A transfer or charge of freehold or leasehold land shall not be registered unless a plan of the land prepared by an Ontario land



Linen example attached to MU1185 Feb 1885, Blueprint attached to MU2797 July 1912

cont'd on page 30



surveyor, to be known as a reference plan, has been deposited for record in the land registry office. R.S.O. 1990, c. L.5, s. 150 (1).

**Saving**

- (2) Subsection (1) does not apply to a transfer or charge,
  - (a) of the whole of a registered parcel of land according to the parcel register;
  - (b) of the whole of a lot, block, street, lane, reserve or common according to a registered plan of subdivision or composite plan; or
  - (c) of the whole of a part according to a previously recorded reference plan of survey. R.S.O. 1990, c. L.5, s. 150 (2).

**Idem**

(3) The land registrar, having regard to the circumstances, may order that subsection (1) does not apply in the case of a transfer or charge mentioned in the order. R.S.O. 1990, c. L.5, s. 150 (3).

As a result, surveyors **are obliged** to prepare Reference Plans for clients who wish to create new properties, except by way of a registered Plan of Subdivision. The deposit of a Reference Plan, by the surveyor, client or any other agent, has no affect on the title to the property and is simply a description facilitator.

As part of the plan filing process, O. Reg 43/96 requires the original and a set of copies be provided, including the “option” of a surveyor’s duplicate (Sec 21(1). It is noted that

the designated LRO staff assigns an indexing number to the plan (Sec 21(3)) and acknowledges receipt (Sec 21(5)(a)). The process has been followed for decades, with surveyors retaining their duplicate in order to fulfill professional obligations of record retention as well as facilitating copies to their direct clients and as a service to local realtors, lawyers and the general public. Over the period 1979 – 1997, the duplicate returned to the surveyor was usually physically signed and dated by the LRO staff so that it was essentially indistinguishable from the original retained by the LRO. This facilitated plan publishing by the surveyors distributed across the Province in their local markets. This period also corresponded with, in part, the period of discussion over Copyright between the AOLS and MCCR.

**Changes in the Profession, Plans and Technologies**

In the 1970’s and 1980’s, it was observed that a lot of tedious work duplication could be alleviated by applying developing technologies, across multiple public and private venues.

The AOLS members embraced technology in their field surveys, their plan production and duplication and in data sharing. They supported the Province, both philosophically and materially, in its endeavours to “modernize” the LRO system through the Polaris<sup>six</sup> project.

At the same time, some firms were collaborating on digital storage and inter-firm sharing of their survey

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records, including both field notes and plans. The activity of firms such as Land Survey Records<sup>xx</sup> extended to the offering of copies of plans, both those prepared as “private” documents and those registered or deposited with the LRO, to the commercial public.

Teranet Inc. evolved from the Polaris project and entered into a long-term contract to electronically manage the data in the LRO for the Province. Teranet notified the Province<sup>xxi</sup> that those businesses that were selling or displaying plans on a web based portal were contravening its exclusive rights<sup>xxii</sup> in the LRO documents.

Many surveyors did not support this interpretation of the law on Copyright and an application was begun in 2010 for a Class Action proceeding and Summary Judgement action (Keatley v. Teranet) that was ultimately decided in favour of Teranet by the Supreme Court of Canada (SCC file 37863).

**Some potential considerations post Keatley v. Teranet**

Copyright typically subsists to the author until 50 years after his/her death. Does the Copyright granted for 50 years to the Crown under S.12 of the Copyright Act revert to the original owner after the 50 year term expires?

Since the Crown owns the physical plan and related Copyright after it enters the LRO, is the Crown obliged to defend surveyors against any claims that relate to mis-use of the plan by the public, ie. beyond the intended parcel description?

Given surveyors now have no control over access to or use of their plans once in the LRO, should their current professional fee be adjusted to reflect a potential loss of future revenue and perhaps increased liability?

Will surveyors continue to advocate for plans to be added to the LRO to update or improve registered descriptions? How important will surveyors’ access to the Provincial Survey Records Index become for accurate boundary determination?



- i Archives of Ontario, RG1 CB-1 (Survey Diaries and Field Notes, 1790 – 1928), box 43, miscellaneous records
- ii ibid
- iii Page 60 of Appendix to the Report of the Commissioner of Crown Lands for the year 1872.
- iv Sec 4, Surveys Act R.S.O. 1990
- v Pg 185, They Left Their Mark, John L. Ladell, Dundurn Press, Toronto, 1993
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# Continuing Professional Development – CPD Audit Task Force Recommendations



By Tom Packowski, O.L.S., Chair of the Continuing Education Committee

## Introduction

Regulatory organizations such as the Association of Ontario Land Surveyors (AOLS) set the standards for professional and ethical conduct for their members. Said in another way, the AOLS stands in the stead of the Public to ensure that through adherence to applicable legislation and a Code of Ethics, the Profession shows that it recognises its responsibility to ensure that the actions of its Members protect the Public interest, thereby encouraging continued confidence in the profession. One of the objects of the Association is to establish, maintain and develop standards of knowledge and skill among its members. Indeed, the Standards of Practice for the profession include a clause stating that every member shall participate in the professional development program described in the *Surveyors Act, O. Reg. 1026, Section 41* and maintain a level of proficiency that will meet the needs of the Public.

The need for Continuing Professional Development (CPD) in the profession of Land Surveying is self-evident as a necessary requirement for everyone, as changes in law, technology and business continue at an ever-expanding pace. This activity is essential as you consider your future as a Professional and what skills and knowledge are needed to achieve your goals. It is also necessary when examining any weaknesses or deficiencies in your professional practice and what skills or courses may be necessary to rectify any shortcomings.

Cadastral surveying is the exclusive domain of licensed Land Surveyors in the Province of Ontario. However, this could be seen as both a blessing and a curse to those who consider themselves to be land information professionals. While it is necessary for cadastral surveyors to remain current with changing legislation and court cases that may have an impact on their work and their professional opinion, it is equally necessary that all Members, both licensed and registered, actively pursue a path of ongoing development of their abilities and skills. It is suggested that everyone's overarching philosophy directing professional development could be summed by the statement, "if we don't remain relevant in the area of the land information profession, we will be left behind".

In October of 2012, O. Reg. 327/12 was approved by the Ontario Legislature. This regulation, made under the Surveyors Act, amended O. Reg. 1026 by adding, among

other items, the sections dealing with the Professional Development Program. Sections 41 to 43 define what constitutes professional development, the Members' obligations to submit an annual CPD report, the requirement by the Members to maintain records of their professional development activities, and the option for the Registrar to conduct an audit of the Members' professional development records. The amendments to O. Reg. 1026 came into effect at the beginning of January 2013.

OO. Reg. 1026, Sections 41, 4(a) and 4(b) outline the minimum requirements to complete a Member's obligations under the Professional Development Program, as follows:

- (4) Despite subsection (2), it shall be a requirement of the professional development program that, every three years, a professional member shall,*
  - (a) complete at least 36 hours of continuing education courses relating to the practice of professional surveying that are offered by the Association or approved by the Council;*

These are commonly referred to as '**formal**' hours. Formal activity hours include courses, seminars and webinars required to maintain the knowledge, skill and judgment required to practice professional surveying. Formal Activities comprise formalized instruction by an expert in the subject.

- (b) participate in at least 66 hours of professional activities that support the profession of professional surveying, that are approved by the Council and that may include,*
  - (i) attendance at Association meetings or meetings of Association committees or other professional organizations,*
  - (ii) participation in Association committees or other, related professional organizations,*
  - (iii) publication of works relating to the profession or presentations of papers relating to the profession, and*
  - (iv) independent learning and self-study activities;*

These are commonly referred to as '**professional**' hours. The AOLS website states that professional activity hours can be earned in the following categories:

- 1) Meeting Attendance
- 2) Committee Participation
- 3) Presentation or Publication
- 4) Self-Study



In November of 2012, ahead of the enactment of the legislative changes referred to above, the Professional Development Committee provided a guide to the Membership to help interpret the regulations as they were proposed at that time. This guide, also posted on the AOLS website, stipulates that the maximum number of Self-Study hours available per year was set at 10 hours. The guide also required that the Professional Development Report will include a ‘detailed account of the activities that were used in order to claim Professional Development Hours’.

## What is an Audit?

In addition to outlining the obligations to the Membership in the area of CPD, the legislation also included an option for an audit by the Registrar of the Association, so that in the role of Regulator, the Registrar can confirm that the Membership is adhering to its governing legislation and so maintain the Public’s confidence in the Profession.

Recently, the AOLS appointed a CPD Audit Task Force to provide recommendations to the Registrar on the subject of CPD Audits. A sub-group of the CPD Audit Task Force examined the CPD submissions by the Membership for one particular year that were submitted in accordance with O. Reg. 1026 Section 42. The review consisted of two parts. The first review of the entries consisted of a cursory examination of all 6,300 or so entries made during that year for any obvious or glaring errors. The second review consisted of an in-depth, random sample of 5% of the total number of entries made during the given year. It was determined from these two reviews that the vast majority of the membership take their professional and ethical obligations to maintain their continuing professional development seriously. However, there were a number of issues that were observed. The following is a general summary of what was found.

Of all of the issues identified in this review of the data entries, excessive ‘self-study’ entries were by far the most significant problem. Self-study falls within the category of professional hours. The maximum number of self-study hours available for CPD is 10 hours per year for a total of 30 hours per triennial. If more hours are entered, they are simply not counted toward the required total. Note that there are no options for formal hours to be acquired through self-study.

The next issue was insufficient information to verify unsanctioned CPD opportunities by other organizations. Unsanctioned CPD activities consist of activities for which there was no involvement by the AOLS or the Continuing Education Committee as to the amount of CPD credits available. Such entries by the Members typically provided little detail or supporting documentation as to course content or outcomes, the presenters’ qualifications, any means of assessing whether the participant actually acquired the course information, confirmation that the desired outcome was actually achieved, or active participation in the course itself. Members are able to use their discretion in selecting CPD opportunities that apply to them in their particular circumstances, however they are reminded that the legislation

provides that such courses are subject to Council approval.

It should be noted that O. Reg 1026 Section 43(1) stipulates that every Member shall maintain records of their professional development activities for a period of at least five years. The following are suggestions from the Law Society of Ontario website as examples of records which may be used to support CPD claims: confirmation of registration in the program, course or seminar; receipt of payment for CPD activity; dates and times attended; location of course or program; sponsoring organization; number of hours; a letter, certificate, or other attestation of course attendance/completion, if available; copies of CPD material; or documentation supporting a publication, an oral presentation, and a committee or other presentation.

Another common issue was the prevalence of using day-to-day job activities as CPD opportunities. This would include instances where an OLS, as part of their duties, would instruct their staff as to management’s expectations of the staff in the performance of their field or office functions. Examples also included instances of business development or expanding the Firm’s client base. This could reasonably be viewed as part of the normal activities associated with a well-run business rather than the pursuit of professional development. Similarly, testifying as an expert witness as part of your contractual obligations to your client would not qualify as CPD. However, completing a course offered through, for example, Four Point Learning, on “The Land Surveyor as an Expert Witness” would count toward your professional development credits.

The final issue was recording and inputting blunders. These included entering a course more than once (in one instance, a course was entered four times!); entering professional hours as formal hours and vice versa; entering more hours than the number of hours available, such as hours from the Annual General Meeting; and finally, entries that could not reasonably be considered professional development. Remember that if you are entering an activity that you expect to count as professional development, the onus is on you the Member, to provide supporting documentation as to why and how Council would be in a position to approve the activity as contributing to your growth as a professional. It is strongly recommended that CPD activities be entered as soon as they are completed so that in the event of an issue arising from an audit there is still time to clarify or amend the input, if required.

Ontario Regulation 1026, Sec. 43(2) states that the Registrar may conduct audits of members’ professional development records. If you are audited, remember that this function is provided for in legislation and is another example of the Association fulfilling its role as the Regulator of the Profession. You are encouraged to ensure that the courses you select or the seminars you attend will further your development as a member of the profession, and that the manner in which you enter your CPD credits and the records that you retain will substantiate the credits that you claimed.



# The Nuts and Bolts of Subsurface Utility Engineering (SUE)

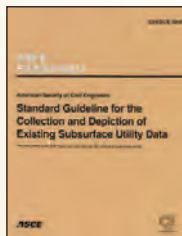
By Lawrence Arcand, P.Eng – President, T2 Utility Engineers

I had the recent pleasure of making a presentation at the October 4<sup>th</sup> Geodetic Picnic in Alliston, ON. After the presentation, a woman whom I have known and respected for many years, Maureen Mountjoy, asked if I would be interested in taking the information from the presentation and turning it into an article for the AOLS magazine - so here we are!

I have spent a large portion of my career practicing, perfecting, teaching, and talking about the benefits of Subsurface Utility Engineering. It has been a long journey, but a very rewarding one. It is great to reflect back on how we did things 20 years ago versus how we manage utility risks on projects today. Today we have the increased benefit and support of a number of groups and organizations like the Utility Engineering and Survey Institute (UESI), the Subsurface Utility Engineering Association, the OPWA Right of Way Management Committee, and the Transportation Association of Canada's Public Utilities Management Subcommittee. All of these groups are helping to further promote the use of SUE and help to advance the use of good Utility Risk Management practices in our industry.

Whether you heard about SUE a long time ago or if SUE is new to you, here are some of the key things about SUE that I think you need to know...

The key document outlining the SUE process is the *ASCE Standard 38-02 – Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data*. It is currently going through a re-write process and I have had the pleasure to be on the team tasked with developing the update. The updated Standard is expected to come out for public consultation early in 2020, and be ready for final publication in mid-late 2020. The general premise of Standard 38 is that when showing a utility on a drawing you MUST assign a quality level to that utility, providing the user of the drawing a level of reliability for the data. The simple way that this is accomplished is through the use of Quality Levels. Here is the breakdown:



**Quality Level D** – Information derived from existing records or oral recollections.

**Quality Level C** - Information obtained by surveying and plotting visible above ground utility features (most typically sewer manholes), and by using professional judgement in correlating this information to QL-D records information.

**Quality Level B** - Information obtained through the application of appropriate surface geophysical techniques to

determine the existence and approximate horizontal position of subsurface utilities.

**Quality Level A** – Information obtained by exposing and measuring the precise horizontal and vertical position of a utility at a specific point (typically involves vacuum excavation).

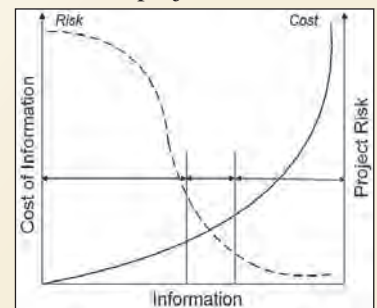
Simple...right? Yes, the basic premise is simple but there is a lot that goes on behind the scenes!

One of the key questions asked is, “What is the appropriate Quality Level to use on my project?” Good Question! Here is my short and sweet answer. You should strive to obtain Quality Level B data through the use of appropriate geophysical designating technologies for any utilities that are within a critical area of your project. An exception to that rule would be for sewers, which if based on records shown to be running straight between visible maintenance holes, you should consider striving to achieve QL-C. Any utilities that you could not identify, but you have a record that shows that they should be in the critical area, will be shown at QL-D. For areas of your project that are not critical, it is still valuable to know what utilities might be there, however it is okay to leave as Quality Level D data. Focus on achieving Quality Level A data in areas where it can be determined that there is a potential conflict between what you are trying to build and the existing utilities. Think of it like a surgeon's scalpel - be precise and use it where you really need it.

Some of the other high-level questions you should be asking yourself:

What is the overall dollar value of the project? You want to make sure that you are balancing the cost for investigation versus the overall cost of the project.

What is the potential risk on the project? Think about how running into utility problems can increase costs and delay the project. Is this a project that would benefit from increased effort to reduce risks? The University of Toronto 2006 SUE study presented a simple graphic to depict this, shown here.



What are the potential safety risks involved with the project? You need to know what utilities are present in the project area to assess the potential safety risks during construction. The risks can be mitigated by having better data regarding their location.



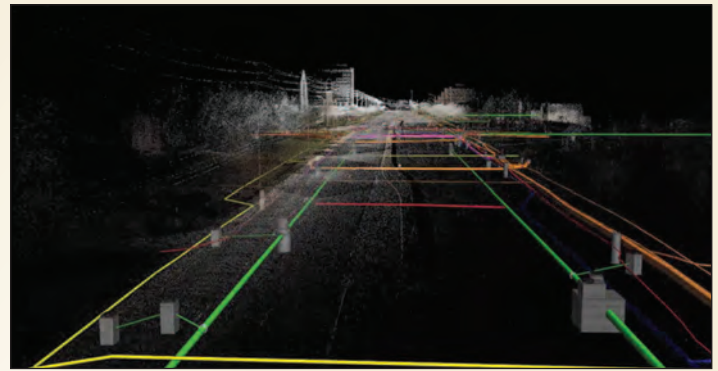
When it comes to scoping the actual investigation and determining which methodologies could or should be used for identifying the location of the utilities, it is best to talk to your



SUE consultant to get his/her expertise about what technologies will work best for the situation. There are a variety of technologies available like

Pipe and Cable Locators, Ground Penetrating Radar (GPR), CCTV cameras, Vacuum Excavation and others. One of the newer more promising technologies is Multi-Channel GPR (MCGPR). The image above shows some MCGPR data superimposed on an aerial photograph. Regardless of the technology used, it is all about locating the utilities so that they can be identified at the appropriate quality level on project drawings.

When the investigation is complete, the SUE provider will provide a SUE Report, stamped and signed by the Utility Engineer responsible for the investigation. Much like survey drawings are signed by an OLS, it is important that the SUE deliverables are reviewed by and signed off by the P.Eng in charge of the work. The report will typically include a description of what was done on the project and the investigative technologies used. It will include a list of all the records used



during the creation of the drawing, all test hole data, and a SUE drawing as a CAD file. Lately I am seeing 3D CAD drawings are also becoming part of the SUE deliverables, like the one shown above. There is tremendous value for designers to have data as a reliable 3D model, so I predict that this will be a standard deliverable in the not so distant future.

It is hard to take 17 years of knowledge and distill it into a brief article, but hopefully this provides a high-level understanding of SUE and more importantly sparked a curiosity to learn more about the nuts and bolts of how Subsurface Utility Engineering can be used on your projects and as part of your standard practice. If you have any questions, I am always happy to talk SUE. You can give me a call at 905-424-1959 or e-mail me [Lawrence.Arcand@T2ue.com](mailto:Lawrence.Arcand@T2ue.com).

Thanks for the opportunity Maureen!



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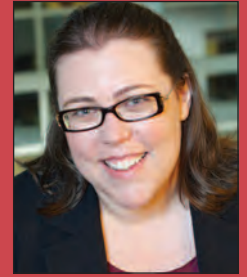
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# The Duty to Accommodate in the Context of Professional Discipline Investigations



By Patricia Harper, with contribution from Sakshi Chadha

**P**rofessional regulators have a duty to accommodate members with disabilities in the context of professional discipline investigations and hearings.<sup>1</sup>

Most regulators require their members to participate in investigations stemming from complaints made by clients, members of the public, other professionals, or initiated by the regulator itself. Such cooperation might include requirements to provide a written response to the complaint, hand over files or documentation, and/or respond to the questions of the regulator's investigator. Failure to cooperate or be responsive to an investigation may amount to professional misconduct in and of itself, separate and apart from the allegations on which the investigation was initiated.

Recent decisions of the Tribunal Hearing Division (the "Tribunal") of the Law Society of Ontario ("LSO") may provide guidance to other professional regulators with respect to the scope of the duty to accommodate members with disabilities during the investigative process.

## *What is the Duty to Accommodate?*

The duty of professional regulators to accommodate members with disabilities in professional discipline investigations and proceedings is grounded in the provisions of the Ontario *Human Rights Code* (the "Code").<sup>2</sup>

The Code protects people from discrimination in a variety of contexts including, but not limited to, services, accommodation and employment. It specifically prohibits discrimination in vocational associations, which includes self-governing professions.

Section 6 of the *Code* reads as follows:

*Every person has a right to equal treatment with respect to membership in any trade union, trade or occupational association or self-governing profession without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, or disability.*<sup>3</sup> (emphasis added)

A disability, as defined by Section 10(1) of the *Code*, includes, but is not limited to, a physical disability, a condition of mental impairment or a developmental disability, and a mental disorder.<sup>4</sup>

Section 17 of the *Code* goes on to stipulate that a person with a disability must be accommodated unless the accommodation would cause undue hardship.<sup>5</sup> The question of what constitutes undue hardship to the regulator is determined on a

case by case basis.

In the context of professional discipline what this means is that a member with a disability must be accommodated throughout the discipline process. Accommodation can take a variety of forms. At a hearing for instance, if a member is hearing impaired, the proceedings may include a sign language interpreter to ensure the member is able to follow all aspects of the hearing. Both the member and the regulator are expected to participate in determining the appropriate accommodation in the circumstances of each case.

Two recent matters before the LSO's Tribunal, *Law Society of Ontario v. Burt*<sup>6</sup> and *Law Society of Ontario v. Kerr*<sup>7</sup>, provide guidance on the scope of the duty to accommodate members with disabilities during the investigative stage of the complaints and discipline process. In both cases, the LSO alleged that the members had committed misconduct by failing to respond as required during the course of the LSO's investigations. In *LSO v. Burt*, the Tribunal held that Mr. Burt had not committed misconduct and that the LSO had failed to accommodate him, while in *LSO v. Kerr*, the Tribunal found that Mr. Kerr had committed misconduct and there was no failure to accommodate on the part of the LSO.

## *The Law Society of Ontario v. Burt*

In *LSO v. Burt* the Tribunal held that the LSO had failed to accommodate a lawyer's disability "to the point of undue hardship" and accordingly, dismissed allegations of professional misconduct against him.

## *Background*

It was alleged that Jeffrey Burt ("Mr. Burt"), for the second time in disciplinary matter, had failed to cooperate with an investigation commenced by the LSO. The LSO Rules stipulate that a lawyer must promptly and completely respond to an investigator. In both matters, Mr. Burt underwent psychological assessments which provided evidence that his mental health condition (i.e. a major depressive disorder) hindered his capability to effectively respond to the requests of the LSO.

At the commencement of the investigation in question, the LSO had in its possession the previous medical report from the first disciplinary proceeding against Mr. Burt for his alleged failure to cooperate. The medical report indicated that the complaints made against Mr. Burt and the regulatory requests to comply with the investigation caused him to "freeze" and thus rendered him unable to respond to the investigators in writing. Mr. Burt was otherwise able to continue



his legal practise.

The investigators made efforts to obtain the information and documentation required to complete the investigation, including providing Mr. Burt with extensions of time and being willing to accept a more concise written response than was ordinarily required. Mr. Burt did not, however, provide the written responses requested.

Mr. Burt argued that he suffered from a disability within the meaning of the *Human Rights Code*, which interfered with his ability to comply with his obligations to the LSO. He further asserted that the LSO could have provided him with accommodation by requesting documentation and information in an alternative manner.

The LSO took the position that Mr. Burt's failure to cooperate with the investigation amounted to professional misconduct which could not be saved by a defence of mental illness. The LSO also argued that the investigators were aware of Mr. Burt's condition and reasonably accommodated him throughout the investigation by giving him extra time and by permitting some deviation from the Rules.

#### *Decision of the Tribunal*

The Tribunal dismissed the professional misconduct allegations against Mr. Burt because the LSO had not reasonably accommodate his disability throughout the investigation.

The Tribunal rejected the LSO's argument that it reasonably accommodated Mr. Burt's disability and found that the LSO had failed to meet its onus of demonstrating that discussions, assessments, and actions were taken to accommodate Mr. Burt, "to the point of undue hardship." Mr. Burt's regulatory obligation to cooperate with the LSO was to be considered in the circumstances of his medical diagnosis, which hindered his ability to respond promptly and completely.

The Tribunal was satisfied on a balance of probabilities, relying on the medical evidence, that Mr. Burt's mental illness caused him to "freeze" and rendered him unable to respond to the demands of the LSO by providing a written response.

The Tribunal found that although Mr. Burt failed to follow through with his promises to provide a written response due to "freezing", he did not attempt to avoid or escape the demands of the investigation. Rather, he responded readily to phone calls from the LSO investigator and, on three occasions, proactively initiated communication with the LSO investigator.

Mr. Burt successfully argued that alternative approaches existed for the investigators to accommodate his disability. Although the Tribunal acknowledged the accommodation attempts that had been made by the LSO, these efforts were not enough. The Tribunal suggested potential alternatives to accommodate Mr. Burt in order to complete the investigation, such as conducting oral interviews which could then be reduced to writing or having investigators go to Mr. Burt's law office to obtain the relevant client files. The Tribunal noted that although it was the practice of the LSO to receive responses from members in writing, this was not a formal rule or requirement.

The Tribunal emphasized that the LSO and its trained investigators knew or ought to have known of Mr. Burt's medical condition, as it not only had access to the materials from Mr.

Burt's previous discipline proceedings, including his psychological assessment, but also their interactions and experiences with Mr. Burt throughout this matter, which ought to have been sufficient to alert them to his need for accommodation.

#### *The Law Society of Ontario v. Andrew Robert Kerr*

Unlike *LSO v. Burt*, in *LSO v. Kerr* the Tribunal rejected the member's position that his failure to respond to the LSO's communications during an investigative process was not misconduct because the LSO failed to accommodate Mr. Kerr's disability during that process.

There was no dispute that Mr. Kerr suffered from a disability as defined by the *Code*. His diagnosis was one of Major Depressive Disorder and Attention Deficit Hyperactivity Disorder, Inattentive Type.

In its decision the Tribunal confirmed that the member had the right to be accommodated to the point of undue hardship, however, it also found that in the circumstances of this case the member was not relieved of his obligation to reply to communications from the LSO.

Several elements of the Kerr case are distinguishable from the Burt case:

- the member did not respond to the LSO's communications;
- the investigator offered accommodation in her letters to the member, but no requests for accommodation were made by him and no medical evidence was provided during the investigation period;
- the member had in fact responded to the LSO in writing in a separate and unrelated investigation;
- the medical evidence that was ultimately led at the hearing did not establish that Mr. could not have responded to the LSO in writing.

The LSO submitted, and the Tribunal accepted, that "...a disability does not justify putting aside professional obligations. Moreover, the accommodation process should begin with a request for accommodation by the disabled individual supported by medical evidence (unless the condition is so disabling as to prevent a request for accommodation)."<sup>8</sup>

In its decision, the Tribunal reiterated the principle that the person seeking an accommodation must, in the normal course, assist and cooperate in the crafting of the accommodation. The Tribunal held that, "The duty to accommodate does not include an obligation to excuse the Licensee from fulfilling his professional obligations while permitting him to continue to practise law without restriction. Rather, the Law Society is obliged to consider a licensee's need for accommodation once it is aware of it and to determine, in consultation with the licensee, what measures can be implemented without compromising its obligation to effectively regulate the profession in the public interest."<sup>9</sup>

In dismissing Mr. Kerr's argument that the LSO had failed to accommodate him, the Tribunal explicitly distinguished his case from that of Mr. Burt. In particular, the Tribunal noted that before the investigation began in Burt, the LSO had in its possession medical evidence that explained the member's limitations in being able to respond to the LSO and could have accommodated his disability by taking information from Mr.

*cont'd on page 38*

Burt orally and attending at his office to obtain the relevant file.

In Mr. Kerr's case, unlike Mr. Burt's, there were no circumstances which relieved Mr. Kerr of his obligation to request accommodation if it was required and to participate in the accommodation process.

### Summary

As a general rule, regulators ought to be aware of their duty to accommodate members with disabilities in the context of discipline investigations and proceedings. In that regard, regulators ought to be prepared to offer alternatives in order to provide reasonable accommodation to their members.

A disability, such as a mental illness, can successfully be raised as a defence against allegations of professional misconduct for failure to respond to the regulator if the regulator and its investigators knew or ought to have known of the disability and subsequently failed to provide an appropriate accommodation. In the usual course, a member will be expected to identify to the regulator if they have a disability and require an accommodation. In such cases, the member and the regulator should work together to craft an accommodation that will facilitate the member's participation in the investigation and hearing, while also permitting the regulator to fulfill its role of regulating the profession in the public interest.



**Patricia Harper** is a partner at Keel Cottrelle LLP. She enjoys a broad civil litigation and administrative law practice, serving both private and public sector clients. She represents clients in a wide range of litigation matters, including employment and procurement litigation, and has represented clients before various levels of the Superior Court of Justice and well as in private arbitrations. Patricia frequently acts for professional regulators, either as prosecution counsel or independent legal counsel to panels or tribunals. She can be reached by email at [PHarper@KeelCottrelle.ca](mailto:PHarper@KeelCottrelle.ca)

**Sakshi Chadha** is a graduate of the University of Ottawa's Faculty of Law and expects to be called to the bar in the June of 2020. She has previously written articles for Keel Cottrelle's Professional Regulation Newsletter.

Note: The content of this article is provided for informational purposes only and does not contain legal advice.

<sup>1</sup> This article specifically discusses the duty to accommodate in the context of a discipline proceeding. A future article will focus on fitness to practice proceedings.

<sup>2</sup> *Human Rights Code*, R.S.O. 1990, c. H.19 (the "Code").

<sup>3</sup> *Ibid.*, s. 6.

<sup>4</sup> *Ibid.*, s. 10.

<sup>5</sup> *Ibid.*, s. 17.

<sup>6</sup> *Law Society of Ontario v. Jeffrey Gordon Alexander Burt*, 2018 ONLSTH 63 (*LSO v. Burt*).

<sup>7</sup> *Law Society of Ontario v. Andrew Robert Kerr*, 2019 ONLSTH 86 (*LSO v. Kerr*).

<sup>8</sup> *LSO v. Kerr*, para. 28.

<sup>9</sup> *Ibid.*, para. 40.

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# Tempering Road Rage or How to Say Nay to a Neighsayer

By David Coombs

*This is David Coombs' fifth article for the Ontario Professional Surveyor.*

**C**ommuting to work in a city is frustrating, time consuming and unpredictable. It is often no fun. Tempers flare. Clogged arterial systems bring complications. I spent 18 years driving the 116 km. return trip from Burlington to Toronto on the well known parking lots more formally known as The Queen Elizabeth Way and The Gardiner Expressway. It was a tough drive and I was on very few city streets. It did have one redeeming feature, there was not a horse in sight!

Rural communities have had their share of road related problems over the decades. Barry's Bay is a case in point. In May 1913 the council representing the three surrounding townships of Sherwood, Jones and Burns, dealt with traffic issues in the hamlet's core. It declared that citizens who allowed their dogs to chase horses on the roads would be prosecuted. Two years later, the council addressed some of the citizens' bad habits by prohibiting drunkenness, swearing and quarreling on the streets. Having clamped down on the dogs and disorderly folks, the same council in December 1916 prohibited cattle from running wild on public thoroughfares. The fine was \$2 for the first offence and ominously, \$5 for each subsequent infraction. Peace reigned for more than a decade but by 1929 traffic congestion had taken a turn for the worse. The council stepped up and declared that "no horses, sheep, swine or cattle shall be permitted at large on public highways, roads or streets."

The term 'highway' was perhaps misleading. By 1933, the year Barry's Bay became an incorporated village, no official highways reached the community. Highways 60 and 62 did not exist. This is not surprising as that year the population of the three area townships was recorded as 1,187, excluding, I presume, dogs, horses, swine, etc.

Within the village, road work was underway several years prior to incorporation. The Great Depression had made its mark across Canada and had included Barry's Bay in its tentacles. In February 1931, the Corporation of Sherwood, Jones and Burns reached an agreement with the governments of Canada and Ontario whereby the Corporation would match the \$750 provided by Queens Park and Ottawa and use the \$1,500 to hire some of the 200 unemployed men to haul stone and gravel, grade the major streets and construct concrete sidewalks within the village.

In November 1932, with more than 50 families in need of relief, the elected officials asked and 'prayed' that the provincial government make a special grant of \$5,000 for work on the Barry's Bay to Madawaska road to the west and

on the Barry's Bay to Wilno road to the east so that "heads of families in need may earn some money to buy the necessities of life." This work would provide a significant boost to the future highway 60.

The response was not immediate so in April 1933 the council passed another resolution stating that "90 percent of our laboring men are unemployed and are in direct need of funds." It pleaded with the Ontario government for money to further the work on the trunk roads. Someone listened and funds began to flow by the end of the year.

The early years of the depression fomented discontent and unrest. Many local folks were unemployed, idle and on edge and the trains often arrived with hobos, some of whom alighted for a free meal of hotel leftovers including soup and bread. The hotel, situated across from the station, was owned by a kindly husband and wife. Wary of the unrest, the council representing the three townships asked the province in 1931 to station an OPP officer in the hamlet. The council asked again in April 1932. The village council tempered their request in April 1935, asking only that an OPP officer come for six months, starting in May. Even this plea fell on deaf ears. It would take a major transformation of the road network to get the province's attention.

By 1936, the long sought highway 60 connection was up and running. It brought new headaches. Counselors struggled to determine appropriate speed limits, finally deciding on 20 miles per hour as the highway approached the village. The next year problems compounded. Highway 62, which commenced in Belleville, made it's long awaited entrance to Barry's Bay running straight into highway 60 in the centre of the village, thus creating the first, and to this day, only major intersection in town. It is a significant three way stop and yet has never had traffic lights.

Sensing trouble in 1937, the council sent its fourth request for an OPP officer. It claimed that "highway traffic increased greatly over the last few years, the LCBO is the only one in a 35 mile radius, the nearest OPP officer is in Pembroke and traffic regulations and liquor traffic is being greatly abused." The province did, in 1939, enter into a cost sharing agreement regarding the two highways. Responsibilities for snow removal and repairs were itemized in the agreement. The village, hoping that some good would come from being connected to the two highways, opened a tourist bureau. I assume they anticipated law abiding tourists as still no OPP officer patrolled the streets.

*cont'd on page 41*

# History of the Association of Certified Survey Technicians and Technologists of Ontario

By Douglas Sutherland, C.E.T., C.S.T. (Retired), Archival and Historical Committee

**T**he Association came about as an evolution of a previous, non official, organization known as the Association of Survey Technicians of Ontario that was founded in 1958. To bring the Association of Certified Survey Technicians and Technologists of Ontario (ACSTTO) into fruition, cooperation was requested, and obtained, from the Association of Ontario Land Surveyors (AOLS). “We formed a group of certified technicians and technologists,” said Mr. Fred Pearce, O.L.S. at one point in an address to the AOLS in 1958. “Some of us (in the A.O.L.S.) said we formed a monster.”

Officially known as The Association of Certified Survey Technicians and Technologists of Ontario (ACSTTO), the organization received Letters Patent from the Provincial Government on January 23, 1967. Close to 275 members received certification at the following June 10, 1967 Annual Meeting. The balance of the membership, roughly another 100 at that time, were eligible for certification in the fall. According to ACSTTO President Steve Geneja, C.S.T. (former Land Registrar in Belleville), Messrs. Fred Pearce O.L.S., Red Petzold, O.L.S. and Ralph Smith, O.L.S. (first three chartered members) were the three major reasons the Association existed in a legal capacity - and why Mr. Geneja was then President of what was familiarly called ACSTTO. Through the fine auspices of the AOLS, and their willingness to make representation to educational and political authorities, the dream of a man named Fred H. Marsh, C.S.T. (Department of Highways (DHO) in the late 1950s) became a reality.

ACSTTO became more independent of the parent Association of Ontario Land Surveyors, now that it had come of age, with two exceptions. Financially, there was a possibility the new association would make use of the administrative facilities available through the AOLS, a service they would pay for, and professionally, certification would be made by a Certification Board appointed by the AOLS. This Certification Board was made up of both OLSs and CSTs. It set out the standards required to meet the qualifications of the three categories (Technologist, Senior Technician, and Technician). Then, with most technicians trained on-the-job, experience was the prime factor in considering a person’s category. In his report, “The Role and Future for Survey Technicians”, Ralph Smith, O.L.S., claimed that with time, experience would be downgraded in

favour of academic training. According to Mr. Smith, the shift is “away from skill power and toward brain power”. Defining a Technician, Mr. Smith said was “one who can apply, in a responsible manner, proven techniques which are commonly understood by those who are experts; or techniques which are specifically being prescribed by a professional.” “The difference between a Technician and a Technologist,” continued Ralph Smith, “is related more directly to how specialized or how broad is his/her training and development. Similarly, the relationship of the Technologist to the Professional Surveyor is related primarily to the depth in which the subjects are studied.”

Through the combined efforts of the AOLS and ACSTTO, there had been an increase in the courses available, both day and night, in high schools, and in Provincial Institutes of Trades (PIT) (now part of Humber College). Also, the fall 1967 calendar of Ryerson Polytechnical Institute (now Ryerson University) carried a course in surveying. For those already in the profession and unable to make use of the night school courses, correspondence courses were being worked on. Night school courses began in Toronto and North Bay in 1963. PIT set up its first course, in Toronto, in 1965, and had another in the works for Sault Ste. Marie later that year.

Through the 60s, 70s, and into the 80s, ACSTTO was instrumental in providing the necessary education to the Technicians and Technologists due to the exponential explosion of the computer age we have today. Day and night school courses were held in many campuses over the next twenty odd years in all parts of Ontario - for example, at George Brown College, (Harry Coupland O.L.S.), and University of Toronto - Erindale Campus, (Professor Robert (Bob) Gunn, O.L.S.).

ACSTTO had the same regional setup as the AOLS, with a Chairperson for each region. Each region worked on its own, or together in many cases, to present these courses. (The author of this paper was fortunate enough to be Chairman of ACSTTO Central District for two years while working for Red Petzold, O.L.S. and many Regional Meetings and Annual Meetings were held, as well as enjoyable get-togethers such as dances and winter sleigh rides.)

A group of nine text books, based on Department of Highways Ontario (DHO) (now Ministry of Transportation) manuals, were made available at a nominal cost during early



1967. Some of the 100 that were printed were also purchased by AOLS members. These text book courses and many more were also presented at Community Colleges and Erindale as mentioned earlier. A good cross-section of these courses and later ones that were held would be: Advanced Plane Surveying; Spherical Trig and Astronomy; Mapping; Condominiums; Contract Management; Surveys Acts of Ontario; The Planning Act; Chain Saw Certification (Cutter); Title Searching; Water Boundaries; Practical Astronomy and Convergence; Statutes (Acts and Regulations); Theory and Use of Surveying Instruments; Instructions in Mathematical Calculations; Practical Surveying 1; Practical Surveying 2; Real Property Law; Instruction in Spiral Curves; Instructions in Acquiring Surveying Evidence; Canada Lands Surveys Act; Strata Plans Under the Ontario Registry and Land Titles Acts; MicroStation; AutoCAD; and Preparation of Field Notes and Reports.

Survey Précis Volumes 1 and 2 were published by ACSTTO in 1976 under the auspices of DHO and presented to all of the more than 800 ACSTTO members. Many other courses were also presented over these years and attended jointly by ACSTTO and AOLS members.

Many Ontario and then Municipal Government bodies such as MTO, Ontario Hydro, City of North York, and Municipality of Metropolitan Toronto Roads and Traffic, stipulated that the cadastral workers be members of ACSTTO when applying for employment. This was helpful in determining the current knowledge of the applicants.

ACSTTO became more autonomous during the downturn in the economy in the late 80s and early 90s, and in this regard, also was not successful in discussions to be the “technical wing” of the AOLS. They then amalgamated with the Ontario Association of Certified Engineering Technicians and Technologist (OACETT).

The Institute of Survey Technology of Ontario (ISTO) was established in 1987 to provide a new home for the paraprofessional working in the field of surveying in Ontario and to provide education and training for those members. ISTO was then perceived as the “technical wing” of the AOLS.

(The author has heard that ISTO is now not functioning but is unable to corroborate that information)



#### Bibliography from the following AOLS Records:

1. 1959 - Fred H. Marsh, Chairman, Organization Committee, ASTO. - “The formation of an Association for Survey Technicians in Ontario has long been a must. A few technicians have taken on the job which is by no means small, of forming just such an organization. The first question generally asked by Land Surveyors and others, is What are your objectives? This can be answered briefly by saying that our objectives are to assist in the promotion of the science of land surveying and the education of the Members of this proposed Association in connection with the practice of the Profession of Land Surveying”.
2. 1959 - Andrew Gibson, O.L.S. - This article described the educational requirements for a technician and the courses available at this time in the Community Colleges.
3. 1959 - John Larke, O.L.S. - This article described the courses available to technicians at the Provincial Institute of Trades (PIT) (now part of George Brown College).
4. 1964 - S.C. (Steve) Geneja - Association of Survey Technicians of Ontario (ASTO) - This article laid out the benefits of technicians belonging to ASTO and mentioned the training being offered and no worries about unions.
5. 1967 - On June 10, 1967, more than 100 Certified Survey Technicians and Technologists met in Toronto’s Constellation Motor Hotel. They heard reports, saw the official presentation of their Association’s charter, heard an address by AOLS Vice-President Fred. J.S. Pearce, O.L.S., and were presented with their certificates by E. W. (Red) Petzold, O.L.S., Chairman of the Certification Board.

Notes: Excerpts derived also from the following:

1. *Time Gentlemen*, Hall, W.H., The Ontario Land Surveyor; v.2, no.3, 1959
2. *Training Courses for Survey Technicians*, Gibson, A., The Ontario Land Surveyor; v.2, no.2, 1959
3. *Why Not Apprenticed Technicians?*, Larke, J., The Ontario Land Surveyor; v.3, no.1, 1960
4. *Association of Survey Technicians of Ontario*, Geneja, S.C., The Ontario Land Surveyor; v.7, no.3, 1964
5. *First Official Presentation of Certificates by ACSTTO, Constellation Motor Hotel, Toronto*, Leggat, G.G, The Ontario Land Surveyor; v.10, no. 4, 1967
6. *ISTO News*, Talson Rody, David Searles, Doug Simmonds, Jim Statham, Harry Whale, The Ontario Land Surveyor, Winter 1993

## David Coombs (cont'd from page 39)

By 1940 the council gave up pleading. It began to license taxi cabs and attempted to regulate parking at the train station. In 1941 it appointed a village policeman to enforce bylaws and supervise fire equipment and fire fighting. The same year a second constable was appointed to enforce the Liquor Control Act.

Finally, in July 1944, “the OPP agreed to attend to any matter within reason within the municipality.” They did insist that the village pay one half of the monthly office rent, namely \$5. The issue had been resolved, but only for a while. In January 1947 the council decided to discontinue the rent payments and advertise for a ‘local constable’ to handle fire,

liquor and traffic duties. The latter meant he had to regulate traffic including parking, driving, rules for pedestrians and horses! Specifically, “No horse or vehicle shall be left standing blocking traffic or parked an unreasonable time.”

We can only hope the worthy constable was blessed with patience and understanding, for how does one convince a horse what is reasonable?



David Coombs has a Ph.D. in Canadian history. After his retirement as a stockbroker in 2004, he began to write. His articles have appeared in *The Country Connection*, the *Toronto Star* and the *Globe and Mail*. He is also the author of “*The Beckoning Land*” which is an historical novel set in his home town of Barry’s Bay during the Depression and WWII. A copy of his book is available for purchase at [www.lulu.com](http://www.lulu.com) (<https://bit.ly/2IjDkl>)

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## EDUCATIONAL FOUNDATION NEWS

### Congratulations to our Fall Award Winners

**Loyalist College** – In November, the Undergraduate Award for a returning student in the Survey Engineering Technician program, sponsored by the Eastern Regional Group, was presented to **Tyler Masse**.

**Fanshawe College** – Also in November, the award for a student in the 2<sup>nd</sup> year of the Civil Engineering Technology course, who has demonstrated the highest proficiency in the Plane Surveying Introduction course, was presented to **Christopher Halford**.

**Ryerson University** – The Civil Engineering Awards ceremony was held on November 7<sup>th</sup>. Awards were presented to the following 3<sup>rd</sup> year students who have achieved academic excellence in CVL 323 - Fundamentals of Surveying:

**Abdelrahman Mahfouz, Dana Bonner, Nicholas Fehlings,** and **Thomas Ong**. The following 4<sup>th</sup> year students received awards for academic excellence in CVL 323 and CVL 352 – Geomatics Measurement Techniques: **Aquil Suleimanyar, Hermanna Versteeg, Michael Muliana** and **Yasmine Aboulella**. All students have expressed an interest in pursuing a career in land surveying. **Moathe El-Rabbany** was presented with the **Fernando De Luca Memorial Award** for high achievement in CVL 650 – Satellite Geodesy by Fernando's wife Rosie and their two sons, Joey and Michael.

### Mark your Calendars

The Educational Foundation Annual Meeting of Members will be held on February 27, 2020 from 7:30 a.m. to 8:30 a.m. at Deerhurst Resort in Huntsville, ON.

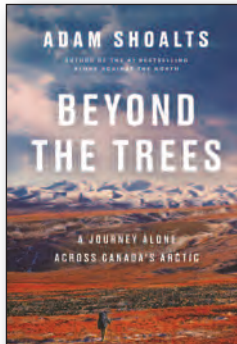
The Educational Foundation would like to recognize with thanks a donation made in the memory of **David Woodland**.



# BOOK REVIEWS

## Beyond the Trees A Journey Alone across Canada's Arctic

By Adam Shoalts



Published by Penguin  
Random House Canada  
Limited  
ISBN 978-0-7352-3683-7

In the spring of 2017, Adam Shoalts, bestselling author and adventurer, set off on an unprecedented journey alone across North America's greatest wilderness – the Arctic.

A place where, in our increasingly interconnected, digital world, it's still possible to wander for months without crossing a single road, or even seeing another human being.

Between his starting point in Eagle Plains, Yukon Territory, and his destination in Baker Lake, Nunavut, lies a maze of obstacles: shifting ice floes,

swollen rivers, fog-bound lakes, and gale-force storms. Shoalts must time his departure by the breakup of the spring ice, then sprint across nearly 4,000 kilometers of rugged, punishing terrain to arrive before winter closes in.

Heart-stopping, wonder-filled, and attentive to the majesty of the natural world, *Beyond the Trees* captures the ache for adventure that afflicts us all.

*Information taken from inside the front cover.*

## Murdered Midas A Millionaire, his Gold Mine, and a Strange Death on an Island Paradise

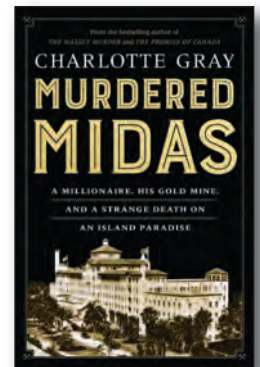
By Charlotte Gray

On an island paradise in 1943, Sir Harry Oakes, gold-mining tycoon, philanthropist, and “richest man in the Empire,” was murdered. The news of his death surged across the English-speaking world, from London, the imperial centre, to the remote Canadian mining town of Kirkland Lake in the Northern Ontario bush. The murder became celebrated as “the crime of the century.”

Award-winning biographer and popular historian

Charlotte Gray explores, for the first time, the life of the man behind the scandal, a man who was both reviled and admired – from his early, hardscrabble days of mining exploration, to his explosion of wealth, to his grandiose gestures of philanthropy. And Gray brings fresh eyes to the bungled investigation and shocking trial, shedding new light on the suspects in this cold case.

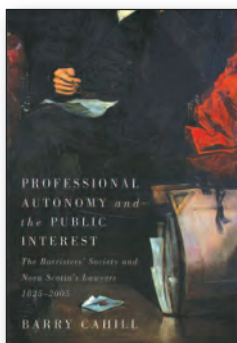
*Information taken from inside the front cover.*



Published by HarperCollins  
Publishers Ltd.  
ISBN 978-1-4434-4934-2

## Professional Autonomy and the Public Interest The Barristers' Society of Nova Scotia's Lawyers, 1825-2005

By Barry Cahill



Published by McGill-Queen's  
University Press  
ISBN 978-0-7735-5862-5

Formed in 1825, the Nova Scotia Barristers' Society is the second-oldest law society in common-law Canada, after the Law Society of Ontario. Yet despite its founders' ambitions, it did not become the regulator of the legal profession in Nova Scotia for nearly seventy-five years.

In this institutional history of the Nova Scotia Barristers' Society from its inception to the Legal Profession Act of 2005, Barry Cahill provides a chronological exploration of the profession's regulation in Nova Scotia and the critical role the society. Based on extensive research conducted on internal documents, legislative records, and legal and general-interest periodicals and newspapers, *Professional Autonomy and the Public Interest* demonstrates that the inauguration of the Nova

Scotia Barristers' Society was the first giant step on the long road to self-regulation. Highlighting the inherent tensions between protection of professional self-interest and protection of the larger public interest, Cahill explains that while this radical innovation was opposed by both lawyers and judges, it was ultimately imposed by the liberal government in 1899.

In light of emerging models of regulation in the twenty-first century, *Professional Autonomy and the Public Interest* is a timely look back at the origins of professional regulatory bodies and the evolution of law effecting the legal profession in Atlantic Canada.

*Information taken from the back cover.*

# The Last Word

## International Women's Day 2020 - #EachforEqual

International Women's Day (IWD) is a global day celebrating the social, economic, cultural and political achievements of women. It has been recognized for well over a century, with the first IWD gathering recorded in 1911. Natalie Vibert, OLS and Chair of the Public Awareness Committee has spearheaded a campaign to bring attention to the day by gathering pictures of some of our female OLSs in IWD's 2020 pose *Each for Equal* to create the flyer on page 19. The women in the flyer are: Crystal Cranch, Julia Meldrum Smith, Nancy Grozelle, Annie Fernandes, Anne Cole, Lise Currie, Laura Gibson and Natalie Vibert. We can use this flyer for promotional purposes to encourage young women to consider a career in surveying.



Natalie Vibert, O.L.S., #EachforEqual.

It is hard to believe that it has been fifty years since Nancy Lorraine Petzold, formerly Settingington, was the first female to be sworn in as an Ontario Land Surveyor. In May of 1969 the announcement made the headlines in the Toronto Telegram newspaper and The Globe and Mail - "First

woman land surveyor".

Over these past 50 years, how well have we done in attracting more women to join our association? Not very well it seems considering that women constitute 50% of the workforce. We currently have only 38 female OLSs out of 515, just 7% and 17 of those women are over 50 and 9 are over 60. We do however have 11 female articling students currently in our system, which is encouraging, but that is barely enough to keep the status quo.

What can we do? We can recognize that working together is better. Our male colleagues can join with us to promote the opportunities that are available to both men and women. A strong diversity and inclusion strategy can help our association attract top talent, drive innovation and make us stronger. Let's all join together to celebrate International Women's Day on March 8, 2020.

More information can be found at <https://www.internationalwomensday.com>



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1/4 page 4 Colour	\$410	\$385

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