

**ASSOCIATION OF CANADA LANDS SURVEYORS - BOARD OF EXAMINERS  
WESTERN CANADIAN BOARD OF EXAMINERS FOR LAND SURVEYORS  
ATLANTIC PROVINCES BOARD OF EXAMINERS FOR LAND SURVEYORS**

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**SCHEDULE I / ITEM 7  
CADASTRAL STUDIES**

**September 2002**

**Note: This examination consists of 16 questions on 2 pages, plus a 2 page Appendix. Marks**

<u>Q. No</u>	<u>Time: 3 hours</u>	<u>Value</u>	<u>Earned</u>
	Questions 1 – 5 and the following hypothetical scenario refer to the statute attached as Appendix 1. Imagine that you are retained by a client for advice. The clients own a residential parcel that is two hectares in area. One day a psychopathic professor of geomatics climbs over their fence (which is clearly marked with “no trespassing signs”) and onto the unused and overgrown edge of their parcel. Despite this part of the parcel being out of sight of the house, they are alerted to his presence by his loud, accented and mostly incomprehensible ravings about money, Iran, Revenue Canada and socks.		
1.	Of what use is the statute in getting rid of the professor if the area of land upon which he is located was erroneously included in your clients’ Certificate of Title owing to a wrong description of boundaries?	6	
2.	What are you obligated to do if the clients ask that you apprehend the professor?	6	
3.	Is the professor only guilty of the offence of trespass if he causes some damage to the bull-rushes and the rare Queensland orchids growing in the vicinity of his encampment?	6	
4.	Upon inspection of the boundaries you discover that your clients’ parcel is hexagonal in shape, and that the “no trespassing” signs are visibly displayed at the four fence corners. However, there are no signs along the boundary of the unused overgrown part of the part where the professor is now encamped, and the boundary is itself un-fenced. Is the professor a trespasser?	6	
5.	Your finely-honed analytical skills determine that the <i>Petty Trespass Act</i> applies to the entire two ha parcel. Is the professor trespassing pursuant to the <i>Trespass to Premises Act</i> ?	6	
6.	Is a land surveyor’s practice governed by legislation, case law principles, directives of the provincial surveying association, the needs of the client, or a combination thereof?	6	
7.	When should “more or less” be used in parcel descriptions?	6	
8.	Explain why the following description might be considered faulty: “Commencing at a point on the south bank of the Oxbow River, thence northerly a distance of 1,000 m, thence easterly a distance of 1,000 m, thence southerly to the north bank of the Oxbow River, thence westerly along the north bank to the point of commencement.”	6	

9.	Discuss the following proposition: The advantages of describing land by referring to a parcel on a registered plan are that the size of the parcel is guaranteed by the plan measurements, the boundary marks can be easily found because all deflection points will be physically demarcated, and resurveys are not required for subsequent transfers of the parcel.	6	
10.	What are the advantages of a deeds registry system over a land titles system?	6	
11.	What does a Certificate of Title demonstrate?	6	
12.	In <i>Maclaren-Elgin v. Gooch</i> [1972], why was the land surveyor not liable for failing to show correct (precise) measurements?	6	
13.	Describe bornage.	6	
14.	What are three conditions that must be met before cadastral reform is successful?	6	
15.	Describe how a specific judgment of the courts (your choice, but supply the name of the case and the jurisdiction) illustrates the role that land surveyors play in re-establishing boundaries	6	
16.	Imagine the following scenario: Land Surveyor X sends his two-person field crew to do a mortgage certificate (real property report) survey for parcel Q on Monday. The crew finds, exposes and uses two boundary monuments (A & B) at the front of the parcel, but owing to the demands for enhanced productivity from their employer, they depart the job-site without filling in Hole A. Land Surveyor Y, on Wednesday of the same week, is required to subdivide Parcel P, which abuts and lies directly to the east of Parcel Q. She re-establishes the existing boundaries of Parcel P and establishes the new boundaries of the new parcels by herself, without the assistance of a field crew, aided only by the best technology that a bank overdraft will allow. Surveyor Y finds, exposes and uses monument B, but fails to fill in the hole. On Friday of the same week, Land Surveyor C is proceeding past Parcels Q and P on the way back to the office from a job site on the far side of the province, and notices that Holes A & B are exposed. Surveyor C notifies the provincial surveying association of the two exposed holes by leaving a voice-mail message. Owing to the entire office staff of the association being indisposed on the Friday afternoon, however, nothing is done. On Saturday of that week, the owner of Parcel Q notices that there are two holes in the front yard, and leaves a voice-mail message with City Hall. On Sunday of the same week, two neighbourhood children are playing on the road and sidewalk in front of Parcel Q. In chasing a ball, one child subsequently falls into Hole B and injures herself. How liable are Surveyors A, B, and C in negligence for the injuries to the child?	10	
	<b>Total Marks:</b>	100	0

## Appendix 1

### TRESPASS TO PREMISES ACT, R.S.A. 2000, Chapter T-7

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

#### Definitions

1 In this Act,

- (a) "authorized representative of the owner" means a person authorized by the owner to give notice not to trespass;
- (b) "owner" means the owner of premises and includes the following:
  - (i) the occupier of the premises;
  - (ii) the person who is in possession or control of the premises;
- (c) "premises" means
  - (i) any building or structure or any part or portion of a building or structure, including any land used in connection with that building or structure for the purposes of
    - (A) providing parking for vehicles,
    - (B) displaying or storing vehicles, equipment or other chattels,
    - (C) enhancing the appearance or use of the building or structure, or
    - (D) carrying out activities that are ancillary to the activities carried out in or on that building or structure,
  - and
  - (ii) any other land not referred to in subclause (i) if that other land
    - (A) is land to which the Petty Trespass Act does not apply, or
    - (B) is land that is not subject to a specific exception provided for in section 1 of the Petty Trespass Act;
- (d) "signs" includes posters and signboards;
- (e) "trespass" means a trespass committed under this Act;
- (f) "trespasser" means a person who commits a trespass under this Act.

#### Trespass

- 2 (1) No person shall trespass on premises with respect to which that person has had notice not to trespass.
- (2) For the purposes of subsection (1), notice not to trespass may be given to a person
- (a) orally or in writing by the owner or an authorized representative of the owner, or
  - (b) by signs visibly displayed
    - (i) at each of the entrances normally used by persons to enter the premises, and
    - (ii) in the case of premises referred to in section 1(c)(ii), at all fence corners or, if there is no fence, at each corner of the premises.
- (3) For the purposes of subsection (1), a person is deemed to have had notice not to trespass when signs are displayed in accordance with subsection (2)(b).

#### Offences and penalties

- 3 A trespasser, whether or not any damage is occasioned by the trespass, is guilty of an offence and liable to a fine of not more than \$1000.

#### Liability of driver

- 4 When a trespass is committed by means of a motor vehicle, the driver of the vehicle is guilty of the contravention of this Act and liable to the fine.

**Arrest without warrant**

- 5 (1) A trespasser may be apprehended without warrant by
- (a) any peace officer, or
  - (b) the owner or an authorized representative of the owner of the premises in respect of which the trespass is committed.
- (2) Where a person other than a peace officer apprehends a trespasser, that person shall deliver that trespasser to a peace officer as soon as practicable.

**Laying of information**

- 6 A trespasser shall not be prosecuted for committing a trespass except on an information laid by the owner or an authorized representative of the owner of the premises in respect of which the trespass was committed.

**Jurisdiction of judge**

- 7 (1) Nothing in this Act authorizes the Provincial Court to hear and determine a case of trespass in which the title to premises, or to any interest in the premises, is called in question or affected.
- (2) A case that deals with the issues referred to in subsection (1) respecting the title to premises, or to any interest in the premises, shall be dealt with according to law in the same manner as if this Act had not been enacted.

**Exception**

- 8 Nothing in this Act extends to a case where the trespasser acted under a fair and reasonable supposition that the trespasser had a right to do the act complained of.