

Canadian Board of Examiners for Professional Surveyors
Core Syllabus Item
C 8: CADASTRAL STUDIES

Syllabus Topics:

Land and interests in land including how rights to land are owned, tenure and estates and lesser interests and how rights to land are transferred.

Registering rights to land including land registration systems, the concept of indefeasibility and title insurance, modern registration using databases.

Descriptions of land.

The link between the land surveyor and the law of real property.

Concepts of boundaries including the nature of a boundary, creation and elimination of boundaries and the movement of boundaries. Subdivisions and consolidations.

Cadastral law in Quebec.

Survey systems across Canada.

The offshore including maritime zones and international boundaries and the law of the sea.

The Cadastre.

Aboriginal land law and land claims.

Recommended Prior Knowledge and Skills:

Item C3: Advanced Surveying

Item C5: Geospatial Information Systems

Learning Outcomes:

In order to satisfy the requirements of this syllabus item, candidates should be able to:

1. Discuss the concept of real property and how Canadians (both in Common Law jurisdictions and in Quebec) own rights to it;
2. Discuss the process of transferring rights to real property;
3. Distinguish between different land registration systems in use in Canada and identify and compare their components;
4. Discuss the link between land registration systems and boundaries including encroachments.
5. Discuss and compare the different forms of descriptions of land;
6. Discuss the link between the land surveyor and the law of real property;
7. Discuss the role of the land surveyor in the processes of subdivision, transfer of land and boundary resolution (including bornage);
8. Discuss the concept of boundary, including natural and artificial boundaries and the creation and elimination of them;
9. Discuss the processes by which a boundary may move including adverse possession, estoppel, conventional line agreements and those processes applicable to movement of water boundaries;

10. Discuss and compare adverse possession, colour of title and prescription;
11. Compare and contrast various survey systems in Canada;
12. Explain the various maritime zones identified in the United Nations Convention of the Law of the Sea and the Oceans Act;
13. Discuss maritime boundaries including the essential principles for determining their location;
14. Define the cadastre. Explain the relationship between the cadastre and the land registration process. Discuss the FIG Statement on the Cadastre;
15. Discuss the potential liability of a land surveyor under the laws of negligence and under the standards of professional regulation;
16. Discuss the concept of Aboriginal title and other Aboriginal claims to land in Canada. Review the development of Aboriginal land claims and land law; and
17. Apply principles found in case law and statutes and regulations to land surveying.

Essential Reference Material:

- Anon. [n.d.]. "Aboriginal Rights and Title in Canada After Delgamuukw" <home.istar.ca/~bthom/rights.htm> draft of articles in *Native Studies Review*.
- Anon. [n.d.]. "Backgrounder: Aboriginal Title in Canada's Courts" <www.ainc-inac.gc.ca/al/mr/is/tcc-eng.asp>
- Ballantyne, B. [2010] *Surveys, Parcels and Tenure on Canada Lands*, Natural Resources Canada
- BC Treaty Commission, <www.bctreaty.net> provides various documents regarding Delgamuukw and other cases.
- Blackie, W.V. et al Eds. [1989]. *Survey Law in Canada*, Carswell, Agincourt, ISBN 0-459-33191-4. Chapters 1-4 and 8-12.
- Calderbank, B et al. [2006]. *Canada's Offshore: Jurisdiction, Rights and Management*, ACLS and CHA, Victoria, ISBN 9781412078160 (and other ISBN's).
- Cautley, R.W. [1913]. *Descriptions of Land*. Canada, Minister of Supply and Services. Available through CBEPS. (Information on description writing and interpretation.)
- Dale, P.F. and J.D. McLaughlin [1988]. *Land Information Management*. Oxford University Press, Oxford, ISBN 0-19-858404-0. (Provides information on land administration infrastructure)
- De Rijcke, Izaak. [2016]. *Principles of Boundary Law in Canada*, Four Point Learning.
- Honsberger, H.D. and A. W. LaForest [2006]. *Anger & Honsberger: Law of Real Property*, Canada Law Book, Aurora, ISBN 088804416X. Chapters 1, 4, 6, 7, 14 and 18.
- or,
- Ziff, B. [2006]. *Principles of Property Law*, Thomson Carswell, Toronto, ISBN 0-459-24391-8. Chapters 1, 3, 4, 5, 8, 9, 10 and 12.
- Hurley, M.C. [1998, rev. 2000]. "Aboriginal Title: The Supreme Court of Canada Decision in Delgamuukw v. British Columbia", Background Paper BP-459E, Parliamentary Research Branch, Library of Parliament
- International Federation of Surveyors (FIG) web site materials and links therein, particularly:

- Cadastre 2014 – A Vision for a Future Cadastral System
- FIG Statement on the Cadastre
- The Bogor Declaration

Klotz, O.J. et al. [1965]. *Papers on Descriptions for Deeds*. Canada, Department of the Interior. Available through CBEPS.

McKercher, R.B. and B. Wolfe [1992]. *Understanding Western Canada's Land Survey System*. University of Saskatchewan, ISBN 0-88880-164-5.

McNeil, K. [1998]. "Defining Aboriginal Title in the 90's: Has the Supreme Court finally got it right?", Twelfth Annual Robarts Lecture, 25 March 1998, York University.

The Oceans Act. S.C. 1996, c. 31.

Peters, F.H. [1930]. *Examples of Descriptions*. Board of Examiners for Dominion Land Surveyors. Available through CBEPS.

Court decisions related to the syllabus topics including the following:

Case reports that are not available via the Canadian Legal Information Institute, <www.canlii.org>, are available for download from CBEPS, unless another source is specifically mentioned.

Boyczuk v. Perry, [1948], 2 D.L.R. 406, (Alta. C.A., Mar 02, 1948) (deals with possession v. land titles certificate)

Cain v. Copeland, [1922], 66 D.L.R. 806, (deals with fences as evidence of original boundary)

Clarke v. City of Edmonton, [1929], 4 D.L.R. 1010, (S.C.C., Nov 04, 1929) (deals with the definition of bank and riparian boundaries)

Delgamuukw v. British Columbia, [1997] 3 S.C.R. 1010, (leading case in Canada dealing with Aboriginal Title)

Duncan v. Duncan, (1999), [1999] B.C.J. No. 1613 (deals with boundary line agreement and hierarchy of evidence)

Flewelling v. Johnston, [1921], 59 D.L.R. 419, 16 (Alta. C.A., May 26, 1921) (deals with riparian boundaries)

Kristiansen v. Silversen, [1929], 4 D.L.R. 252, (Sask. C.A., Jul 03, 1929) (deals with monument v. distance)

Les Soeurs de Misericorde v. Tellier, [1932], 3 D.L.R. 715, 40 (Man. C.A., May 10, 1932) (deals with fence used to keep cattle, and its status as boundary evidence)

Lewis v Romita, (1980), 13 R.P.R. 188, (Ont. H.C., Feb 07, 1980) (deals with adverse possession and conventional line agreements)

Lutz v. Kawa, (1980) 112 D.L.R. (3d) 271, 15 R (Alta. C.A., Apr 18, 1980) (deals with adverse possession and intent of trespasser)

McIsaac v. McKay, 27 D.L.R. 184, 49 (N.S. C.A., Feb 26, 1916) (deals with fences as boundary evidence)

Richmond Hill Furriers Ltd. V. Clarissa Developments Inc, (1996), 141 D.L.R. (4th) 536, (Ont. Div. Ct., Dec 11, 1996) (deals with monuments placed by surveyor must reflect intent of parties)

Rollings v. Smith, (1977), 2 R.P.R. 10 (deals with estoppel)

Grasett v. Carter, (1884), 10 S.C.R. 105. (S.C.C.) (deals with estoppel and conventional line agreements)

South Australia v. Victoria, (1911), A.C. 283, (P.C.), (deals with a surveyor's role in the creation of boundaries and changes in surveying accuracy)

Her Majesty the Queen v. Stevenson, (1991) 111 N.S.R. (2d) 313 (N.S.C.C.) (deals with the status of surveyor's markers before conveyance)

Supplementary Reference Material:

Dale, P.F. and J. D. McLaughlin [1999]. *Land Administration*. Oxford University Press, Don Mills, ISBN 0198233906.

McEwan, A., Ed. [2007]. *The Law and Practice of Land Surveying in Alberta*. Alberta Land Surveyor's Association.

Siebrasse, N. [1995]. "The Doctrine of Conventional Lines". 44 U.N.B.L.J. 229. (Excellent discussion of the issues around conventional lines.) available through CBEPS.