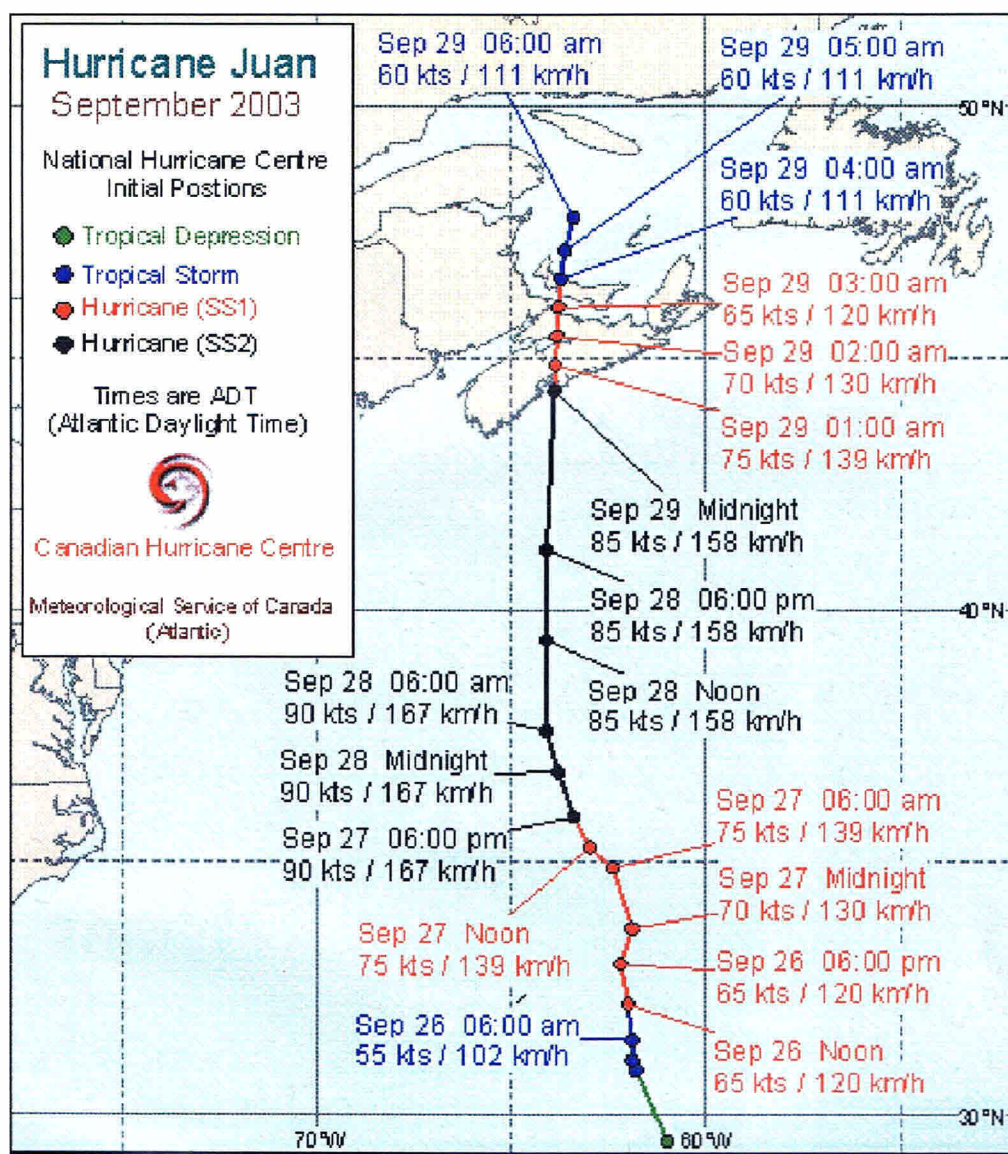



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No. 171



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# THE NOVA SCOTIAN SURVEYOR

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## THE NOVA SCOTIAN SURVEYOR

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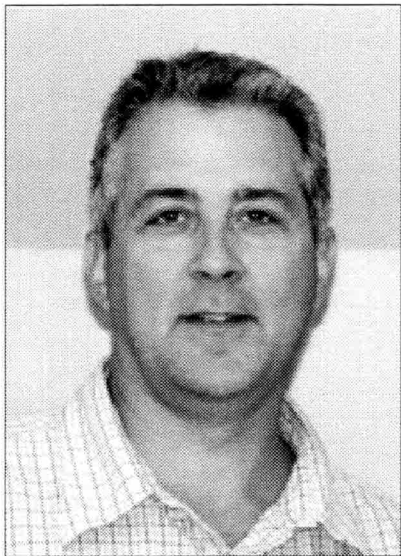
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## PRESIDENT'S REPORT

*J. Fee, P.Eng., NSLS,CLS*



This report is being written at 30,000 feet on my return from the Alberta Land Surveyor's Association AGM and convention in Jasper. As I look down at the patchwork quilt of townships and sections laid out by surveyors over 100 years ago, I am reminded of the significant contribution our profession has made to society. The DLS system designed and executed by cadastral surveyors was the largest coordinated survey project in the history of land settlement. Surveyors from eastern Canada played a prominent role in this effort.

With the current economic "boom" in the Western Provinces, this tradition continues. Fully 40% of this year's newly-commissioned Alberta Land Surveyors are from Nova Scotia and New Brunswick. Our young graduates from COGS and UNB are in demand, having the requisite combination of education and work ethic that employers are looking for.

Many of the provincial surveying associations, however, are struggling with low student enrollment. This trend will begin to present problems when the demographic "bubble" of middle aged land surveyors retires over the next 5-15 years. Our profession will need to

attract new members in order to sustain itself. This issue is on the national agenda, with CCLS looking at harmonizing the educational and entry standards to ensure a predictable outcome for our prospective members.

The relatively high number of student members in Nova Scotia bucks the national trend. Many of our young men and women working in other parts of Canada aspire to return to Nova Scotia. The challenge for our Association and for our member firms is to provide opportunities for these highly qualified individuals. It is our newest members who will provide the fresh ideas and energy needed to invigorate our Association.

Our Association has been busy on a number of fronts this year. A new Land Titles Committee will identify and address issues related to the Land Registry Act (LRA). The LRA will be in place in all Nova Scotia Municipalities by 2005. This legislation will impact all of us, and our Association must be pro-active during the transition.

Strategic Planning is on the Council agenda, once again. Our Association needs a long-term plan in order to focus our efforts and to help us more effectively respond to the issues of the day. The new Strategic Planning Committee will take on this challenge.

The Continuing Education Committee is hosting a technical seminar entitled "GPS for Cadastral Surveys," to be presented in Halifax and Port Hawkesbury this June. A business seminar is planned for the 2004 AGM and Convention at Oak Island Resort. This committee is also developing the processes to manage the Mandatory Continuing Education (MCE) program.

On January 22<sup>nd</sup>, Halifax Regional Municipality (HRM) imposed a sudden and far-reaching moratorium on residential development in the unserved areas of the municipality. The rationale for this move was to preempt possible accelerated

development applications while the Municipality developed a Regional Plan.

HRM Council requested a 24-month moratorium. The Province of Nova Scotia approved a 90-day moratorium. The original ministerial order allowed for *one development permit per property*, and very limited exemptions for projects already underway. With over 50% of single-family housing starts being in the affected area, the impact of the moratorium on our members working in HRM was obvious.

The four months since the moratorium have been a roller coaster ride for our members and clients living and working in HRM. Land surveyors worked together with other industry groups in a truly cooperative effort. The effort included researching available properties to hosting information sessions, lobbying politicians and presenting position papers, attending public meetings, and finally, addressing Regional Council at City Hall.

Our efforts have resulted in some accommodation by HRM staff. Existing projects have been "grandfathered" and subdivision is allowed for lands fronting on a public road. However, for the next 18 to 24 month period of "Interim Growth Management," no new roads will be permitted in the affected areas of the Municipality. As the Regional Plan moves forward, our members must continue to be vocal. Our input relative to property rights and the development process is needed to ensure that the Regional Plan is balanced and fair.

Finally, the 2004 AGM Organizing Committee is putting together an outstanding program for this year's convention, which will be held at the Oak Island Resort, on Nova Scotia's South Shore. Our business meetings will be complemented with a lively social program featuring rum tasting and our own Nova Scotia Kitchen Party. Make your reservations early and we'll see you there!

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## EXECUTIVE DIRECTOR'S REPORT

*F.C. Hutchinson, BA, NSLS, CLS*

Another survey season is upon us. That is, the season when you work like a dog in an attempt to balance the cheque book after a long, cold winter.

The Continuing Education Committee has been busy providing point evaluations at the request of members and trying to form a seminar plan for the next three years. Increased zone attendance is certainly a result of mandatory continuing education but it is hoped that participation in association affairs is the main result. The goal of education is to improve society with the knowledge gained.



The results of Hurricane Juan (September 29, 2003) are still with us. The storm obliterated some existing boundaries and made the establishment of new lines doubly difficult. The "blow downs" in some areas are nearly 100%. This includes uprooted pines, hemlock, elm, birch and maple trees up to 30 inches in diameter. What was not blown down, was snapped off. A 50-foot spruce at the edge of my driveway was sheared off like a matchstick. The wood was splintered with about

a 30 degree twist to the debris.

Implementation of the Land Registration Act (LRA) is in full swing with eight counties now proclaimed. Halifax County proclamation is scheduled for December 1, 2004 with the South Shore, Cape Breton and Guysborough County slated for proclamation on March 1, 2005. It is emphasized that the "land titles program" deals primarily with quality and not extent. There is an element to extent but only with respect to illustrating property map graphics used for identification and assessment.

The new [www.nspropertyonline.ca](http://www.nspropertyonline.ca) web site contains several views, including the Land Titles View and the traditional Registry View that contains historical documentation. Once a property is registered under the LRA, its written description can be viewed online. It is hoped that registered survey plans will be scanned and available online in the future. Surveyors need to become familiar with the Land Registration Act and all its various implications to the surveying profession. This includes knowledge of the Internet and the likelihood of digital plan submissions in the future.

Association membership for 2004 continues to decline with numbers now below 190 members. The membership decline is not an immediate concern but the lost revenue is. We have two choices with respect to our budget ... increase revenue or

decrease expenses. Another problem that seems to be looming is the ability for the survey industry to retain adequate technical staff. Students continue to graduate from technical courses but they do not seem to be seeking employment within the province. This is certainly a topic for our Strategic Planning Committee to consider in the coming months.

The association presently provides annual scholarships to the Centre of Geographical Sciences (COGS) out of general revenue. Should we attempt to develop a tax deductible scholarship fund separate from membership dues? Based on the current interest rate we would need about \$100,000 in investments to maintain the present scholarship contribution level. The Strategic Planning Committee may also wish to add this topic to their growing list.

Sounds like one committee has its work cut out for it during the next year. Strategic planning gives guidance to our elected Council, staff, committees, membership as well as potential members. Our current office building, educational requirements, Survey Review Department, liability insurance and Mandatory Continuing Education Program are but a few of the results of our last strategic plan. An exciting future awaits!

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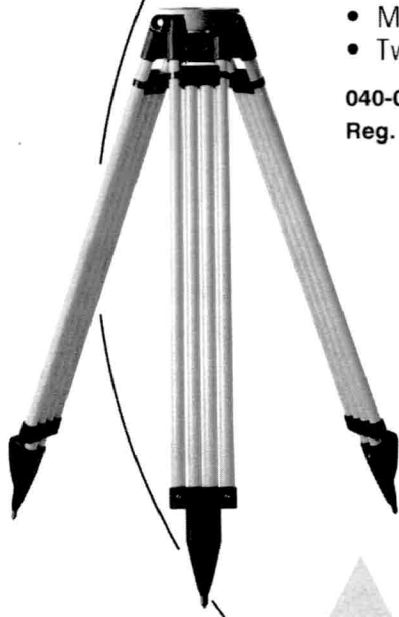
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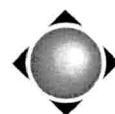
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## SRD MANAGER'S REPORT

*by Gerry Bourbonniere, NSLS*

Following are two items which members should consider in performing surveys and preparing plans.

**Location Maps.** Regulation 59 states "a location map of an adequate scale shall be drafted on the plan and shall bear the same orientation as the diagram".

What is the purpose of the location map (or Key Plan)? The purpose should be to assist a user of the plan, who may be unfamiliar with the general geography of the area around the survey site, to find that site with relative ease. In general, most key plans meet this requirement.

However, others may be little more than the main diagram of the plan shown at a smaller scale. I suggest "adequate scale" means the key plan should encompass sufficient area to include identified main arteries with which the road at the survey site intersects (or at least indicate an approximate distance to this intersection, e.g. 4.6 km  $\pm$  to Route 8). Also, other adjacent roads should be identified on the key plan as the identifying road sign may be visible when travelling in one direction only. The civic numbers of the site certainly assist in locating it, however the plan user must first find the road. Also, most vacant lands do not have civic numbers posted.

The following was encountered re-

cently during a site inspection. The title block of the plan identified the rural community as required and the "site" was shown on the Key Plan. However, there were no road names or route numbers identifying the lines on the Key Plan which were assumed to be roads. The only text, other than "survey site" on the Key Plan was a river name. Standard procedure is to have the book of provincial topographic maps available when performing site inspections, thus it was possible to find this river near the community and then determine the number of the highway passing the site. I suggest that this Key Plan does not satisfy the above interpretation of "adequate scale" or the above-noted purpose of a location map.

When preparing a key plan, it should be remembered that there is a greater purpose for key plans than simply, "Regulation 60(d) requires a location map be on the plan".

**Buildings.** Regulation 60(d) of the Land Surveyors Act of Nova Scotia requires that all buildings within three metres of a boundary under survey, together with the perpendicular distance to such boundaries, be shown on plans created to represent a survey.

The Provincial Subdivision Regulations, which form part of the Municipal Government Act, require the following: **Preliminary Plans of Subdivision**, Clause 20(1)(l): location of existing

buildings within 10 metres of a property line. **Tentative Plans of Subdivision**, Clause 39(2)(n): location of existing buildings within 10 metres of a property boundary. **Final Plans of Subdivision**, Clause 49(2)(m) is the same as the above Clause 39(2)(n). Further, Clause 49(2)(n) requires the geographical and mathematical location of all buildings within 3 metres of a proposed boundary, which is the same as ANSLS Regulation 60(d). The need for buildings within 10 metres of boundaries is related to requirements within the Building Code.

In jurisdictions which do not have their own subdivision by-law, the Provincial Subdivision Regulations and the ANSLS Regulations would dictate the requirements on Plans of Subdivision. Further, in reviewing the several municipal subdivision by-laws of which the Association has copies, either reference is made that the provincial regulations are applicable or it is stated that buildings within 10 metres of boundaries must be shown.

The ANSLS Regulations are the minimum requirements for **plan** preparation in Nova Scotia. For **plans of subdivision**, these minimum requirements may be increased by Municipal Subdivision By-laws and the surveyor should be aware of the possibility of the more stringent requirement being applicable in certain areas. ❏



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## Branch Offices

by F.C. Hutchinson, BA, NSLS, CLS

Whenever I hear the term "branch office", I tend to visualize a large corporation with satellite offices located across the countryside. Of course the other image that comes to mind is my children's tree house where I used to store survey supplies after the kids had outgrown the accommodations. No matter what your impression is of a branch office, it is, in fact, an extension of an existing business. The operation is normally at the direction of the head office but can often operate quite independently.



Land surveyors often discuss this topic but it is usually those who do not have branch offices and feel threatened by such operations. The main concern seems to be the level of supervision that is provided to staff if a single surveyor is dividing time between the main and branch office. Of course, it can be argued that it is possible

for one individual to provide better supervision at two locations than a competitor can at only one. Important issues for the profession, however, are that a client is served in a professional manner and awareness of the difference between the technical staff and the land surveyor responsible for the project.

The only reference to this issue is found in our Regulations, Part III – Code of Ethics, section 79(2)(c). "*The surveyor shall not establish or maintain branch offices unless these offices are under the direction and management of a member.*" It does not say that the member has to be a resident of the community, fully employed from that site nor does it state the frequency of visits. The quality of supervision is an important concern for any business, especially when the surveyor accepts professional liability for the work performed (Regs. sec. 80(2)(a)).

Some questions to ask are: Who's minding the shop? Is there adequate supervision? Is staff making decisions that should be left to the surveyor? Is the branch office competing with local surveyors? Does the branch office serve a community which is deprived of a land surveyor?

With a national trend of declining membership and most survey practices operating as sole proprietorships, branch offices may be the only way some areas will be serviced in the future. These satellite offices may also only be operated on a seasonal basis. I offer these views to stimulate discussion of the topic and not to condemn or condone any existing or future endeavour. ✕

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# WHAT TO DO WITH FENCES

by  
Knud E. Hermansen  
Ph.D., P.L.S., P.E., Esq.

## BIOGRAPHICAL SKETCH

Knud Hermansen is a consulting civil engineer, land surveyor, and counselor at law living in Old Town, Maine. He is a licensed surveyor in Pennsylvania, Maryland, Maine, and Wisconsin; a licensed engineer in Pennsylvania, Maine and West Virginia; and a counselor at law in Maine and Pennsylvania. He has a Ph.D. and B.S. degree in Civil Engineering from the Pennsylvania State University, a M.S. degree (emphasis in surveying and photogrammetry) from the University of Wisconsin; and a law degree (J.D.) from West Virginia University.

## ABSTRACT

One of the perplexing problems that land surveyors must face is what to do with fences. Fences are found on or near many boundaries, to include boundaries around woodland, farm, and residential lots. This article was written to provide some suggestions and guidance concerning fences (and for that matter walls, hedgerows, tree-lines, etc.). In particular, the legal significance, practical value, and responsible treatment of fences are examined in this article.

## INTRODUCTION

Landowners generally hire surveyors, in part, to determine where they own -- they want the surveyor to locate their ownership boundary. The surveyor, for their part, has been trained to reestablish the location of the boundary as described in the records; that is, the record boundary. Under ideal conditions, the record and ownership boundaries will coincide and the surveyor will meet the client's expectations. A problem arises when the landowner or their predecessor in possession has asserted a claim, as evidenced by prior use and possession, short of or beyond the record boundary -- creating a third category of boundaries known as the possession boundary. Where the extent of use or possession does not coincide with the record boundary, the location of the ownership boundary becomes uncertain since it may coincide with either the record or the possession boundary.

Within this realm of potential confusion stands the fence, sometimes an aid while at other times the nemesis and gist of the problem. The resolution of the confusion depends on the legal significance, practical value, and responsible treatment of the fence. Unfortunately, the confusion is

compounded by serenity and fed by ignorance. By its protruding appearance in the woods, along a field, or between homes in a development, a fence seems to make what would ordinarily be uncertain, certain. For the surveyor to interrupt the serenity by casting doubt on its position or prestige as a boundary marker seems sanctimonious if not an outright declaration of mistrust that is bound to start a bitter boundary dispute between the neighbors. For this reason and others, surveyors are quick to adopt a fence, reluctant to question a fence, ignorant about the legal ramifications, or are simply uncertain about how to handle fences that are on or near boundaries.

The legal significance, practical value, and responsible treatment of a fence can be determined by three steps. The three steps are to: (1) gather information, (2) analyze the information, and (3) apply or communicate the information.

## GATHER INFORMATION

The first step to determine the legal significance and practical value of the fence is to gather information on the fence. During the course of the survey, information on the fence can be gathered during the record search, interviews, and field survey. While searching the records for boundary information, the surveyor should determine if any documents cite or portray the fence in a manner that is suggestive of an intent to fix the record boundary along the fence. Any citations to a fence should be scrutinized to determine: (1) the time the fence was built; (2) the fence material, (3) the direction of the fence, and (4) the location of the fence.

Information is also obtained from interviews with the client, neighbors, long-time residents, and other knowledgeable people. During the interview, the surveyor should gather the following information: (1) the maker/builder; (2) builder's frame of mind, purpose, and apparent significance of the fence (e.g. cattle barrier, line fence); (3) approximate age; and (4) past condition of the fence.

Finally, information on the fence is obtained during the field survey (to include the reconnaissance). The most important piece of information to obtain during the field survey is the relative location of the fence with respect to other evidence. This would include any significant meanderings and the geometrical relation between the



fence, existing monuments, and major features. In addition, the surveyor should also attempt to collect the following during the field survey or reconnaissance: (1) continuity of the fence (e.g. sporadic, continuous); (2) present condition of the fence (e.g. disrepair, decayed, new); (3) actual age of the fence (i.e. from tree borings); (4) fence material (e.g. woven wire, split rail); and (5) visibility of the fence.

## ANALYZE THE INFORMATION

The second step is to analyze the information. The analysis should attempt to classify the fence as one of the following: (1) the best evidence to the record boundary, (2) evidence to the record boundary, or (3) no correlation to the record boundary.

**Best Evidence:** The fence may be the best evidence of the record boundary under one or a combination of two or more of the following: (1) rules of construction; (2) recognition/reputation; (3) process of elimination; and (4) prima facie assumption.

**Best Evidence - Rules of Construction:** The rules of construction would favor the fence as the best evidence to the record boundary under two different scenarios. The most favorable scenario is when the fence is called for in a valid conveyance, cited in an authoritative record as a monument to the boundary, or constructed as a division fence according to a "fenceline" statute or boundary agreement.<sup>1</sup> The second, less favorable scenario is to determine the fence is in privity and conformance with the location of the original marks and monuments.<sup>2</sup> Privity stands for the concept that there exists some chain of records, evidence, logic pattern, or other rational explanation that places the fence in the same stead as the original marks. This scenario would be appropriate if the fence were built along the blazed boundary, fence posts replaced the corner marks or monuments (e.g. stakes), or the fence replaced or stands in the place of an earlier fence that was called for as a monument. Under these scenarios, the fence is favored much the same as other monuments are favored under boundary law rules of construction.<sup>3</sup>

**Best Evidence - Recognition/Reputation:** A second way a fence may be the best evidence of the record boundary is by recognition and reputation. This concept treats the fence as an "undocumented" monument with authority based on its recognition and reputation. Recognition and reputation as a boundary or "line" fence is based in part on equity and in part on logical assumptions. Equity by way of laches, estoppel, and other equitable principles, would keep settled what has been settled. With the same results, a logical analysis could be constructed to show that the recognition and reputation of a fence as a boundary marker must have been based on some authority since obscured or some intent expressed and accepted long

ago.<sup>4</sup>

**Best Evidence - Process of Elimination:** Recognition and reputation are usually combined with the process of elimination (although not always). The process of elimination, simply described, is that there is no better evidence available to prove the fence does not stand on the record boundary. What better evidence that may have once been available is now unavailable, lost, or suspect. In some cases, there may never have been better evidence other than the fact the people living along or near the fence have always supposed and accepted the fence as the boundary marker.

**Best Evidence - Prima Facie Assumption:** By way of a prima facie assumption, some courts will assume at the outset that the location of an existing fence accurately marks the location of the record boundary.<sup>5</sup> To understand this concept, recognize that under the previous methods of interpretation, judges would ordinarily reserve judgment until the party with the burden of proof produces sufficient evidence to show that the fence marks the boundary or the moving party, by a preponderance of evidence, shows the fence in all likelihood coincides with the record boundary. However, if at the outset of the trial the court adopts a prima facie assumption in favor of the fence, the court assumes that the fence marks the location of the record boundary unless other, better evidence is introduced by the opposing party that shows it does not. This last assumption is founded partially on convenience and partially on the premise that: (1) the builder knew where the record boundary was located, (2) the record boundary was discernible to the builder at the time the fence was constructed (e.g. blazed trees), and (3) the builder followed the marks in constructing the fence.<sup>6</sup>

**Best Evidence - Prima Facie Assumption (Modified):** As a slight modification to the best evidence by prima facie assumption, some courts do not use a prima facie assumption until the fence is shown to have existed undisturbed and uncontested for a period exceeding the statute of limitations (Acquiescence).<sup>7</sup> This is based on the premise that any fence that has been allowed to stand uncontested for a long time must have been built on the record boundary or else someone should have come forward to dispute (i.e. litigate) its location before the present time. If the fence is shown to have existed for a long time without question or conflict, the opposing party has the burden of coming forward with evidence (not the same as the burden of proof) to show the fence is not on the record boundary.

**Evidence:** The fence may be classified as evidence (as opposed to the "best" evidence) to the boundary when the fence supports other comparable or better evidence to the record boundary. This classification uses the location of the fence as one piece of evidence among many (e.g. other undocumented monuments, measurements, area, and parol

testimony) to help fix the record boundary. Naturally, the evidentiary value of the fence can be improved or minimized by proving or failing to prove such factors as: (1) the fence was built at a time when marks and monuments to the record boundary still existed; (2) the person constructing the fence was a disinterested party and intended to set the fence on the record boundary; or (3) the fence was constructed by previous landowners to stand on the common boundary between them.<sup>8</sup>

**No Correlation To The Record Boundary:** By eliminating the possibility that the fence is the best evidence or, less favorably, evidence to the boundary, the surveyor is left with the last possibility -- there is no correlation between the fence and the client's record boundary. In other words, the fence represents the position of another record boundary or a possession boundary not related to the client's record boundary -- possibly creating a cloud on the client's or neighbor's title. Estoppel and adverse possession are two common legal doctrines where a fence, standing as a possession boundary apart from the client's record boundary, may alter the client's rights and cloud the record title.

**Estoppel:** Estoppel is a legal doctrine that denies a person a legal remedy that would ordinarily be theirs to claim. With estoppel, one landowner is denied the right to claim to their record boundary and the other landowner has the right to claim to the fence lying beyond their record boundary. Estoppel arises when one landowner, by design or innocence; by action or, in some cases, acquiescence (e.g. where the landowner had a duty to assert the truth and did not); misleads another to that person's detriment; to believe that the fence controls or stands in the location of the ownership boundary.<sup>9</sup> Examples include an oral agreement followed by possession;<sup>10</sup> acquiescence coupled with possession; and detrimental reliance.<sup>11</sup> Estoppel, by itself, does not ordinarily create title until adverse possession is maintained for the time period prescribed by the statute of limitations.<sup>12</sup>

**Adverse Possession:** Adverse possession is a legal doctrine that creates title in a possessor. Most states recognize adverse possession through statute or common law. Under the common law, adverse possession is founded on the premise (i.e. legal fiction) that any long possession must have been founded on a grant that has since been lost (i.e., lost grant theory). A person asserting title by adverse possession must prove the following six elements (although different jurisdictions may require more, less, or slightly different elements depending on the circumstances): (1) the land was held adverse or hostile to the record owner's title; (2) possession has been actual (v. constructive); (3) it has been open and notorious (i.e., visible and known); (4) possession has been exclusive or the use by others has been controlled by the possessor; (5) possession has been continuous for the period set forth in the statute of limitations; and (6) possession has been

under claim-of-title or color-of-title.<sup>13</sup>

**Other Record Boundary:** A fence standing apart from the client's record boundary may also represent another person's record or ownership boundary (e.g. the neighbor's). In some cases, this may result in a gap between record titles, while in other cases it may result in an overlap of record titles. In any event, a question of title is usually involved. In most of these cases, the surveyor should treat the fence as an encroachment on the client's title or a possessory claim for the client.

## APPLY OR COMMUNICATE THE INFORMATION

The last step is for the surveyor to apply the information or communicate the information along with his or her analysis and opinion to the client. This step focuses on the proper treatment of the fence. Generally, if the surveyor determines that the fence is the best evidence or, in the alternative, evidence to the boundary, the surveyor uses the fence to help fix the location of the record boundary. In contrast, if the surveyor determines there is no correlation between the fence and record boundary, the surveyor should communicate this information to the client along with the legal ramifications that may result or may have occurred.

**Fence as the Best Evidence:** If the fence is the best evidence to the record boundary, the fence is used to fix the location of the record boundary. This normally requires the record boundary coincide with the location of the fence (even though the fence may deviate from a straight line).<sup>14</sup> This conforms with the rule of construction that generally holds monuments superior to measurements (i.e. straight lines) should they conflict. Furthermore, the call for a monument is a call for the center, where it stood at the time the original description was prepared.<sup>15</sup>

**Fence Used As Evidence:** On the other hand, if the surveyor has determined the fence is evidence to the record boundary, the fence usually falls partly on the boundary and partly off from the record boundary. The fence is used as one piece of evidence among others to relocate where the corner monuments or the record boundary once stood. All evidence, including the fence location, is analyzed and used in the most favorable light (i.e. the conform rather than conflict), keeping in mind the conditions and situation at the time of the conveyance. As evidence (as opposed to the best evidence) of the record boundary, the record boundary will not be made to follow the meanderings of the fence. Since the fence will not ordinarily coincide with the record boundary along its entire length, one of two different interpretations are used to reestablish the record boundary.

Under one interpretation, only part of the fence is used to help fix the corner locations. This interpretation assumes

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the builder attempted to place the fence on a straight line between two corner monuments, starting at one corner and building the fence toward the other corner. As he moved away from one corner monument and was out of sight of the other corner, the direction of the fence deviated from a direct line between the corners. However, once he came close enough to the other corner, the fence builder was able to visually correct his direction and head more or less back toward the second corner. The result is that the fence, as it stands, "bows" or "curves" away from the record boundary (i.e. a straight line). Therefore, under this interpretation, only the end segments of the fence would be used to help fix the location of the property corners. Once the corner locations are reestablished, a straight line is protracted between the corners and any deviation of the fence from the straight line is treated as an encroachment or adverse claim, as the case may be.

Under a second interpretation, the fence builder is assumed to have stayed on or near the boundary, sometimes going off to one side and at other times crossing and going off to the other side -- crossing and recrossing the record boundary. In other words the fence zig-zags along the length of the record boundary. Given this interpretation of the fence construction, the record boundary is located by projecting a "best fit" straight line along the fence (i.e. a least squares best fit). In other words, a straight line is chosen for the record boundary that minimizes the deviations of the fence from the record boundary.

It should be noted that one interpretation does not necessarily always have to be favored over another. The existing pattern of the fence location (bow v. zig-zag), the character of the corner marker (e.g. stream or road v. tree or ridge), and the character and frame of mind of the builder (conscientious v. noncaring) will influence whether the first or second interpretation is chosen. For example a bow in the fence line would tend to fit the first interpretation while a fence that zig-zags would fit the second interpretation. On the other hand, if the fence builder was heading toward a linear monument, a monument not easily visible to the builder, there is less reason to choose the first interpretation. In contrast, if the builder had a tall tree or point on a ridge that was generally visible along the entire boundary while the fence builder constructed the fence, there is a good reason to choose the second interpretation since the builder would have been able correct the direction of the fence from time to time.

**Fence Does Not Coincide:** In almost all cases where the record boundary and possession boundary (fence) do not coincide, the surveyor should not ignore the difference or attempt to solve the problem independent of written authority to do so.<sup>16</sup> Where the client's record boundary is in a different location than the possession boundary, the

question of what is the (ownership) boundary becomes a question of law. The surveyor's responsibility is limited to showing where the boundaries are located, which is a question of fact. As one early practitioner said in the 1800s: "Old fences must generally be accepted by right of possession; though such questions belong to the lawyer [rather] than to the surveyor."<sup>17</sup>

In this situation, the surveyor has a duty to inform the client of any problems that may affect his or her title. Thereafter, it is the client's problem and prerogative to ignore or take steps to remove the problem affecting their title. If the surveyor fails to properly inform the client or, in the alternative, attempts to decide title questions on his or her own, the surveyor will increase their liability considerably.

Unfortunately, many surveyors find it difficult to come to the client with a potential title problem they have discovered and are unable to solve. In real life, the client is not happy to find out they have a problem, is annoyed that the surveyor cannot solve the problem, and, on top of it all, is mad at the surveyor for demanding to be paid. However, the fault is not with the surveyor because he or she identified and described the problem; the fault is with some prior landowner who failed to have the property surveyed and subsequently failed to build the fence on the record boundary.

If the surveyor should determine a fence does not coincide with the record boundary, the surveyor should take several actions on behalf of their client: (1) The surveyor should carefully locate where the fence stands and describe the fence in relation to the record boundary. (2) The surveyor should describe and document all evidence that would support or refute a possessory claim on behalf of or against their client. (3) If the area is not inconsequential ("de minimis non curat lex"), the surveyor should calculate the area for the client. (4) The client should be notified of the possible adverse or beneficial consequences that result when the possession boundary does not coincide with the record boundary. (5) Finally, the surveyor should suggest some possible actions the client should consider and discuss with his or her attorney. These include: (a) do nothing, (b) maintain the status quo, (c) negotiate and compromise with the neighbor (e.g. boundary line agreement), (d) recognize any adverse claims, (e) arbitrate, or (f) litigate.

## CONCLUSION

A fence is a common object found on or along boundaries. The surveyor should not ignore a fence since the fence may be evidence of the record boundary or, in the alternative, may represent a possession boundary that extends or usurps (i.e. clouds) the client's title. It behooves the surveyor to determine the relative location of the fence, who built the fence, when it was erected, the





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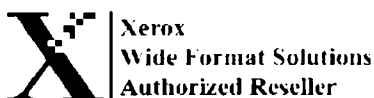
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conditions under which it was erected, the manner in which it was erected, the purpose for its erection, and the authority or weight of the fence as evidence to the record boundary.

If the fence is evidence to the record boundary the surveyor may use it to reestablish or support the location of the record boundary. On the other hand, if the fence does not coincide with the record boundary, the surveyor must explain the possible significance of the difference. The responsibility of the surveyor is not to resolve any conflicting title claims but identify and locate any potential conflicting title claims. This information is communicated to the client (or their attorney) in a clear, understandable, and comprehensive manner. The client may, after receiving legal advice, decide to do nothing, maintain the status quo, negotiate and compromise with the neighbor, recognize any adverse claims, arbitrate, or litigate.

## REFERENCES

- 1 See *Pencil v. Buchart*, 551 A.2d 302, 306-307 (Pa.Super. 1988), *Yoho v. Stack*, 540 A.2d 307, 310 (Pa.Super. 1988). Also see, e.g., (dissenting opinion) *West Virginia Pulp & Paper Co. v. J. Natwick & Co.*, 123 W.Va. 753, 777 (1941); *Caputo v. Mariatti*, 113 Pa.Super. 314, 173 A. 770 (1934); *Cole v. P. & L. E. R. R. Co.*, 106 Pa.Super. 436 (1932); *Adams v. Tamaqua Underwear Co.*, Pa., 161 A. 416 (1932); *Keech v. Delaware County Trust Co.*, 297 Pa. 442, 147 A. 96 (1929); *Zirkle v. Three Forks Coal Company*, 103 W.Va. 614, 622, 138 S.E. 371 (1927); *Winding Gulf Colliery Co. v. Campbell*, 72 W.Va. 449, 466 (1913); *Wilcox v. Snyder*, 22 Pa.Super. 450 (1903); and *Kime v. Polen*, Pa., 8 A. 783 (1887). Also cf. *Roth v. Halberstadt*, 258 Pa.Super. 401, 392 A.2d 855, 857 (1978); *Allison v. Oligher*, 141 Pa.Super. 201, 14 A.2d 560, 571 (1940); *United Thacker Coal Co. v. Red Jacket Jr. Coal Co.*, 146 C.C.A. 241, 232 F. 49, 58 (1916); *Thompson v. Hill*, 137 Ga. 308, 73 S.E. 640, 643 (1912); *Koch v. Gordon*, 231 Mo.645, 133 S.W. 609, 610 (1910); *Grier v. Pennsylvania Coal Co.*, 128 Pa. 79, 154 A. 449, 451 (1889).
- 2 See, e.g., *Barba Inv. Co. v. Walker*, Fla.App., 350 So.2d 509, 512 (1977); *Kahn-Reiss v. Detroit & Northern Sav. & Loan*, Mich., 228 N.W.2d 816, 824 (fn.6) (1975); *Siegel v. Renkiewicz Estate*, Mich., 120 N.W.2d 876, 879 (1964); *Di Virgilio v. Ettore*, 188 Pa.Super. 526, 149 A.2d 153 (1959); *Chicago Club of Lake Geneva v. Ryan*, 203 Wis. 272, 234 N.W. 488, 491 (1931); and *W. P. Thompson v. W. P. Zartman Lumber Company*, 55 Pa.Super. 302 (1913)
- 3 See, e.g., *Metcalf v. Buck*, 36 Pa.Super. 58 (1908)
- 4 See, e.g. *W. P. Thompson v. W. P. Zartman Lumber Company*, 55 Pa.Super. 302 (1913) and *Reilly v. Mountain Coal Co.*, 204 Pa. 270, 54 A. 29 (1903). Also cf. *West Virginia Pulp & Paper Co. v. J. Natwick & Co.*, 123 W.Va. 753, 765 (1941). See also, *Lewis v. Yates*, 62 W.Va. 575, 592 (1907) quoting from *Owen v. Bartholomew*, 9 Pick. 520
- 5 Cf. *Ralston v. Groff*, 55 Pa. 276 (1867)
- 6 Contra. *Reiter v. McJunkin*, 8 Pa.Super. 164 (1898) and *Potts v. Everhart*, 26 Pa. 493 (1856)
- 7 Cf. *Di Virgilio v. Ettore*, 188 Pa.Super. 526, 149 A.2d 153 (1959); *Kron v. Daugherty*, 9 Pa.Super. 163 (1898); *Ralston v. Groff*, 55 Pa. 276 (1867); *Ogden v. Porterfield*, 34 Pa. 191 (1859); and *McCoy v. Hance*, 28 Pa. 149 (1857)
- 8 *Cole v. P. & L. E. R. R. Co.*, 106 Pa.Super. 436 (1932)
- 9 *Caputo v. Mariatti*, 113 Pa.Super. 314, 173 A. 770 (1934); *State v. Herold*, 76 W.Va. 537, 542 (1915); and *Morris v. Dalrymple*, 18 Pa.Super. 287 (1901). But c.f. *Hatfield v. Workman*, 35 W.Va. 578, 585 (1891) quoting from *Manufacturing Co. v. Packer*, 129 U.S. 688, 9 Sup.Ct.Rep. 385; *Ogden v. Porterfield*, 34 Pa. 191 (1859); *Hagey v. Detweiler*, 35 Pa. 409 (1860); *Armstrong v. Hall*, 15 Pa. 23 (1850); and *Sweigart v. Richards*, 8 Pa. 436 (1848).
- 10 See *Huffman v. Mills*, 131 W.Va. 219, 223, 46 S.E.2d 787 (1948) quoting *Teass v. City of St. Albans*, 38 W.Va. 1, 17 S.E. 400 (1893), *Clear Fork Coal Company v. Anchor Coal Company*, 111 W.Va. 219, 229, 161 S.E. 229 (1931); *George v. Collins*, 72 W.Va. 25, 28 (1913); and *Harman v. Alt*, W.Va., 71 S.E. 709, 710 (1911).
- 11 See *George v. Collins*, 72 W.Va. 25, 28 (1913) and *Harman v. Alt*, W.Va., 71 S.E. 709 (1911)
- 12 See *Harman v. Alt*, W.Va., 71 S.E. 709, 710 (1911) but cf. *State v. Lillie Mounts*, 118 W.Va. 53, 56, 150 S.E. 513 (1929)
- 13 *Somon v. Murphy Fabrication & Erection Co.*, 160 W.Va. 84, 90, 232 S.E.2d 524 (1977), quoted from, *Bitonti v. Kauffield Co.*, 94 W.Va. 752, 120 S.E. 908 (1923)
- 14 Cf. *McCoy v. Hance*, 28 Pa. 149 (1857)
- 15 See, e.g., *Yonker v. Grimm*, 101 W.Va. 711, 719-720, 133 S.E. 695 (1926) and *State v. Herold*, 76 W.Va. 537, 542 (1915)
- 16 Cf. *Reiter v. McJunkin*, 8 Pa.Super. 164 (1898)
- 17 quoted from Gillespie A Treatise on Land-Surveying at page 155 (Appleton & Company, New York, NY: 1881).





**NOVA SCOTIA COURT OF APPEAL****Citation:** Nolan v. The Association of Nova Scotia Land Surveyors, 2003 NSCA 145**Date:** 20031216**Docket:** CA 192085**Registry:** Halifax**Between:**

Fred G. Nolan

Appellant

v.

The Association of Nova Scotia Land Surveyors

Respondent

**Judges:**

Roscoe, Chipman, and Freeman, JJ.A.

**Appeal Heard:**

December 4, 2003, in Halifax, Nova Scotia

**Held:**

Appeal is dismissed as per reasons of Roscoe, J.A.; Chipman and Freeman JJ.A. concurring.

**Counsel:**

W. Augustus Richardson, for the appellant

Alan J. Stern, Q.C., for the respondent

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**Reasons for judgment:**

- [1] This is an appeal from decisions of a Discipline Committee of the Nova Scotia Land Surveyors Association, finding the appellant guilty of professional misconduct and suspending him from practice for three months. As well, the appellant was ordered to pay the costs of the hearings in the amount of \$2,000 and publication of the order of suspension was directed. The appeal is pursuant to s. 28 of the **Land Surveyors Act**, R.S.N.S. 1989, c. 249:

**28 (1)** Any person who has been found guilty of professional misconduct by the Discipline Committee pursuant to Section 26 may appeal from the decision to the Appeal Division of the Supreme Court within thirty days from the date on which the decision is served.

**(2)** Any person who has been disciplined by the Discipline Committee pursuant to Section 26 may appeal from the order to the Appeal Division of the Supreme Court within thirty days from the date on which the order is served.

...

**(6)** Upon the hearing of an appeal under this Section, the Appeal Division of the Supreme Court may make such order as the Court considers proper or may refer the matter or any part thereof back to the Discipline Committee with such directions as the Court considers proper.

- [2] The complaint against the appellant was made by Daniel Blankenship, who owned land adjacent to the appellant's property on Oak Island, Nova Scotia. There had been previous disputes between them which resulted in litigation. (See *Tobias et al. v. Nolan* (1987), 78 N.S.R. (2d) 271; 193 A.P.R. 271 (C.A.).) As a consequence of the litigation, the appellant was declared to be the owner of lot 5 and lots 9 to 14 and Mr. Blankenship and his associates were found to be the owners of lots 15 to 19 and lot 32 as shown on an 1818 plan of Oak Island. Prior to the litigation Mr. Errol Hebb, N.S.L.S., retained by Mr. Blankenship had surveyed the line between lots 14 and 15, and Mr. Blankenship had erected a fence based on that plan. According to the Hebb plan, a road long used by Mr. Blankenship did not encroach on lot 14 owned by the appellant.
- [3] It appears from the record that after the order of this court in 1987, the disagreements between the appellant and his neighbours were somewhat repressed. The recent dispute began when the appellant carried out a survey of the boundary between lots 14 and 15 in the summer 2001. He states that he found new evidence of ancient markers and that in his opinion, the boundary is 60 feet east of the line set by Mr. Hebb. However, he set new survey markers 35 feet east of the Hebb line, that is, showing that the width of lot 15, owned by Mr. Blankenship is 35 feet smaller than previously found by Mr. Hebb. The appellant testified before the Committee that he did not set the new markers in the precise positions he considers they should be because he was afraid that Mr. Blankenship would destroy the evidence he found.
- [4] The Discipline Committee made the following findings:

While he was a landowner involved in a significant boundary dispute with a neighbouring landowner, he investigated the issue and proceeded to set his own survey markers in an advantageous position and erected a barricade to block off a long used access road. Fred G. Nolan, NSLS, No. 84, therefore used his position as a Nova Scotia Land Surveyor to the disadvantage of his neighbour, contrary to the provisions of Articles V and VII of the Code of Ethics of the Association of Nova Scotia Land Surveyors.

*The Discipline Committee finds Mr. Frederick Nolan, NSLS, guilty of breaching the provision of Articles V and VII of the Code of Ethics of the Association of Nova Scotia Land Surveyors regulations.*

*While under oath, Mr. Nolan testified that the placement of his survey markers were intentionally put in the wrong place with a view to mislead his adjoiner in the hopes that his adjoiner would be satisfied with the placement of the survey markers and not pursue further action against Mr. Nolan. The Discipline Committee viewed this in direct violation of Article V 83 (1), which states the surveyor shall avoid even the appearance of professional impropriety.*

*As well, Mr. Nolan has been in a long-term boundary dispute with his adjoiner, and the Committee believes while performing the survey of his own lands under duress, Mr. Nolan could not exercise unbiased independent professional judgment which is in direct violation of Article VII, 85 (1), which states the surveyor shall exercise unbiased independent professional judgment on behalf of a client and shall represent a client competently.*

*Mr. Nolan testified under oath that when he monumented his land, it was a [sic] like a game. He stated that Oak Island was built on secrecy. The Committee viewed Mr. Nolan's actions to be in*

*a direct violation of Article VII, 85 (2)(a) which states the surveyor shall disregard compromising interest and loyalties in performance of his duties.*

*Of the allegations presented in this hearing against Mr. Nolan, the Discipline Committee viewed that the breaches of the Code of Ethics above-noted to be the most serious of the allegations.*

- [5] The appellant was also found guilty of failing to keep detailed field notes and failing to record the ordinary high water mark on his plan of survey. He was found not guilty of the other minor allegations. The Committee concluded their first decision as follows:

Conclusion:

The Discipline Committee is satisfied that the foregoing has proven professional misconduct against Mr. Fred Nolan and hereby finds Mr. Fred Nolan, NSLS, No. 84, guilty of "Professional misconduct".

The Nova Scotia Land Surveyors Regulations under Section 2 makes the following definition:

- 2 For the purpose of the Act and the(se) regulations, "professional misconduct" means infamous, disgraceful, or improper conduct on the part of a member, student member, or holder of a certification of authorization and, without restricting the generality of the foregoing, includes:
- (a) gross negligence in the discharge of duties;
  - (b) technical incompetence in the practice of professional land surveying;
  - (c) a breach of the Code of Ethics (Part III of the(se) regulations), the Act, the(se) regulations or the by-laws;
  - (d) a conviction for an indictable offence under the Criminal Code of Canada or under any other statute of the Parliament of Canada;
  - (e) wilful and malicious conduct which causes the Association to be brought into disrepute; or
  - (f) failure to respond within a reasonable period of time to official correspondence from the Association.

- [6] The appellant states the issues on appeal as:

- a. what is the standard of review on an appeal pursuant to s.28 of the Act?
- b. was the Discipline Committee correct in finding Mr Nolan guilty of unprofessional conduct:
  - i. in respect of surveying activities carried out on his own behalf as a landowner rather than on behalf of a client; and

- ii. in respect of surveying activities carried out in respect of a boundary dispute between himself and an abutting neighbour when:
  - (1) the Committee made no attempt to determine where the boundary line actually was; and
  - (2) the Committee did not challenge or hear evidence contrary to Mr. Nolan's opinion, based on evidence, as to the location of that line.

[7] The parties agree, as do I, that the standard of review on this appeal is one of reasonableness simpliciter, as recently established by the Supreme Court of Canada in **Law Society of New Brunswick v. Ryan**, [2003] S.C.J. 17, 2003 SCC 20. The following passages from the court's decision, written by Justice Iacobucci, are particularly helpful in this case:

¶ 46 Judicial review of administrative action on a standard of reasonableness involves deferential self-discipline. A court will often be forced to accept that a decision is reasonable even if it is unlikely that the court would have reasoned or decided as the tribunal did (see Southam, supra, at paras. 78-80). If the standard of reasonableness could "float" this would remove the discipline involved in judicial review: courts could hold that decisions were unreasonable by adjusting the standard towards correctness instead of explaining why the decision was not supported by any reasons that can bear a somewhat probing examination.

¶ 47 The content of a standard of review is essentially the question that a court must ask when reviewing an administrative decision. The standard of reasonableness basically involves asking "after a somewhat probing examination, can the reasons given, when taken as a whole, support the decision?" This is the question that must be asked every time the pragmatic and functional approach in Pushpanathan, supra, directs reasonableness as the standard. Deference is built into the question since it requires that the reviewing court assess whether a decision is basically supported by the reasoning of the tribunal or decision-maker, rather than inviting the court to engage de novo in its own reasoning on the matter. ...

...

¶ 50 At the outset it is helpful to contrast judicial review according to the standard of reasonableness with the fundamentally different process of reviewing a decision for correctness. When undertaking a correctness review, the court may undertake its own reasoning process to arrive at the result it judges correct. In contrast, when deciding whether an administrative action was unreasonable, a court should not at any point ask itself what the correct decision would have been. Applying the standard of reasonableness gives effect to the legislative intention that a specialized body will have the primary responsibility of deciding the issue according to its own process and for its own reasons. The standard of reasonableness does not imply that a decision maker is merely afforded a "margin of error" around what the court believes is the correct result.

¶ 51 There is a further reason that courts testing for unreasonableness must avoid asking the question of whether the decision is correct. Unlike a review for correctness, there will often be no single right answer to the questions that are under review against the standard of reasonableness. For example, when a decision must be taken according to a set of objectives that exist in tension with each other, there may be no particular trade-off that is superior to all others.



Even if there could be, notionally, a single best answer, it is not the court's role to seek this out when deciding if the decision was unreasonable.

...

¶ 53 A decision may be unreasonable without being patently unreasonable when the defect in the decision is less obvious and might only be discovered after "significant searching or testing" (Southam, supra, at paras. 57). Explaining the defect may require a detailed exposition to show that there are no lines of reasoning supporting the decision which could reasonably lead that tribunal to reach the decision it did.

¶ 54 How will a reviewing court know whether a decision is reasonable given that it may not first inquire into its correctness? The answer is that a reviewing court must look to the reasons given by the tribunal.

¶ 55 A decision will be unreasonable only if there is no line of analysis within the given reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived. If any of the reasons that are sufficient to support the conclusion are tenable in the sense that they can stand up to a somewhat probing examination, then the decision will not be unreasonable and a reviewing court must not interfere (see Southam, supra, at paras. 56). This means that a decision may satisfy the reasonableness standard if it is supported by a tenable explanation even if this explanation is not one that the reviewing court finds compelling (see Southam, supra, at paras. 79).

¶ 56 This does not mean that every element of the reasoning given must independently pass a test for reasonableness. The question is rather whether the reasons, taken as a whole, are tenable as support for the decision. At all times, a court applying a standard of reasonableness must assess the basic adequacy of a reasoned decision remembering that the issue under review does not compel one specific result. Moreover, a reviewing court should not seize on one or more mistakes or elements of the decision which do not affect the decision as a whole.

[emphasis added]

- [8] Although counsel for the appellant has ably argued that the Committee should not have made a finding of professional misconduct in this situation, where the appellant was acting on his own behalf, not in a professional capacity for a client, and without first attempting to determine where the boundary between lots 14 and 15 actually is, my review of the Committee's decisions leads me to the conclusion that they are reasonable. The question is not whether the decisions are correct, but whether, after a probing examination, they are supported by reasons that could reasonably lead the Committee from the evidence to the conclusions reached. Here the Committee's decisions are supported by tenable explanations. There are findings of fact amply supported by the evidence, such as, that the appellant was acting as a professional surveyor, establishing a boundary line.
- [9] Although technically the appellant was not "acting on behalf of a client" other than himself, the other findings of the Committee that he did not avoid "even the appearance of professional impropriety" and that he did not "disregard compromising interests and loyalties" in light of the appellant's admission that he intentionally placed survey markers in an incorrect position in order to achieve a personal advantage, are not unreasonable conclusions. We agree with the respondent's counsel that the finding of professional misconduct was not based on the accuracy of the appellant's survey but on the wilfully

deceptive nature of his conduct.

- [10] The penalty of a three month suspension is likewise not unreasonable in the circumstances and therefore it should not be disturbed. It is noted that pursuant to s. 27(1) of the **Land Surveyor's Act**, the Committee had authority to require the appellant to apply for reinstatement:

27 (1) Where a member has been suspended from practising under Section 26, he may, at the expiry of the period of suspension and upon payment of all dues owed by him to the Association, apply to the Discipline Committee to be reinstated as a member and the Discipline Committee may terminate the suspension of such member upon such terms as it considers proper.

- [11] In my opinion, both decisions of the Committee demonstrate a line of analysis that reasonably leads to the conclusions, and therefore the appeal should accordingly be dismissed. The appellant should pay the costs of appeal in the amount of \$1200 plus reasonable disbursements.

Roscoe, J.A.

Concurred in:

Chipman, J.A.

Freeman, J.A.

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*Editor's Comment:*

*One of the hats that I wear in addition to editor is secretary to the Association. In this capacity I was involved in the initial complaint, in discussions with the complainant, in meetings with the land surveyor, in attendance at discipline hearings and in attendance at all appeal proceedings.*

*My final meeting with Mr. Nolan concerning the case was to accept his payment as decreed by the Court. Our meeting was very cordial and we commented on what could've, should've and would've been done if we had to do it all over. We did agree, however, that the case established a precedent that supports self-governing organizations' right to discipline their members. The decision also upholds the reasoning that self-governing bodies are the best judge of acceptable professional conduct for their members.*

*Mr. Nolan's right to practice professional land surveying was reinstated April 26, 2004.*



# MINUTES OF THE 53<sup>rd</sup> ANNUAL GENERAL MEETING

Held at Delta Halifax Hotel  
Halifax, Nova Scotia  
October 24 & 25, 2003

## Friday, October 24, 2003

1. President Forbes Thompson called the meeting to order at 9:20 am. The meeting is governed by Robert's Rules of Order and common sense.

2. The out-of-province delegates and exhibitors were introduced.

3. Joe Harvie, NSLS # 621, was sworn in as the newest member of ANSLs.

4. **Introduction of Council Members:** President Forbes introduced the members of Council for the past year: Zone 1 - Erwin Turner; Zone 2 - Bruce Lake; Zone 3 - Emerson Keen; Zone 4 - Garnet Wentzell; Zone 5 - Brian Anderson, Cyril LeBlanc; Zone 6 - Bruce Mahar, Brian Wolfe, Greg Smith, Lawrence Miller; DNR representative - Keith AuCoin; Vice-president - Jeff Fee; Past president - George Bruce.

5. President Thompson asked that everyone stand and observe a moment's silence in memory of members who passed away in the last year: Barrie F. Hebb, NSLS# 333; John A. Ingarfield, former member # 224; Harry J.A. Grant, former member # 156. He offered sympathy to those who lost loved ones this year.

6. **Secretary's Report on Convention Attendance / Membership Roll:** Fred Hutchinson reported that there were 105± NSLS's registered to date. There were approximately 55 members present at the meeting, fulfilling the requirement of 35 for a quorum. Fred also reported on comparative membership levels and dues amounts as follows:

Year	Dues	Reg	Life	Ret	Std	Hon	Assc	Non-Pr	Total
2003	\$800	195	18	35	21	4	0	0	274
2002	\$800	203	16	35	21	4	0	1	280
2001	\$670	208	16	36	19	4	0	1	284
2000	\$670	216	16	35	17	3	0	1	288
1999	\$670	221	15	35	18	3	0	3	295
1998	\$670	225	15	34	14	3	1	3	295
1997	\$670	227	14	33	15	3	3	3	298
1996	\$620	239	14	31	15	3	3	3	308
1995	\$600	246	14	36	16	3	6	3	324
1994	\$600	254	13	31	14	4	7	3	326
1993	\$550	261	14	27	12	4	10	4	332

7. **Approval of the Minutes of the 52<sup>nd</sup> Annual Meeting:** It was moved by Bill Thompson, seconded by Jeff Fee that the minutes of the 52<sup>nd</sup> annual meeting, held on October 18 and 19, 2002 at the Pictou Lodge Resort, Pictou County, Nova Scotia be approved as published in the Spring 2003 issue of *The Nova Scotian Surveyor*.

Motion carried.

8. **Business Arising from the Minutes of the 52<sup>nd</sup> Annual Meeting:** There was none.

9. **Report of Council Activities:** President Thompson reported on Council Activities for 2002-2003. Council meetings were held on December 13, 2002, April 4, June 27 and September 12, 2003.

Issues that were dealt with in 2002-2003:

- Web site restructuring and maintenance.
- Committee restructuring, terms of reference and project assignments .
- Mandatory Continuing Education point system and review of proposed program.
- Land Registration Act and the Registry 2000 project to implement land titles in Nova Scotia.
- Complaints and discipline actions.
- Nova Scotian Surveyor content assisted by the addition of "Councillor's Corner".
- Survey Review Department policy on plan submissions .
- Review of financial statements and budgets.
- Review of building mortgage and possible sale of vacant lot.
- Unauthorized survey practices.
- President's travel and activities are as published in the Summer 2003 and Fall 2003 issues of the "Surveyor".

10. **Report from the Secretary of the Board of Examiners:** Fred Hutchinson reported. The Board meets twice yearly.

New members since the last annual meeting are: Dan Gerard # 619, Bert Losier # 620 and Joe Harvie # 621. Eric Morse, NSLS # 609 (Ret.) requalified.

There are 22 active student files plus 2 incomplete applications. Professional exams will be written in March of 2004. There are presently 4 students that have the capability of attending next year's convention as members.

Members of the Board for 2003 were: John MacInnis (Chairman), Kevin Fogarty, Forbes Thompson, George Sellers, Keith AuCoin

(DNR Appointee), David Cushing (APENS Appointee) and Bruce Gillis (Barrister Appointee).

I would like to thank all the Board members for their time and expertise. David Cushing, APENS representative, has retired from the Board after serving 20 years. Thank you David.

Examiners for the past year were John MacInnis, Doug MacDonald, Allan Owen, John Conn and Grant McBurney.

**11. Treasurer's Report** including audited financial statement for 2002. The audited financial statement for the fiscal year ending December 31, 2002 was published in the Fall 2003 issue of *The Nova Scotian Surveyor*.

**12. Report from the Survey Review Department:** Manager, Gerry Bourbonniere, provided this report.

SLC sales at end of Sept. 2003	4610 x \$3.00	\$13,830.00
Plan returns at end of Sept. 2003	2278 x \$18.50	<u>\$42,143.00</u>
		\$55,973.00

This is approximately \$6,700 less revenue than for the same period in 2002.

Plan submissions are more than 200 less and SLC sales are 850 less to date this year compared to 2002.

Cursory review of SLC's	1168
Systematic review of SLC's	45
Field Inspections	13 plan sites
Cursory/Systematic plan reviews	178
Office visits to surveyors	5
Comprehensive Reviews	1 member's practice
6 Project files reviewed, site inspections performed on four of these and information was obtained from the Registry of Deeds for one.	

All plans submitted to SRD have been sorted as to type (retracement or plan of subdivision). Once the sorting was complete, all the plans of subdivision (except those which were reviewed and are the subject of reports on file) which were received prior to January 1, 2001 have been destroyed. All plans of retracement surveys have been retained.

All SLC's received prior to January 1, 2002 have been destroyed. Again, any which are the subject of reports remain in the surveyor's file.

A further exception to this is the submissions from one member who requested that his plans and SLC's be returned. With his permission, all received prior to January 1, 2002 were destroyed. The member's submissions will be reviewed annually and the oldest year's submissions will be either returned or destroyed as he requests. This is in complete compliance with Section 8.6 of the SRD Manual of Administrative Procedures.

Additional information reported:

Unless plan submissions increase substantially during the remainder of the year, SRD will incur an \$8,500 loss for the year.

For 2004 the budgeted revenue is based on the submission of 3000 plans at the increased price of \$20.50 per sticker and the sale of 6200 SLC numbers at \$4. Even with the increase in prices, there is a projected loss of \$1,600.

Most accounts are being paid within 60 days. Plan submissions tend to be reasonably current. However, there are a few members who do a reasonable volume and make submissions only once or twice a year. An example is the submission received in April 2003, in which the most current plan date was July 2002, and there has been no further submission to date. Perhaps this explains, in part, the letters from SRD which some members may receive.

In keeping with the policy to retire old SRD Log Sheets, letters will be prepared in November for any members who have plan numbers or stickers issued in the year 2000 which remain outstanding on SRD's records. A request to update the status of any numbers issued prior to 2000 will also be made. These are the numbers we were advised were assigned to plans which became held up in the approval process or were placed on "hold" for whatever reason.

The revised SRD Manual of Administrative Procedures was approved by Council in December 2002 and was sent to the membership with the Summer 2003 issue of the "Surveyor".

**13. Report of Scrutineers:** Vacant positions for Vice-President and Councillors in Zones 2, 5 and 6 were filled by acclamation (see section 1.4 (b) of the By-Laws). Zone 3 councillor, Emerson Keen, has agreed to let his name stand for another term unless there is a nomination from the floor.

No nomination for Zone 3 Councillor was heard.

The new members of the Executive and Council are:

President Elect	Jeff Fee
Vice-President	John Ross
Past-President Elect	J. Forbes Thompson
Councillor Zone 1	John R. Logan
Councillor Zone 3	Emerson Keen
Councillor Zone 5	Stewart F. Setchell
Councillor Zone 6	Robert B. Ashley
Councillor Zone 6	Terry MacGillivray

**14. Report of Committees:** The following committee reports were published in the Fall 2003 issue of *The Nova Scotian Surveyor*: Administrative Review, Atlantic Provinces Board of Examiners for Land Surveyors, By-Laws, CCLS Director, Complaints, Continuing Education, Discipline, NS Board of

Examiners, NSCRS Task Group, Public Relations, Regulations, Statutes.

Report updates:

**Administrative Review Committee** - Jeff Fee: The Administrative Review Committee (ARC) liaises with the administrative office. A change to the committee structure and terms of reference was approved at the September 12, 2003 Council meeting.

**Continuing Education Committee**: The subcommittee re: MCE met in October to review the points reporting form. The final form will be presented to members later in this meeting.

**Statutes Committee - Fred Hutchinson**: The committee's chair, Mike Allison, stepped down as chair due to health concerns. A new chair will be needed. The committee's structure will be reviewed and changed for the coming year.

**15. Introduction of the Executive and Council for 2003-2004**: Members of the Executive and Council for 2004 are:

President Elect:	Jeff Fee
Vice-President:	John Ross
Past President:	Forbes Thompson
Councillors:	
Zone 1	Erwin Turner
Zone 2	John Logan
Zone 3	Emerson Keen
Zone 4	Garnet Wentzell
Zone 5	Cyril LeBlanc, Stewart Setchell
Zone 6	Greg Smith, Lawrence Miller, Terry MacGillivray, Robb Ashley
DNR Appointee:	Keith AuCoin

**16. New Business**: Past president elect, Forbes Thompson, presented the president's pen to president elect, Jeff Fee.

Jeff Fee assumed the chair. He thanked Forbes for his service to the association as president and presented him with a Past President's pin and a plaque.

**17. Motions for Consideration**:

**Motion re: Life Membership**

Whereas both individuals have met the requirements for Life Membership in the association, as outlined in Section 12.0 of the by-laws; and

Whereas both individuals have given many years of service to the association;

Be it resolved that David C. Clark, NSLS # 292 and John C. MacInnis, NSLS # 293 be given Life Membership in the Association of Nova Scotia Land

Surveyors.

**Moved** by Bob Feetham    Seconded by Ray Pottier

This motion also needed a 75% approval of Council as required by By-Law 12.3. Council approved the nominations of both individuals unanimously on September 12, 2003.

Bob Feetham spoke to the motion and provided the members present with background and biographical information about Messrs. Clark's and MacInnis's careers and contributions to the survey profession and to their communities.

Motion carried unanimously.

**Motion 1 re: By-laws**

Be it resolved that Section 8.5 (b) of the by-laws be amended by changing March 31<sup>st</sup> to March 1<sup>st</sup>, and Section 8.5 (c) be amended by changing "14<sup>th</sup> day of April" to "15<sup>th</sup> day of March" to read:

- (b) The Secretary shall, not less than fourteen days prior to March ~~31<sup>st</sup>~~ 1<sup>st</sup> in each year, notify any member whose fee for the current year has not been paid that unless the fee is paid on or before March ~~31<sup>st</sup>~~ 1<sup>st</sup> of that year then such member shall on or after that date be subject to the provisions of Section 12(3) and Section 12(4) of the Act.
- (c) The Secretary shall, where a member has not paid his annual fees in compliance with clause (b) of Section 8.5, notify such member in writing on or before the ~~14<sup>th</sup> day of April~~ 15<sup>th</sup> day of March in each year advising such member of the provisions of Section 12(4) of the Act.

**Moved** by Allan Owen    Seconded by Fred Hutchinson

Fred Hutchinson spoke to the motion. Approval of this change is to update and facilitate payment and accounting processes. He noted that this update to the by-laws will not be effective until revisions to the Act are approved.

Motion carried.

**Motion 2 re: By-laws**

Whereas the last non-practising member resigned in 2003;

Be it resolved that Section 9.0 of the by-laws be amended by removing paragraphs 9.1, 9.2 and 9.3 and renumbering paragraph 9.4 accordingly.

**9.0 Non-Practising Members**

~~9.1 Persons who hold a Certificate of Qualification pursuant to Section 11 of the Act and do not ordinarily reside in Nova~~



~~Scotia may apply in writing to the Secretary to be registered as a non-practising member.~~

~~9.2 Non-practising members shall not be required to pay the full annual fee, but shall retain the full rights and privileges of the Association, save voting and the right to practise in Nova Scotia.~~

~~9.3 The reduced fee shall be 25% of the annual fee for membership.~~

~~9.4 9.1 The registration of new non-practising members shall cease effective November 1, 1989.~~

Moved by Allan Owen      Seconded by Fred Hutchinson

Fred Hutchinson spoke to the motion. There are no more non-practising members in the ANSLs but the section should be left in for historical reference.

Motion carried.

#### Motion 3 re: By-Laws

Be it resolved that Section 14.3 of the by-laws be amended to change the fee for associate membership from 25% to 10%, to read as follows:

14.3 Associate members shall pay ~~25%~~ 10% of the annual fee paid by members.

Moved by Allan Owen      Seconded by Fred Hutchinson

Allan Owen spoke to the motion. The committee felt that the 25% fee is excessive for services provided. Although there are currently no associate members, a reduction in cost could attract new members.

Motion carried.

#### Motion re: 2004 Budget

Be it resolved that the 2004 budget be approved as printed in the Fall 2003 issue of The Nova Scotian Surveyor.

Moved by Fred Hutchinson      Seconded by Bob Feetham

Motion carried.

Past president elect, Forbes Thompson, assumed the chair.

#### Motion 4 re: Mandatory Continuing Education

Whereas "Part VIII - Mandatory Continuing Education" was approved for inclusion in the ANSLs Regulations on October 30, 1998 at the ANSLs Annual General meeting; and

Whereas administration of the Mandatory Continuing Education (MCE) program, including amendments as necessary, would be more easily undertaken if the rules covering the program were in the By-Laws,

Be it resolved that the regulations covering Mandatory Continuing Education be removed from the Regulations and moved to the By-Laws as Section 26.0, dependent on the approval of the amendments contained in Motion 5 to be presented to the membership for approval at this meeting, with current Sections 27.0 to 29.0 of the by-laws to be renumbered appropriately.

Moved by Fred Hutchinson      Seconded by Allan Owen

It was moved by Fred Hutchinson, seconded by Dan Gerard that Motion 4 re: Mandatory Continuing Education be tabled until the subsequent motion dealing with MCE is dealt with.

Motion to table carried.

Fred Hutchinson reviewed sections of the Land Surveyors Act and Regulations relevant to Continuing Education.

The Continuing Education committee presented the point system model developed by the committee to the membership for review and discussion.

It was moved by George Bruce that the meeting be adjourned until Saturday morning, October 25, 2003.

#### **Saturday, October 25, 2003**

Before the meeting resumed with discussion on the MCE points system, Jim Gunn, chair of the CCLS Professional Liability Insurance Committee, reported some statistics as follows to the membership:

"Despite the fact that our program is doing well across the country, the same cannot be said for Nova Scotia. Our claims history is way out of line with the other provinces. Fortunately, we are blended in with the averages and that is what makes a national program work.

In fairness to Nova Scotia, there is always one or more province out of sync with the others at any given time. We have seen that over the years at our Loss Control sessions. However, when we look at the big picture and compare the results over a ten-year period, everyone should assume a similar profile.

[At this point Mr. Gunn showed a graph.] Here is a graph showing the claim loss ratio for each province since 1994. That was the year that ENCON and Simco-Erie divorced and we had to choose who we wanted to live with. Needless to say, we made the right choice since Simco and Erie are no longer in business.

You know what a ratio is — one number divided by another. In this case, the premium is divided by the losses. Ideally, the claim loss ratio should be under 70% because at least 30% of the premium is needed to run the program.

This graph shows that Nova Scotia is maintaining a running loss ratio of over 120%. Much of this is due to a major hit we took a number of years ago, the details of which I am not at liberty to share because it is still not settled. Having said that, at the last claims meeting I attended in March of this year, we looked at all the active claims with reserves exceeding \$20k. There were 36 such claims and, if memory serves me, 11 were from Nova Scotia. That's one-third of all the active claims in our program! Am I concerned? You bet!

It would not surprise me if the underwriters ask for additional premiums from this province at the next renewal. I would have to agree, because we are obviously not paying our share. If we were to add an additional risk factor to this province, I would expect the increases to be in the range of 50% by looking at this graph.

Are we doing something wrong in this province? Are we not doing something we should be doing? You tell me.

Our next committee meeting is in a couple of weeks and you can be sure we will be talking about this province's loss history and what, if anything, we can do about it. I suggest that the Council of our association take a very serious interest in this situation as well."

The Continuing Education Committee continued the presentation on the MCE points system model begun on October 24<sup>th</sup>.

It was moved by Fred Hutchinson, seconded by Phil Milo that the tabled motion be returned to the floor for discussion.

Motion carried.

It was moved by Fred Hutchinson, seconded by Allan Owen that the wording of the motion be amended as follows (note: this rewording includes a portion of a motion # 5 that was sent out prior to the AGM with the Notice of Motions but was never brought to the floor of this meeting):

Whereas "Part VIII - Mandatory Continuing Education" was approved for inclusion in the ANSLs Regulations on October 30, 1998 at the ANSLs Annual General meeting, and

Whereas administration of the Mandatory Continuing Education program, including amendments as necessary, would be more easily undertaken if the rules covering the program were in the By-Laws,

Be it resolved that the proposed regulations approved October 30, 1998 covering Mandatory Continuing Education be moved to the

By-Laws as Section 26.0, with current Sections 27.0 to 29.0 of the by-laws to be renumbered appropriately and that all references to the "regulations" contained herein be changed to "by-laws"; that each item be renumbered appropriately for insertion in the by-laws; and that other amendments constituting housekeeping be made as follows (words or sections being removed are ~~crossed out~~, words or sections being added are in **bold**):

#### ~~Part VIII~~ 26.0 Mandatory Continuing Education

- ~~144.~~ — 26.1 The ~~regulations~~ **by-laws** in this part may be cited as the "Mandatory Continuing Education **Regulations By-Laws**".
- ~~145.~~ — 26.2 A Mandatory Continuing Education Program will be established and administered by the Association, facilitated by ~~a mandatory~~ **the** Continuing Education Committee under the direction of Council.
- ~~146.~~ — 26.3 All members, with the exception of non-practicing, honorary, student, retired, associate and life members who do not practice professional land surveying are required to participate in the Mandatory Continuing Education Program.
- ~~147.~~ — 26.4 The Mandatory Continuing Education ~~p~~**Program** shall include a credit point system, to be established by the ~~Mandatory~~ **Mandatory** Continuing Education Committee.
- ~~148.~~ — 26.5 Members required to participate in the Mandatory Continuing Education Program will accumulate credit points based on their participation in the following:
  - (a) annual general meeting, special general meeting, zone meetings or committees of the Association;
  - (b) land surveying related conferences, seminars or workshops organized by the Association or other groups;
  - (c) recognized credit or non-credit courses offered by educational institutes;
  - (d) any activity that is deemed to enhance the profession or the member's ability to practice professional land surveying.
- ~~149.~~ — 26.6 Members required to participate in the Mandatory Continuing Education Program shall be required to accumulate a minimum number of credit points over every consecutive ~~two~~ **three**

year period.

+50. — 26.7 The ~~Mandatory~~ Continuing Education Committee will determine the eligibility of all courses and activities submitted by members for credit points.

+51. — 26.8 The ~~Mandatory~~ Continuing Education Committee will establish a point rating system for each course or activity based on its relevance to the association and the practice of land surveying.

+52. — 26.9 The ~~Mandatory~~ Continuing Education Committee will prepare and distribute a list of possible course types, seminars or activities to participating members.

+53. — 26.10 The Association will maintain a current record of credit points accumulated by each member required to participate in the Mandatory Continuing Education Program.

+54. — 26.11 The ~~Mandatory~~ Continuing Education Committee shall review the Mandatory Continuing Education Program on an annual basis and present a report to Council.

+55. — 26.12 The ~~Mandatory Continuing Education Committee~~ Association will have an obligation to make educational and participation opportunities readily and equally available to all members.

+56. — 26.13 If a member required to participate in the Mandatory Continuing Education Program fails to accumulate the required number of credit points within the defined time period, the member will be notified that their ~~license to practice land surveying may be suspended until such time as the requirements under the Mandatory Continuing Education Program are met. Notice of such suspension shall be forwarded to each federal, provincial and municipal department or office that may use or approve plans or documents prepared by the member; published in at least two newspapers having general circulation in the area where the member carried on a practice and published in the Association's publication.~~ right to practice professional land surveying may be suspended at the discretion of Council. Non-compliance with the program will be reported to Council by the Secretary and the terms of readmission will be as described in subsections (a), (b) and (c) of section 12(4) of the Act.

## 26.14 The Mandatory Continuing Education Program will commence January 1, 2004.

Motion to amend carried.

With approval of the seconder, Allan Owen, Fred Hutchinson moved that Section 26.13 be amended by adding the words "after a hearing" at the end of the first sentence, to read:

26.13 If a member required to participate in the Mandatory Continuing Education Program fails to accumulate the required number of credit points within the defined time period, the member will be notified that their right to practice professional land surveying may be suspended at the discretion of Council **after a hearing**. Non-compliance with the program will be reported to Council by the Secretary and the terms of readmission will be as described in subsections (a), (b) and (c) of section 12(4) of the Act.

Motion to amend carried.

It was moved by Gerry Bourbonniere, seconded by Brian Wolfe that Section 26.2 be amended by changing the words "the Association" to "Council, and" and by removing the words "under the direction of Council", to read:

26.2 A Mandatory Continuing Education Program will be established and administered by **Council, and** facilitated by the Continuing Education Committee.

Gerry Bourbonniere spoke to the motion. The committee members believe that Council should approve and administer the program. The change in wording illustrates that.

Motion to amend carried.

It was moved by Carl Hartlen, seconded by Jeff Fee that Section 26.4 be amended by adding the words "and approved by Council" to the end of the sentence, to read:

26.4 The Mandatory Continuing Education Program shall include a credit point system, to be established by the Continuing Education Committee **and approved by Council**.

Motion to amend carried.

After further discussion and comments, the question regarding the amended motion was called.

Motion carried. The approved motion is attached to these minutes

as Appendix A.

**Motion 6 re: Mandatory Continuing Education**

Whereas administration of the Mandatory Continuing Education Program is included in the by-laws,

Be it resolved that Section 80 (2) (c) of the Regulations be amended as follows:

**Article II**

**80 (2) (c)** The surveyor shall continually advance the surveyor's knowledge and skills by participating in activities put on by the Association and shall ~~endeavour to attend relevant continuing education programs.~~ **participate in the Mandatory Continuing Education Program in accordance with the by-laws.**

**Moved** by Fred Hutchinson Seconded by Gerry Bourbonniere

Motion carried. The approved revision is attached to these minutes as Appendix B.

**Motion re: Certificate of Authorization**

It was moved by Bob Daniels, seconded by Dave Roberts that the cost of a Certificate of Authorization be set at \$100 plus the appropriate tax, effective January 1, 2004. Motion carried.

**18.** Past President elect Forbes Thompson called on the out-of-province delegates to make closing remarks. All gave their thanks and extended congratulations.

**19.** At 4:15 pm it was moved by Brian Wolfe that the meeting be adjourned.

F.C. Hutchinson, BA, NSLS, CLS  
Secretary / Treasurer

**2003 AGM Minutes**

**Appendix A**

**Mandatory Continuing Education Program Motion  
Approved October 25, 2003  
at the 53<sup>rd</sup> AGM in Halifax**

Whereas "Part VIII - Mandatory Continuing Education" was approved for inclusion in the ANSLs Regulations on October 30, 1998 at the ANSLs Annual General meeting, and

Whereas administration of the Mandatory Continuing Education program, including amendments as necessary, would be more easily undertaken if the rules covering the program were in the By-Laws,

Be it resolved that the proposed regulations approved October 30, 1998 covering Mandatory Continuing Education be moved to the By-Laws as Section 26.0, with current Sections 27.0 to 29.0 of the by-laws to be renumbered appropriately and that all references to the "regulations" contained herein be changed to "by-laws"; that each item be renumbered appropriately for insertion in the by-laws; and that other amendments constituting housekeeping be made as follows:

**26.0 Mandatory Continuing Education**

**26.1** The by-laws in this part may be cited as the "Mandatory Continuing Education By-Laws".

**26.2** A Mandatory Continuing Education Program will be established and administered by Council, and facilitated by the Continuing Education Committee.

**26.3** All members, with the exception of non-practicing, honorary, student, retired, associate and life members who do not practice professional land surveying are required to participate in the Mandatory Continuing Education Program.

**26.4** The Mandatory Continuing Education Program shall include a credit point system, to be established by the Continuing Education Committee and approved by Council.

**26.5** Members required to participate in the Mandatory Continuing Education Program will accumulate credit points based on their participation in the following:

- (a) annual general meeting, special general meeting, zone meetings or committees of the Association;
- (b) land surveying related conferences, seminars or workshops organized by the Association or other groups;
- (c) recognized credit or non-credit courses offered by educational institutes;
- (d) any activity that is deemed to enhance the profession or the members ability to practice professional land surveying.

**26.6** Members required to participate in the Mandatory Continuing Education Program shall be required to accumulate a minimum number of credit points over every consecutive three year period.

**26.7** The Continuing Education Committee will determine the eligibility of all courses and activities submitted by members for credit points.

- 26.8** The Continuing Education Committee will establish a point rating system for each course or activity based on its relevance to the association and the practice of land surveying.
- 26.9** The Continuing Education Committee will prepare and distribute a list of possible course types, seminars or activities to participating members.
- 26.10** The Association will maintain a current record of credit points accumulated by each member required to participate in the Mandatory Continuing Education Program.
- 26.11** The Continuing Education Committee shall review the Mandatory Continuing Education Program on an annual basis and present a report to Council.
- 26.12** The Association will have an obligation to make educational and participation opportunities readily and equally available to all members.
- 26.13** If a member required to participate in the Mandatory Continuing Education Program fails to accumulate the required number of credit points within the defined time

period, the member will be notified that their right to practice professional land surveying may be suspended at the discretion of Council after a hearing. Non-compliance with the program will be reported to Council by the Secretary and the terms of readmission will be as described in subsections (a), (b), and (c) of section 12(4) of the Act.

- 26.14** The Mandatory Continuing Education Program will commence January 1, 2004.

## 2003 AGM Minutes

## Appendix B

### Amendment to Section 80(2)(c) of the Regulations Amendment approved on October 25, 2003 at the 53<sup>rd</sup> AGM in Halifax

#### Article II

- 80 (2) (c)** The surveyor shall continually advance the surveyor's knowledge and skills by participating in activities put on by the Association and shall participate in the Mandatory Continuing Education Program in accordance with the by-laws. ☒

### Caddy Comments ...

- Golfer: How do you like my game?  
Caddy: Very good, sir. But personally, I prefer golf.
- Golfer: I'd move heaven and earth to break 100 on this course.  
Caddy: Try heaven, you've already moved most of the earth.
- Golfer: Please stop checking your watch all the time. It's very distracting.  
Caddy: It's not a watch - it's a compass.
- Golfer: I think I'm going to drown myself in the lake.  
Caddy: Think you can keep your head down that long?
- Golfer: Do you think I can get there with a 5 iron?  
Caddy: Eventually.
- Golfer: You've got to be the worst caddy in the world.  
Caddy: I don't think so, sir. That would be too much of a coincidence.
- Golfer: Do you think my game is improving?  
Caddy: Yes, sir. You miss the ball much closer now.

