



## This Is The Law

### The Surveyors Act

Section 11 of the *Surveyors Act* provides that only a licensed Ontario Land Surveyor may undertake cadastral (legal boundary) surveys in the province of Ontario.

(1) No person shall engage in the practice of cadastral surveying or hold himself, herself or itself out as engaging in the practice of cadastral surveying unless licensed under this Act.

(2) No person shall provide to a member of the public a service that is part of the practice of cadastral surveying except under and in accordance with a Certificate of Authorization.

### What is an up-to-date-survey?

Section 19.(1) of the AOLS Interpretative Guide and Supplement to O.Reg. 42/96 under the Surveyors Act, states "an existing plan of survey may be deemed to be (up-to-date) if,

(a) both the plan and the survey on which it is based comply with the applicable requirements of the statutes & regulations of Ontario.

(b) upon a field inspection, it can be determined that no changes have taken place to the property or to the monumentation since the plan was signed that would necessitate a change in the plan; and

(c) an up-to-date search for documentary evidence has been made, as required by clause 3(a) of the Performance Standards Regulation, and no changes have occurred that would necessitate a change in the plan."

### Is a Surveyor's product copyrighted?

Cadastral survey plans are an illustration of a Professional Surveyor's opinion of the extent of title, and they clearly fall within the definition of an artistic work under Section 2 of the Copyright Act R.S.C. 1985 c. C-42.

The AOLS Standards for Surveys require non-deposited or non-registered plans to indicate the retention of copyright, and the use of the universal copyright symbol "c" is recommended. Although copyright is automatically acquired with the creation of the plan, this approach places both the naïve and the malicious mis-user on notice that the Professional Surveyor retains copyright.

Supported by the provisions of the Canadian Copyright Act, there is direction on the use and mis-use of survey products. A client does not have the right to unlimited use of the plan in subsequent dealings. The client does not have the right to re-use the plan for some other purpose than was originally intended. No one other than the surveyor, who prepared the plan, has the right to alter the plan. And, no third party has the right to use a plan for a use not intended in the original application.

### The Surveys Act

Section 6 of the Surveys Act confers the right to a surveyor, or a person in the professional surveyor's employ, while making a survey, to enter and pass over the land of any person at any time, or to enter into a building, at a time suitable to the occupant. Licensed members of the AOLS have the right of entry.

Whether in plan or report form, the Geomatics Professional offers a professional opinion. They are bound by a strict, legislated Code of Ethics. This Code ensures that members of the Association owe their first duty of care to the public. Unlike lawyers, public employees and consulting professionals, Professional Surveyors are not advocates for their clients.

**Geomatics** has applications in all businesses and industries that use spatial data. It is fundamental to all the geoscience disciplines that use spatially related data. These disciplines include environmental studies, planning, engineering, navigation, geology and geophysics, oceanography, agriculture, land development, land ownership and tourism.

Everything constructed on or below ground has been measured and represented on maps, drawings, and in reports. A Geomatics Professional creates and distributes information on a scale never before possible. The services and products of Geomatics Professionals are essential to the orderly development of communities, as they are responsible for producing accurate records of land transactions, construction and geographic information systems.



## When Is A Drawing Not A Current Professional Surveyor's Opinion?

1. When it is an old survey document that has been appended to by others for building permit and variance application purposes.
2. When it is an old "mortgage sketch" or survey plan that does not meet the current and comprehensive requirements of today's "Surveyor's Real Property Report" standards.
3. When it is a document that was prepared for a previous real estate transaction.

All the above items may subject the realtors, professional surveyors, or lawyers who offer these drawings to clients to unnecessary legal risks.

### Variations and Consents

Variations and consent application forms may require that drawings or surveys be submitted. But applicants, their lawyers, agents, and municipal staff often feel that the cost of a Professional Surveyor's opinion is relatively high. They may also think that the request is so simple that the expertise of the Professional Surveyor is not required. They may decide that they can use a dated survey and overlay approximate measurements to locate new structures or buildings. This reasoning is not correct and in violation of Ontario and Canadian law.

The Geomatics Professional has the training and field experience embodied in law to protect the interest of the general public from the inappropriate use or misuse of geomatic information. Contact a Geomatics Professional at the earliest opportunity to review your project. It is in your best interest.



## What Would an Ontario Land Information Professional Do for Me?

Geomatics Professionals from each of the following disciplines provide value-added solutions by applying the principles of science and technology to measuring, analyzing, managing and graphically representing geospatial information.

### Cadastral Surveyors

The licensed Professional Surveyor provides an expert opinion on the extent of boundaries using historical research, a knowledge of statute and common law, and the latest technology in measurement and data processing.

### Geodetic Surveying

A Geodesist applies the science of locating and relating the position of objects on the Earth relative to each other, while taking into account the size, shape and gravity of the Earth.

### Geographic Information Management

The Geographic Information Manager (G.I.M.) manages the development, implementation, and operations of a Geographic Information System and associated geographic technologies. The G.I.M. draws upon many disciplines including survey science, applied science, geography, computer science, and business to complete projects.

### Hydrographic Surveying

An Hydrographer applies the science of measuring and describing the physical features of rivers, lakes, and oceans.

### Photogrammetric Surveying

The Photogrammetrist applies the science of obtaining reliable spatial information from photographic images.

The Geographic Information Manager, Geodesist, Hydrographer and Photogrammetrist practise under the governance of the Association of Ontario Land Surveyors (A.O.L.S.). They hold a Certificate of Registration which attests to their professional qualifications through academic training, field work, articling and passing the professional examination of the A.O.L.S. and adhering to the Code of Ethics of the Association.



## When Do I Need an Ontario Land Information Professional?

- Real Estate Transactions and Determination of Extent of Title
- Location of Buildings and Structures in Relation to Legal Boundaries
- Highway and Local Road Widening and Grading
- Subdivision of Land through Consent (Severance) Applications, Plans of Subdivision, Plans of Condominium, and Part Lot Control
- Development Applications under the Planning Act and Condominium Act
- Variances to Zoning By-laws
- Site Plan Applications
- Geodetic Surveys for Construction
- Layout position of new buildings, fences and hedges
- Resources Management
- Data Collection and information presentation for Geographic Information Systems
- Forensic Case Reconstruction
- Online databases for geographic information
- Bathymetric and Surface Water Measurement
- Aerial photo interpretation and mapping
- Refinancing real property or securing a mortgage
- Boundary Disputes

### Association of Ontario Land Surveyors

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## Protect Your Wealth Consult a Geomatics Professional

### Why an Ontario Land Information Professional?

Geomatics is the science and technology of measuring, analyzing, managing, distributing, and using geospatial information that describes the Earth's physical features and existing conditions. In Ontario, the Association of Ontario Land Surveyors is the governing professional body for Geomatics Professionals.

According to Ontario law, only cadastral (boundary) surveys made by licensed Professional Surveyors are legal.

Association members are required to maintain the necessary theoretical, practical and ethical standards set by legislation and the profession. Members of the Association include Geographic Information Managers, Geodesists, Photogrammetrists, Hydrographers and Cadastral Surveyors.

Association of  
Ontario Land Surveyors

