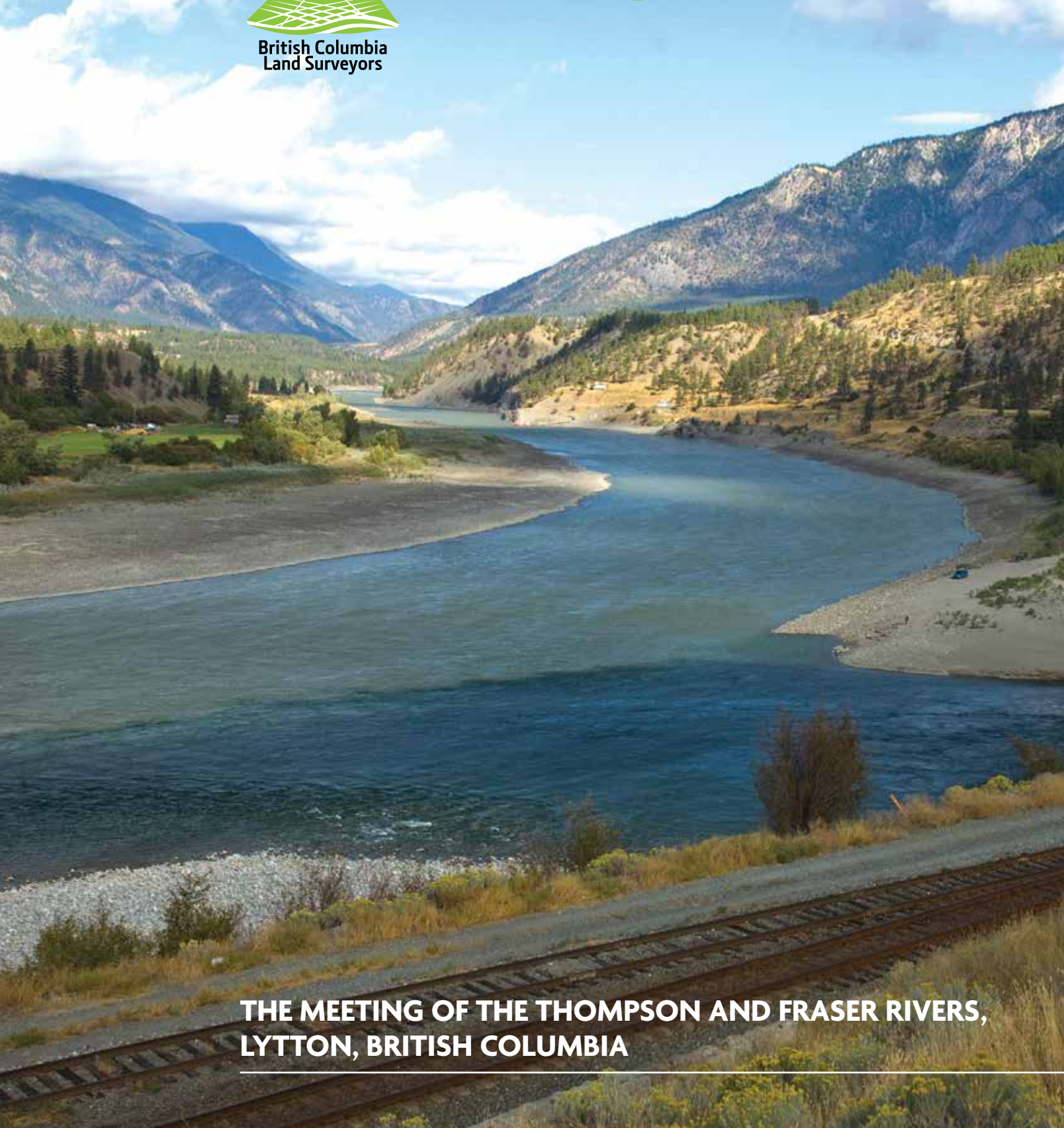


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The Association of British Columbia Land Surveyors protects the public interest and the integrity of the survey systems in British Columbia by regulating and governing the practice of land surveying in the province.

Vision

The Association of British Columbia Land Surveyors will fulfill its public trust as a progressive, accountable profession.

Values

We believe in:

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- acting ethically and with integrity
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Delegate Reports

By Dave Rutherford, BCLS



Since my last report to the membership during our own annual general meeting on March 12, I have attended the virtual AGMs of six other organizations as a delegate of the Association of BC Land Surveyors. In this article, I provide some highlights from those meetings:

Association of Canada Land Surveyors AGM (April 14)

President Jim Christie summarized a very busy year for the ACLS, including an update of the national syllabus for CBEPS, an updated process for accreditation and exemptions through a partnership with land surveying associations and educational institutions, and a governance project that included a review of the ACLS mission and vision statements.

Executive Director Jean-Claude Tetreault reported on:

- *The Modernization of the Canada Land Surveyors Act;*
- *The MyCLSS Security* project in order to comply with Government of Canada Policy on Government Security;
- *The Towards an On-Line Degree (TOLD)* project;
- The ACLS book project and the continued work of author Charlie Wilkens.

Mr. Wilkens attended the AGM for a short period of time where he recited a chapter of his new book based on an

interview with Tim Koepke.

Registrar Marie Robidoux reported that there were 11 new Canada Lands Surveyors commissioned last year and there were no complaints or discipline cases in 2020.

There are currently 463 active CBEPS candidates.

Alberta Land Surveyors Association AGM (April 15 & 16)

President Bruce Drake convened the meeting and introduced the keynote address, “*Seeing Land Through a Different Viewpoint*”. Presented by Jessica Vandenberghe, P.Eng., the address opened with a relationship building perspective between land surveyors and the Indigenous peoples of Canada. Jessica’s keynote included a historical review of treaty boundaries and the impact of the Indian Act on Indigenous peoples in the years 1867-1975.

The President’s address highlighted work in key regulatory areas, including:

- Strategic initiatives with a focus on regulation of the profession;
- Authoritative coordinates and associated legislation;
- Fair registration practices and greater public involvement;
- Digital signatures and their application to Real Property Reports.

The ALSA Executive Director reported a decline in membership from 463 to 415 over the past five years and that there were 48 complaints received from the public during the past year. Members were asked to provide input on the ALSA Long Term Stability Fund and consider how large the fund should be and what it should be used for.

President Drake passed the Presidency to incoming president John Byrne in a socially distanced video ceremony on the grounds of the Alberta Legislature, which featured John Haggerty and family on bagpipes and recognition of Past President Steve Yanish.

Incoming President John Byrne talked about the Alberta Government’s pending legislative review and their goal of “red tape reduction”. The Government is looking for consolidation of professional organizations as one possible solution to red tape reduction.

Message from the President

There were a number of motions put forth during the open session, including:

- Creating terms of reference for the migration of *professional standard practices*, which are currently spread amongst several large documents (e.g. *Hybrid Cadastral Standards*, *Compiled Plan Standards*) to a single ALSA Professional Practice document.
- A review of the number and type of Association non-regulatory functions and their associated costs. This task would be followed by a membership survey to determine which of these functions to either continue or eliminate.
- The formation of a diversification in surveying Working Group as an opportunity to reach out and allow ALSA to educate and expand in areas that have been difficult to reach.
- Consider a format for future Annual General Meetings to include those members who are unable to attend in person.

Applied Science Technologists and Technicians of BC AGM (May 7)

President Sarah Campden opened the AGM with a welcome address from David Eby, the Minister responsible for the Professional Governance Act (PGA). ASTTBC was one of five professions first brought under this new act and the meeting included a presentation on their transition to governance under the PGA.

Of particular interest this year was the nomination and election process of a new Council under the PGA. Mr. David Sparanese was elected by ASTTBC Registrants and appointed



The virtual AGM of the Saskatchewan Land Surveyors Association was held using the Gather Town app.

to the position of President on May 6, 2021 by ASTTBC Council.

In addition to AGM business, attendees could participate in a virtual tradeshow, CPD sessions, and a virtual networking lounge.

Association of Newfoundland Land Surveyors AGM (May 12 –14)

A continuing professional development program took place on May 12, with President Clint Rumbolt presiding over the AGM business sessions on May 13 and 14.

The professional development sessions included a fascinating presentation by lawyer Greg Finch on the evolution of natural boundary determination in Newfoundland.

There was great discussion on all issues currently facing the Association. One item involved disciplinary matters with respect to CPD program noncompliance and the time and effort required to administer the program. A motion for a fee increase to cover the

increased cost of this administration was defeated. An item under new business centered around a possible name change for the ANLS to include the word “Labrador”.

The ANLS election results were presented, and Corey Collins was introduced as the incoming President.

Professional Surveyors Canada AGM (May 26)

Chair Michael Thompson opened the meeting with approximately 82 attendees. In his opening remarks, Mr. Thompson reiterated the role of *Professional Surveyors Canada* as one of advocacy and went on to list several areas of current work, including:

- *P.Surv Magazine*;
- Unauthorized practice;
- The new “P.Surv” trademark and its licensing;
- Public relations initiatives;
- Member services;
- Quebec membership;
- International connections;
- A Sectoral Initiatives Grant

Program application to attract talent to the land surveying industry at both professional and technical levels.

Michelle Zuk was introduced as the new Executive Director. Michelle urged members to send stories of unauthorized practice to PSC, and there was much discussion between the members on this topic.

Dave Gurney provided an update on the PSC Professional Liability Insurance Program and indicated the well-known Loss Control Bulletins will be updated, starting with the construction sector where at least half of all insurance claims are generated.

This was Mr. Thompson's last meeting as PSC Chair, with Mr. Jordan Litke now assuming that role.

Saskatchewan Land Surveyors AGM (June 2-3)

The virtual AGM of the Saskatchewan Land Surveyors Association was held using the *Gather Town* app which allows you to visit exhibitor booths, stand at the floor mic or chat with other attendees.

Following a day of professional development on June 2, President Regan Rayner opened the AGM business session on June 3. One item of interest during his address was his attendance at a local information session put on by Engineers and Geoscientists of BC (EGBC) regarding B.C.'s Professional Governance Act. President Rayner enjoyed the session and came away with a better understanding of the Act and its application in BC.

Of note, the Charitable Fund Selection Committee reported that there will be no Saskatchewan Polytech donation this year due to the collapse

of the Geomatics Program; and the Professional Conduct Committee reported that there were no formal complaints in the preceding year.

Two of the three motions for which notice was given were carried by the membership. They included a resolution for a surcharge on iron posts and collection of the PSC levy.

One interesting discussion at the open forum was about the need to keep a physical office for the Association. Most members were in favour of doing so, however a few other provincial Land Surveying associations have decided to go with virtual offices.

Congratulations to Calvin Bourassa for taking on the role of incoming President. ❖



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Message from the
Chief Administrative Officer

Light at the End of the Tunnel

By Kelly Stofer, CAO

In the March 9, 2020 ABCLS Update e-newsletter, we were full of optimism, looking forward to our 115th AGM at the Westin Bayshore in Vancouver, while the BC Centre for Disease Control indicated the risk of spread of the COVID-19 virus in BC communities remained low. A few days later, the Minister of Health ordered that event organizers cancel gatherings of over 250 people.

Some fifteen months later, there have been over 147,000 cases of COVID-19 in British Columbia. The disease has killed more than 1,700 British Columbians and brought untold grief to many families. But as I complete this report at the beginning of July, there are fewer than 700 active cases, with just 20 new cases in the past day. The provincial state of emergency has been lifted.

After hundreds of Zoom calls and two cancelled AGM venues, we are starting to see light at the end of the tunnel. When we reach its end, I will not miss the day-to-day challenges we all face in keeping our workplaces and homes safe during a pandemic and I will especially not miss the ongoing operational uncertainty at the ABCLS. If the external regulatory environment did not present enough uncertainty to self-governing professions, COVID-19 certainly has. The past fifteen months has required endless planning and

replanning meetings and events and caused us more than a few false starts.

In management literature, “meetings” have become the black sheep of work, but they are also of crucial importance to governing our profession. Meetings are where land surveyors and public representatives on our Board, committees, and panels discuss and decide issues. With thirteen committees, a practice review program, a charitable foundation, a governing board, and a statutory requirement to hold an AGM, we arrange lots of meetings.

Before the pandemic, we made regular use of (don’t laugh) telephone conference lines – a separate line for each committee, the Board, and staff. The Board would often meet in-person and committees would do so occasionally; but we generally held meetings by telephone. Videoconferencing had been around for years, but it was never something we considered necessary. Now, it is hard to imagine life without it. Board and committee meetings, professional development offerings, post-secondary engagement events, professional assessment interviews, disciplinary hearings, project meetings, internal staff meetings, and even our past two AGMs have taken place by videoconference. A telephone meeting at this point would seem absurd. I don’t see us going back.

In spite of Zoom, there is no denying the advantages of meeting colleagues in a face-to-face setting. Thankfully, travel restrictions are being lifted, vaccination rates are rising, case counts are dropping, and the Province has implemented its Restart Plan. Under that plan, we could see a full reopening of workplaces with increased capacity at large organized gatherings as early as September 7. With these encouraging developments, the Board made an assumption that it will be safe to hold the 2022 AGM in Kelowna.

I hope our 2022 AGM can look similar to our 2019 event, which was also in Kelowna. That is the goal. However, if there is one thing the past fifteen months has taught me, it is not to predict the future. Will the pandemic be over, and our usual AGM activities unhampered by all the safety protocols we are now accustomed to? Will members come out in full force, or will they be reluctant to leave their communities? Will room capacities be reduced? Will buffet-style meals be allowed? Only time will tell, but I feel a sense of normalcy returning with the summer weather and continued progress in beating back the pandemic. I am again full of optimism and looking forward to possibly hitting the road for the Fall Board trip!

See you all soon – I hope. ❖



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Message from the **Surveyor General**

Restoring Boundaries After Earthquakes

By Cristin Schlossberger, Surveyor General

While we are unable to prevent natural disasters, impact can be minimized through disaster preparedness. Building resilience in the event of a natural disaster lessens disruptions, provides a roadmap to stability, and accelerates economic recovery.

To ensure the Land Title and Survey Authority of British Columbia (LTSA) is prepared to support land surveyors with confidence and certainty in the event of a significant earthquake, the Surveyor General is undertaking recovery planning including consultative focus groups with ABCLS members on the fundamentals for post-quake boundary restoration.

Lessons have been learned from other jurisdictions, notably New Zealand, which provide us with guidance on how to re-establish the size, shape and location of parcels of land after an earthquake. Another important takeaway is the value of having appropriate statutes, regulations, and action plans in place prior to an earthquake rather than reacting afterwards. Consistent methodology in boundary re-establishment post-quake is key to maintaining the public trust and minimizing boundary disputes.

After an earthquake, the Surveyor General has a crucial role in providing

land surveyors clear and concise direction on how affected parcels of land are to be redefined. This direction will be based on fundamentals and principles learned from other jurisdictions that have addressed similar changes after earthquakes.

To efficiently rebuild the legal survey fabric after a deformation event, actions need to be taken in three phases: prior to an earthquake, in the short term (in the weeks and immediate months following an earthquake), and in the long term (when the effects of the earthquake are better understood).

LTSA is currently engaging with the Ministry of Forests, Lands, Natural Resource Operations and Rural Development including the Lands Branch and GeoBC in developing post-earthquake strategies.

In addition, LTSA is working closely with BC land surveyors. Representing diverse experience, thirteen land surveyors from across the province generously volunteered their time to attend two workshops held in the spring. Their participation was invaluable.

On March 26 we held the first of two sessions with a focus on describing the scope, scale, and rationale of the

initiative, as well as introducing a draft action plan. Two land surveyors who worked in New Zealand following the destructive Christchurch earthquake in 2011 shared their insight and the real-world challenges they faced resolving boundary locations.

The second session was held on April 16, and we collected feedback from the group on our draft fundamentals for post-quake boundary restoration and our proposed action plan. I'm very grateful for the participants' time and expertise, in particular for identifying areas we need to concentrate on in the development of a detailed plan.

Next steps include a deeper dive at several topic-specific internal workshops to be held this summer, follow-up consultation with focus group participants and stakeholders, development of standards for post-quake boundary restoration, and developing a handbook to guide the Surveyor General post-quake.

The handbook and various other resources that we're preparing now will be crucial to ensuring land surveyors receive quick, concise guidance which will support public confidence in our survey fabric in the months and years following an emergency. ❖

Damage Prevention and Ground Disturbance Practices for Buried Facilities

By Jeff Beddoes BCLS NP

Editor's Note: Opinions expressed in the Link Magazine do not necessarily represent those of the ABCLS, its Board, or other members. This article was researched and prepared by Jeff Beddoes, BCLS NP at the request of the Board to assist the membership in understanding issues related to working near buried facilities. The Board received this article on June 10, 2021 and requested that the Professional Reference Manual Committee prepare guidelines for land surveyors working near buried facilities and to consult with the membership about those guidelines.

A number of years ago I heard mention that some group was intending to approach the federal government and lobby for the introduction of legislation that would add additional burden to the work of land surveyors, something to do with requiring searches for pipes, conduits and cables buried in ground.

I didn't spend much time considering this issue because I did not conduct fieldwork nor supervise staff who did. And besides, when I was active in practice, the only time I ever poked holes in the ground was when I was looking for evidence or setting posts along boundaries, and surely utility companies knew enough to place pipes and wires and conduits deep enough to be safe and well away from boundary lines.

More recently, I had reason to revisit the *Buried Facilities* issue and, as a member of the Professional Reference Manual Committee, or perhaps simply having grown a little older and hopefully a tad wiser, I gave more serious thought to the matter. I respectfully suggest that all members ought to make themselves aware of this issue and consider their practice appropriately.

The purpose of this article is to provide members with some history; the current direction that legislation pertaining to damage prevention of buried facilities appears to be taking; and, perhaps most importantly, provide members with an overview of *best practices*.

It seems that I heard correctly. In May 2017, Bill S-229 was introduced in the Senate. Among other things, the Bill would require mandatory participation in One Call centres by utility owners, mandatory *call before you dig*, and provide parameters around ground disturbance upon federally regulated lands. Although Bill S-229 died at the dissolution of parliament before the 2019 election, the story and the issue certainly do not end here.

Before I get ahead of myself it might help if I provide the definitions of five terms¹:

Buried Facility – Anything buried or constructed below ground level respecting electricity, communications, water, sewage, oil, gas and other substances including but not limited to, the pipes, conduits, ducts, cables, wires, valves, manholes, catch basins and attachments to them.

Digging Community – Anyone that engages in or is responsible for ground disturbance.

Ground Disturbance – Any work, operation or activity that results in a disturbance of the earth regardless of depth.

Hit or Hits – The act of actually hitting a Buried Facility when disturbing the ground.

Locate (verb) – The use of appropriate instruments to determine the approximate horizontal locations of underground facilities identified through research of existing as-built documentation and any other sources of information.

Are Ground Disturbances really an issue that land surveyors ought to care about?

I suspect I am like my fellow land surveyors, and I like facts. Here are a few:

- In 2016, there were 11,989 Hits reported across Canada, 1270 in British Columbia,
- In 2019, the cost to repair damage made by Hits caused through Ground Disturbance in Canada was estimated at 1.2 billion dollars,
- 96% of the reported 1,304 Hits in British Columbia in 2019 were of gas and telecommunication lines,
- 43% (2016) of Hits were the result of a lack of research by the Digging Community. Simply put, no buried facility *locates* were performed. (40% of Hits happened despite a locate being performed, due to inadequate excavation practices.)

¹ These first four definitions are taken from the British Columbia Common Ground Alliance (BCCGA) Ground Disturbance 201 Standard.

And from both personal experience and from anecdotal reports from my fellow land surveyors, certain utilities, often cable and communication lines, can be shallowly buried and near or on boundary lines, particularly in small parcel size developments.

Bill S-229 would have created a legal foundation for a damage prevention process for buried facilities on land under federal jurisdiction by legislatively requiring buried facility owners to participate in One Call centres and by requiring ground

to collaborate on a pilot project that would adopt much of the intent of Bill S-229 as requirement, on a trial basis in the Ottawa-Hull region. CCGA considers that the trial was successful and are now in the process of asking the Treasury Board to adopt similar measures. As the Treasury Board controls federal spending, the understanding is that all other federal departments would follow suit.

Although Bill S-229 died at the dissolution of parliament before the 2019 election, certain concepts

repealed and the *Canadian Energy Regulator Act* came into force. Section 335 of the *Canadian Energy Regulator Act* addresses damage prevention to buried facilities related to transmission of oil and gas products. Requirements pertinent to damage prevention are found in the National Energy Board Damage Prevention Regulations.

Specific regulations exist to govern ground disturbance around oil and gas lines³, however no specific regulations govern disturbance around electrical, water, sewer, telephone, cable or optic fiber lines. That said, it is imperative that land surveyors be aware of and comply with general safety requirements contained in the *Workers Compensation Act*, *BC Safety Standard Act* and *BC Occupational Health and Safety Regulations*.

As a result of damage and deaths caused by Hits, Common Ground Alliances were formed: first in the United States in 2000. The British Columbia Common Ground Alliance (BCCGA) was established in 2006. The Canadian Common Ground Alliance, who's mandate is to address issues from a national perspective, was established 2009.

*"The British Columbia Common Ground Alliance is a non-profit organization established to lead development of consistent practices and coordination of activities to ensure the highest possible standards of worker safety, public safety and damage prevention in connection with underground infrastructure."*⁴



disturbers to seek buried facility information from those One Call centres prior to any excavation or ground disturbance.

Although Bill S-229 died, the Canadian Common Ground Alliance (CCGA) lobbied Public Services and Procurement Canada, who are responsible for procuring goods and services for the federal government,

contained within the Bill found their way into federal Bill C-69 which did become law in 2019². Bill C-69 enacted the *Impact Assessment Act* and the *Canadian Energy Regulator Act*, amended the *Navigation Protection Act*, and caused some consequential amendments to other federal statutes.

Upon Bill C-69 coming into force, the *National Energy Board Act* was

2 Bill C-69 received Royal Assent on June 21, 2019.

3 See the National Energy Board Damage Prevention Regulations mentioned above.

See also: *BC Oil and Gas Activities Act*, *BC Pipeline Crossing Regulations* and *BC Gas Safety Regulation*.

4 BCCGA website: <https://commongroundbc.ca/>

The BCCGA has promoted the establishment of BC 1 Call, encourages the owners of all buried facilities to lodge information about the location of their facilities with BC 1 Call, has developed best practices for ground disturbers and continues to lobby government to create regulation governing all ground disturbance.

As some members may know, the provincial government is in the process of modernizing the *Emergency Program Act*. The government lists stopping disasters from happening as one of the key reasons for the modernization of the Act. In support of this, the minister of Public Safety and Solicitor General, Mike Farnworth, has asked the BCCGA to provide a policy paper on how protection of buried facilities and ground disturbance regulations may be incorporated into the modernization of the Act. It is anticipated that the bill to modernize the *Emergency Program Act* will be introduced into the House in the Spring of 2022.

The BCCGA, working with the Alberta Common Ground Alliance, have established damage prevention training standards – *Ground Disturbance 101* and *Ground Disturbance 201*. Ground Disturbance 101 standards are really aimed at creating awareness of buried facilities, whereas Ground Disturbance 201 training standards provide the educational foundation for a person who, with practice and experience, can supervise ground disturbance.

The description of a Ground Disturbance 101 course offered by training company Global Training Centre provides a good overview of the level of understanding people who take the course will obtain;

“This half-day program is designed to ensure personnel are aware of the hazards and necessary items required to ensure safety. Participants are always under the direct guidance of a Ground Disturbance Supervisor with Level II® certification..... Emphasis is placed on recognizing hazards, and knowing when to stop work and inform the supervisor for further assessment.”

As the practice of land surveying can result in ground disturbance, it is suggested that fulsome knowledge of best practices for ground disturbance are of considerable value to land surveyors. These practices, articulated in BCCGA Ground Disturbance 201 standards, follow.

Best practices to Ground Disturbance identifies six discrete steps:

1. Creating a corporate **Code of Practice** and establishing/creating a **Ground Disturbance Supervisor**.
2. Preplanning and researching for information that shows buried facilities in the area to be disturbed.
3. Notification of the intent to disturb the ground to all parties who have, or are likely to have, buried facilities in the subject area.
4. Actually locating and marking the location of buried facilities on the surface of the ground in the area to be disturbed.
5. The dig or penetration of the ground.
6. Back filling and restoration of the ground.

Step 1: Establishing a Code of Practice & a Ground Disturbance Supervisor

A company that engages in ground disturbance needs to establish a Ground Disturbance **Code of Practice**. At the very least the act of creating a Code of Practice shows that the company is aware that ground penetration/ground disturbance is a real issue with real potential consequences.

One of the core elements of a Code is the identification of a particular role, that of an appropriately qualified **Ground Disturbance Supervisor**.

The Ground Disturbance Supervisor will be the person responsible to ensure that all elements of the Code of Practice are carried out properly. Further, the Supervisor will be responsible for the supervision of all workers involved in ground disturbance and for any restoration to disturbed ground. The Supervisor must know best ground disturbance practices, including of course, the act of exposing buried facilities.

To quote the Alberta Common Ground Alliance Ground Disturbance 201 Standard, “A *Ground Disturbance Supervisor can be defined as: An employee of or agent for the entity undertaking a ground disturbance who is responsible for overseeing the activities of the workers during a ground disturbance*”.

The Code of Practice identifies responsibilities and accountabilities: who searches for evidence and records of buried facilities including as-built drawings, who notifies buried facility operators of impending ground disturbance, who bears responsibility for obtaining (written) approvals to dig, who supervises locating, who

communicates with all staff involved in a ground disturbance or penetration. The code needs to provide an emergency plan in case a Hit occurs and identify an incident reporting mechanism should a Hit occur. The Ground Disturbance Supervisor would be the person who, based upon the results of their research of a particular location, decides if issuing notifications, seeking approvals to disturb the ground, etc. are reasonably required or not.

Step 2: Pre-planning and research

Pre-planning is determining what ground is to be disturbed and understanding the legal requirements pertaining to ground disturbances in and surrounding that area.

Awareness of regulatory requirements that pertain to ground disturbance is essential. For example, the BC Pipeline Crossing Regulation requires that no person carry out a ground activity within 30 metres of a pipeline without advising BC 1 Call of the intended activity, and the owner of the buried facility issuing approval for the activity⁵.

Although ground disturbance is regulated only around buried oil and gas facilities, WorkSafeBC requires that if you are digging, you must comply with the buried facility owner's ground disturbance requirements. This means that, for example, BC Hydro or a local government might have their own ground disturbance policies and procedures that must be followed.

Simply put, research is the act of finding all the records of buried facilities in the area that will be subject to ground disturbance/penetration and within any buffer areas, as prescribed

by regulation. This is the time to contact BC 1 Call. BC 1 Call will advise all pertinent owners of buried facilities, who have registered with them, of the impending disturbance. These buried facility owners will then contact you to provide as-built records or to arrange for a locate to be performed.

One must bear in mind however that not all owners of buried facilities have registered with BC 1 Call.

Other sources of buried facility information include local utility companies, landowners, municipal governments and ministries and agencies of provincial and federal governments.



It is critical from a safety, liability, and legal perspective that the ground disturber apply an appropriate standard of due diligence in conducting their research.

Step 3: Notification

A ground disturber must notify all buried facility operators within the work area. (If a buried facility operator is registered with BC 1 Call, notification has been made to them when the ground disturber contacted BC 1 Call.) The buried

facility operator is thereby advised of the pending ground disturbance and must be provided with an opportunity to provide a locate of their buried facility. Practice appears to suggest that a notice given 3 days prior to the intended date of ground disturbance/penetration is appropriate.

Notification to buried facility operators of oil and gas lines is a legal requirement. Notification to operators of other types of buried facility is an appropriate standard of due diligence.

Regulation requires that some operators of buried facilities reply to notification, whereas regulations are silent with regard to operators of



other types of buried facilities (i.e., communication conduits, water and sewer lines). If notification is given, but is not responded to, the land surveyor should so document.

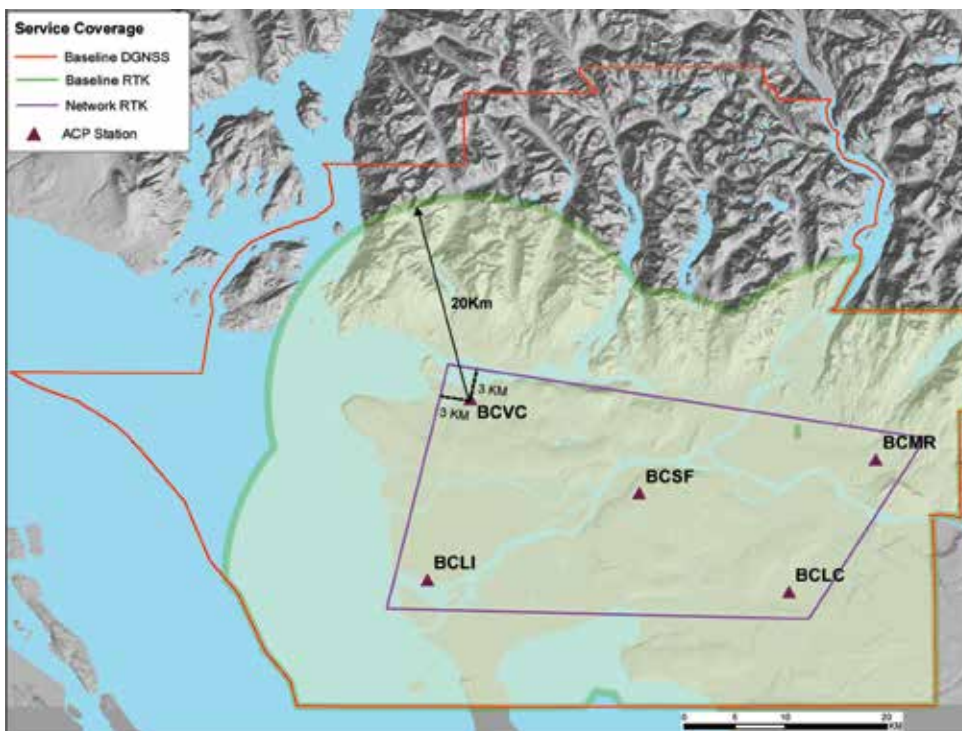
Step 4: Location and Marking

Generally, buried facility operators are responsible to mark the location of their utilities on the ground (often done by a contractor), although it is common practice for ground disturbers to retain their own locator services. This might be done

⁵ See section 76 (1) of the *BC Oil and Gas Activities Act* and section 2 of the *BC Pipeline Crossing Regulation*.

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for expediency, or to mark private facilities.

Ground markings are understood to be good to +/- 1 metre, and no buried facility depth is provided. Generally, buried facilities are marked with paint or markers according to a recognized colour scheme.

Step 5: Ground Disturbance

After all the research, notification and field location of buried facilities has been conducted with an appropriate level of due diligence, ground disturbance can begin.

The Ground Disturbance Supervisor must oversee all ground disturbance/ penetrations.

Ground Disturbance must be conducted in accordance with regulation and industry best practices.

Work crews are briefed on the location of buried facilities and on how exactly the ground is to be disturbed. The company's Code of Practice, buried facility maps, approvals to disturb with specific instructions from the utility owner, and the Emergency Response Plan must all be on site and available to the workers.

The Ground Disturbance Supervisor must know the limits of machine excavation and how to hand expose the buried facilities⁶ (or how to use other tools when in close proximity to expose the facility).

Should excavation result in a nick, scrape, penetration or other damage to a buried facility, this must be reported to the buried facility owner. Even if a Hit appears inconsequential such as a scrape upon the sheathing of a buried facility, such minor damage may over time result in a significant failure of the facility. Hits are recorded and reported using a reporting tool called the Damage Information Reporting Tool (DIRT).

Step 6: Ground Disturbance Completion

Although it is a regulatory requirement for certain types of buried facilities to be inspected prior to backfilling, it is common practice in industry to request that the owners of any buried facility inspect the exposed facility prior to backfilling. The act of obtaining a successful inspection serves to transfer responsibility of the facility back to the utility operator.

The manner in which backfilling is to be done may be articulated in exposure agreements prepared by the utility owner in reply to notification.

What is a land surveyor to do? When one thinks of a ground disturbance, what may come to mind is a major project requiring much excavation such as a building construction site. But the land surveyor must keep in mind that, though the ground disturbance they cause is generally minor, they still face the very real possibility of encountering buried facilities from time to time.

It is suggested that we cannot simply ignore the worker safety and public safety risk buried facilities present nor the potential liability (cost) of driving a post through a buried facility. Nor ought we ignore the risk to the reputation of the land surveyor or the Association of BC Land Surveyors. Like most professional practice of the land surveyor, consideration and action taken (or not taken) in regard to mitigating a potential buried facility Hit is a call that must be made by the land surveyor, at least outside of that required in regulation. Regulation might be considered the minimum requirement, not necessarily resulting in best practices.

Global Training Centre provides a statement in their BCCGA 201 Standards course material that I particularly like: ***Fact** The ground disturber must be able to prove through due diligence that all precautions reasonably necessary were undertaken to determine if an underground facility exists⁷.*

Our individual actions regarding buried facilities must be guided by our ethical obligations. Item 8 of our Code of Ethics:

Consider the protection of the natural environment, and the safety, health and welfare of the public and the workplace.

For further information and training on buried facilities, please see the BC Common Ground Alliance website at <https://commongroundbc.ca>. ❖

6 As a minimum BCCGA standards require hand digging within 60 centimeters of a buried facility, however the hand exposure zone is 3 metres for oil and gas pipelines in accordance with provincial regulation.

Industry practices are to hand expose within 10-metres of a high voltage line, 5 metres of a fiber optic line and 1 metre of other telecommunication lines.

7 Page 94 Global Training Centre Ground Disturbance Level II Ed10-V1.121017

Boundary Resolution when Dealing with Descriptions and Explanatory Plans

By Peter Goodier, BCLS Sr. Practice Advisory Manager
and Gord Gamble, BCLS, CLS

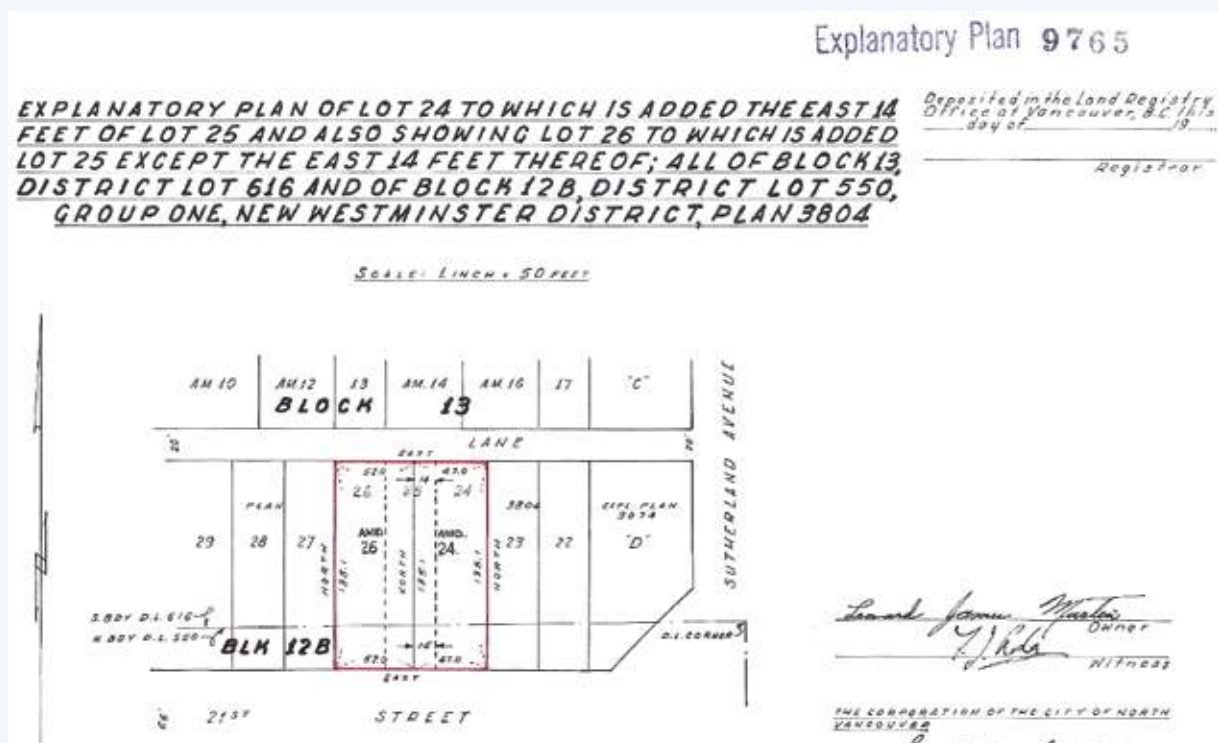
The correct interpretation and application of metes and bounds descriptions and explanatory plans can present a challenge when resolving boundaries. This is a complex topic that defies a “one size fits all” solution or explanation. The intent of this article is to discuss the basic principles to be followed for tackling boundary resolutions involving descriptions and explanatory plans.

In the following examples, the original explanatory plans are colour documents. If the scan of the explanatory plan with which you are working is a black and white document, it can be worthwhile to request a colour image.

Example 1

Let us begin with a fairly basic and common situation. Suppose we have an amended lot. It has been created by adding exactly 14 feet of the adjacent lot to the west as illustrated in figure 1. In this case, the instrument which has amended the lot is an explanatory plan, and the Legal Description is “Amended Lot 24 (Explanatory Plan 9765) Block 13 District Lot 616 Plan 3804”.

FIGURE 1



All and Singular that certain parcel or tract of land and premises situate, lying and being ~~in the Municipality of Richmond, Province of British Columbia and more particularly known and described as the East Half (E. 1/2) of Lot Sixteen (16) Section Nineteen (19), Block Five (5) North Range Four (4) West, according to a map or plan of the said subdivision deposited in the Land Registry Office in the City of New Westminster Province of British Columbia and numbered 72156~~

a portion of Lot 16, plan number 1206 of Section 19, Block Five North Range Four West of the Coast Meridian, Lulu Island, New Westminster District in the Province of British Columbia, more particularly described as commencing at the North East corner of said Lot 16, thence southerly following the Easterly boundary of said Lot 16, nine hundred and twenty-point two feet more or less to the northerly boundary of the Canadian National Railway Right-of-Way, thence north westerly following said boundary of Right-of-Way two hundred and fourteen point three feet, thence northerly and parallel to the eastern boundary of said Lot 16. Nine hundred and thirty-eight point five feet more or less to the northerly boundary of said Lot 16, thence south easterly following said northerly boundary two hundred and twenty-two point two feet more or less to the point of commencement containing four point nineteen acres be the same more or less as outlined in red on the accompanying plan.

No. 147249E Registered in 24
 City of Bon "41" at 147249E
 Block Four, Vol. 147249E
 20, 2000, 2000, 2000, 2000
 10 AM

These types of amendments can also be documented in other ways, such as by metes and bounds description. The legal description for a parcel described by metes and bounds might be "Parcel B (G61661E) Block 34 Plan 2620". The document (G61661E) must be obtained and carefully reviewed to ascertain the extents of Parcel B. Alternatively, a lot may have been amended by language in the certificate of title. For example, a certificate of title might read "The East 50 feet of Lot 1, Block 34, Plan 2620".

In all of these cases, the first step in boundary re-establishment will be to reconstruct the **original parcel fabric of the parent parcels**. Once this is done, the requisite exact amount can

be added or subtracted to the parcel. In the example shown in figure 1, this would mean re-establishing the old Lot 24/25 boundary and then **adding exactly** 4.267m (14') to Lot 24. The 14' is the governing dimension in this case, because it is cited in the Explanatory Plan heading. It is important to emphasize that this exact amount must be added to the original Lot 24.

Working through this example with some hypothetical figures, the steps required to establish the boundary of the described parcel would be as follows:

1. Re-establish the corners of Lots 24 and 25 through standard boundary resolution techniques, utilizing the best evidence available. In

this hypothetical situation, the parent plan (Plan 3804) allocated a width of 33' to these lots. For discussion purposes, suppose that pro-rating was determined to be an appropriate method of resolving the lots in the block, and that the field survey and pro-rating calculation finds Lots 24 and 25 to be 32.9' wide.

2. Add 14' to the width of Lot 24. The width of Amended Lot 24 is $32.9' + 14' = 46.9'$. Note that this is not equivalent to the 47' shown on the explanatory plan image.

In this case it would be incorrect to subject the 14' to the pro-rationing calculation. It would also be incorrect to utilize the 57' and 47' as shown on the Explanatory plan and subject these dimensions to the pro-ration calculation.

Ambiguity in Descriptions

Usually, the explanatory plan or words in a description will be clear and no ambiguity will exist.

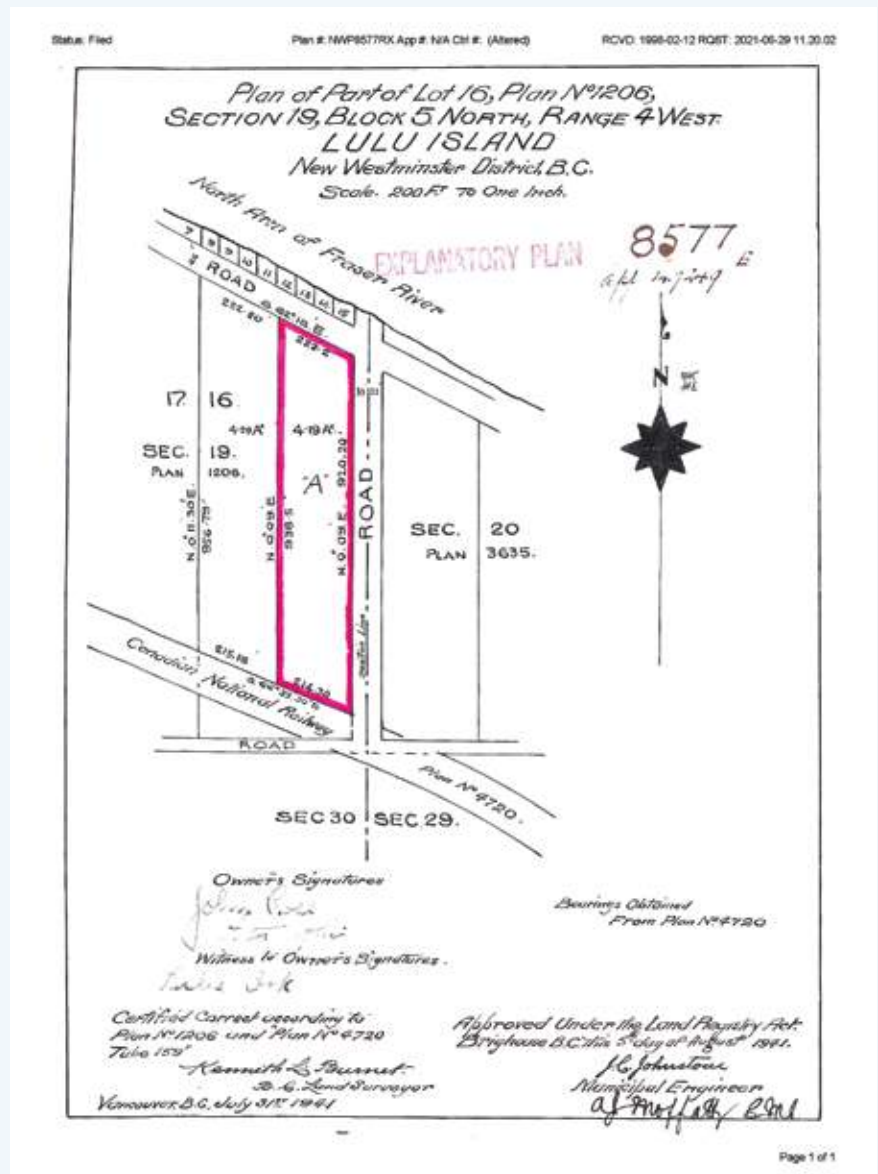
However, in the following example, ambiguity is encountered. The text *Principles of Boundary Law in Canada* (I. de Rijcke, 2016) is recommended reading on this topic, and it cites the importance of the intention of the parties involved when resolving ambiguities in descriptions:

“The general rules in the definition of boundaries where there is an ambiguity, or an inconsistent or uncertain description, are as follows: The intention of the parties (which is the controlling consideration) must be ascertained. The whole description must then be looked at fairly in order to see what are the leading words or descriptions and what is the subordinate matter.” (Kolstee v. Metlin 2002 NSCA 81 at para. 100)

Example 2

In the example shown in figure 2, we have an Explanatory Plan of a parcel for which the legal description is “Parcel A (Explanatory Plan 8577) Lot 16 Section 19 Block 5 North Range 4 West New

FIGURE 2



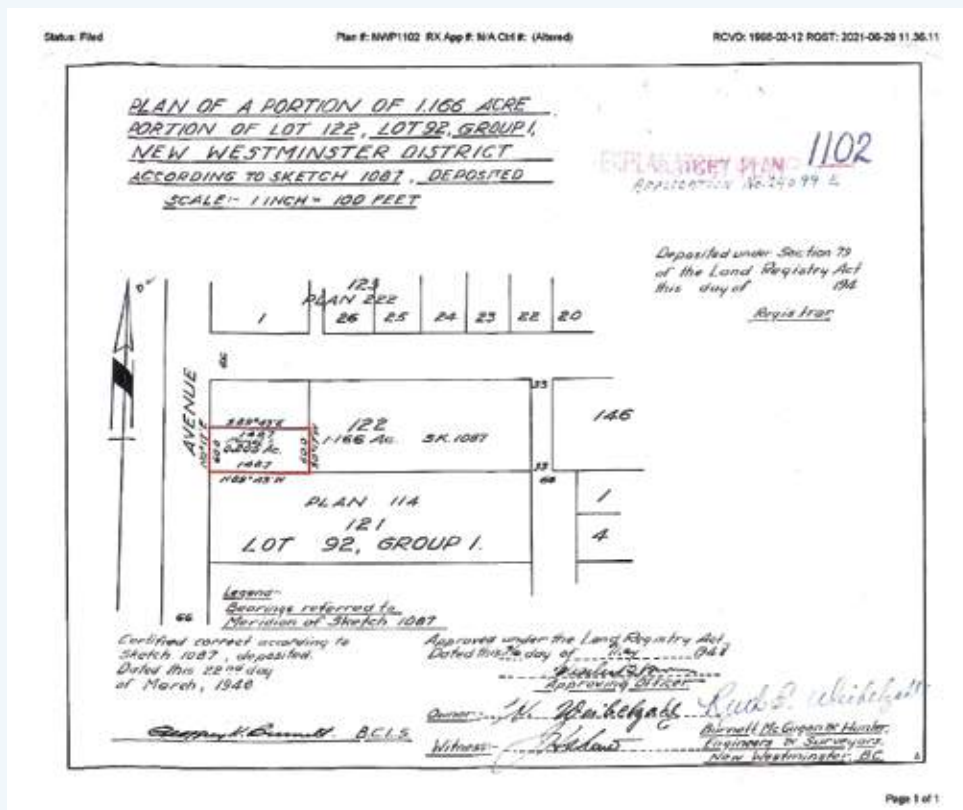
Westminster District Plan 1206”.

Here again, we must first re-establish the existing surveyed boundaries of the parent parcel – that is, the northerly, easterly and southerly boundaries of Lot 16. However, the process for determining the remaining (westerly) boundary of Parcel A is less clear. Do we hold the “call” distances from the

Explanatory plan (222.2' and 214.30')? Or, is it more important to maintain the westerly boundary parallel to the easterly boundary?

In cases where the intention is not clear, further research will be required. In this case a registry agent was able to decipher a reference to document 147249E which appears just under the

FIGURE 3



plan number on the Explanatory Plan. This document is a transfer of title that contains the metes and bounds description of the parcel, a portion of which is copied below: The transfer document describes the parcel as commencing at the NE corner of Lot 16 and proceeds clockwise around the parcel, with the dimension 214.3' exactly along the southerly boundary and holding the westerly boundary of the parcel parallel to the easterly boundary. The description notably uses the phrase "more or less" in describing the distance of the Northern boundary (222.22'), indicating that this is not a controlling distance.

This example provides us with an

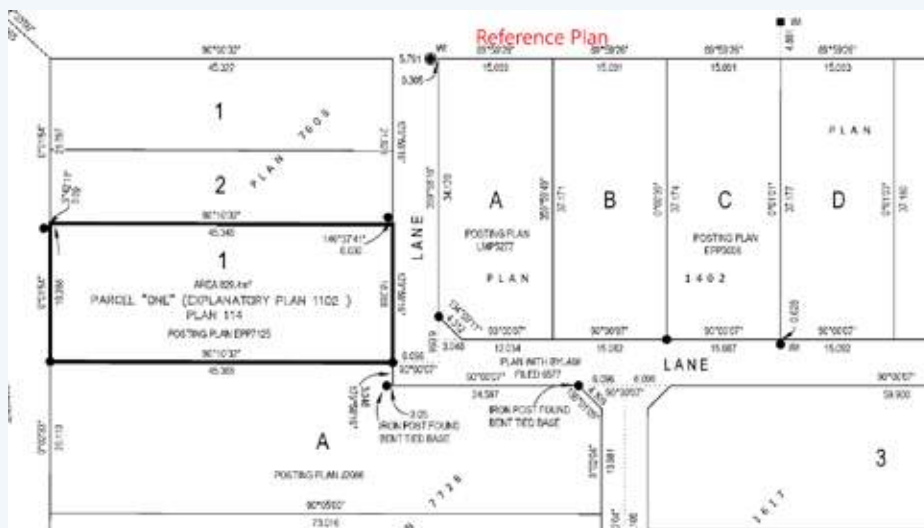
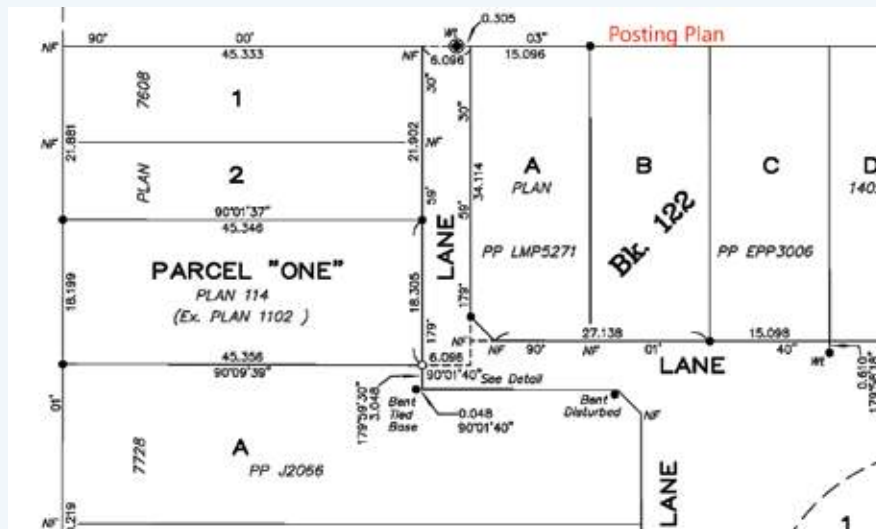
important take away. Where there is ambiguity or uncertainty in the intent, searching for and acquiring the original transfer documents or other documents filed at the time of deposit of the explanatory plan (or the first "creation" of the lot(s) in question) should be standard operating procedure. It was common for metes and bounds descriptions to be accompanied by deposited explanatory plans and transfer documents.

Example 3

The last example will serve to illustrate additional complexities that can arise when dealing with described boundaries. This example represents

an actual situation, with the plan and document numbers changed. Due to the amount of background research, extensive reconstruction of parcel fabric, and the number of plans involved, we cannot provide the granular detail to fully understand the final outcome in this case. However, we hope the more generalized description provided will serve to illustrate the issues.

The parcel under discussion is described as "Parcel "One" (Explanatory Plan 1102) Lot 122 District Lot 92 Group 1 New Westminster District Plan 114". Explanatory Plan 1102 is shown in figure 3.



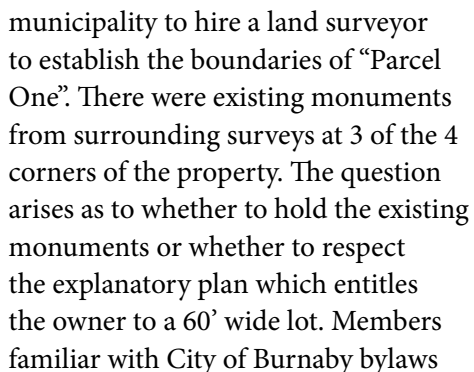
The most important item to notice is that the lot width according to this 1948 Explanatory Plan is 60'. The existing surveyed boundaries in this instance are the north, south, east and west boundaries of Lot 122, Plan 1146. The explanatory plan is clear, and it is notable that there are no dimensions

shown for the “remainder”.

The explanatory plan references document number 24099 E, which is obtained and reviewed. The document is found to be a transfer document, which aligns with the explanatory plan. As we are confident in the manner

in which to interpret the explanatory plan, we proceed.

Over the ensuing years, all of the parcels surrounding “Parcel One” were further subdivided and monumented. The owner, intending to build a duplex on the property, was required by the



The posting plan took the approach of accepting the existing monumentation

From these examples we can understand a few basic principles to keep in mind when dealing with described boundaries:

- the LINK | August 2021 23

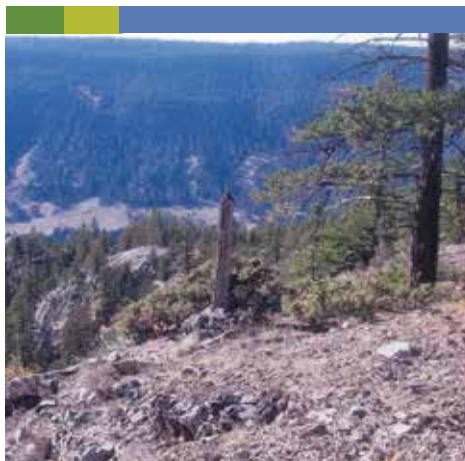
3. Fully research and understand the parameters of the described boundary and how to apply them to your re-establishment. As discussed, this may include researching back to the plan deposit or the first transfer creating title for the new parcel. If ambiguity exists in the description, then ascertaining intent will be important and more research may be required;
4. If complex situations are encountered that require explanation, consider filing a survey letter with your plan to elaborate your methodology.

One final but important note:

Care must be taken when reviewing old 'explanatory plans'. As illustrated by Explanatory Plan 3179 (see figure 6), old explanatory plans occasionally represent surveys that set posts in the ground to define parcel boundaries. If an explanatory plan set posts, then standard boundary resolution techniques should be applied, notwithstanding our modern day understanding of explanatory plans.

We hope these examples will emphasize that resolving described boundaries must be undertaken with ample research, care, and a clear understanding of the intent of the explanatory plan or metes and bounds description.

Questions and comments can be directed to the Practice Advisory Department. ❖



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An original District Lot corner found by BCLS Life Member, Doug Dodge, just east of the Fraser River in 2004.

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Update from the President and Chief Executive Officer of the Land Title and Survey Authority of BC

By Al-Karim Kara

As our business continues to grow and evolve, we have updated the strategic objectives for the Land Title and Survey Authority of BC (LTSA) to accurately reflect our organization's direction. In LTSA's 2021/22 – 2023/24 Business Plan, we outlined four strategic objectives that will guide our work and help us achieve our vision of a real property market that is trusted and transparent:

- Reinvest and strengthen our core systems.
- Continually focus on improving operational excellence.
- Develop additional services in the public interest.
- Continuous investments in our people and capabilities.

Throughout all these objectives runs our dedication to continuous improvement and providing customers with a better overall experience. Our teams are committed to developing a deep understanding of our customers' needs, and collaborating together on innovations that make our systems work better for everyone.

Over the past few years, we've introduced foundational changes to our systems through our Web Filing project, including the transition of most Surveyor General PDF forms to Web Filing forms in 2020. We're now preparing the next phase of system changes which includes the Survey Plan Services Modernization (SPSM) project. This project, to be developed and implemented over the next three years, will reduce inefficiencies, cut down on errors and defects, and deliver a more efficient workflow process for land surveyors and other LTSA customers.

SPSM includes building a platform to streamline the submission of survey plans, currently tracked in a number of different systems and paper or electronic filings. The project will transition existing plan related PDF forms to Web Filing forms, while enhancing the methods in which plans and datasets are completed and filed, both for Land Title and Surveyor General submissions. As a result, land surveyors and other stakeholders will have a single definitive survey plan source for new developments.

In the initial phase, SPSM focuses on the alignment of survey plan submissions in a single place where the electronic plan, related forms and dataset can be managed. The process for submitting survey plans will be complimentary to land survey

workflows, with the ability to create, validate, prepare and submit within the same process.

In later stages of the project, we will introduce productivity enhancements to improve efficiency and data structure. Enhanced data structure for plans and proposed parcels will facilitate more efficient processing in the Land Title Register and ParcelMap BC, as well as provide opportunity for integrations with municipal and provincial governments to further streamline the survey plan process.

Throughout the project, LTSA will be conducting consultations with customers and stakeholders to ensure the project's overall direction and system enhancements incorporate customer needs and feedback. Ongoing improvements will be driven by what we are hearing and observing from the people that use our systems, to ensure the project continues to build on the efficiency, accuracy and reliability of our land title and survey systems.

We know that land surveyors use and rely on our systems every day, and that the integrity of these systems are critical to many aspects of our society and economy including civic governance, taxation and Crown land management. At LTSA we're excited about the possibilities for the future, and appreciate your support and input as we undertake this journey together. ❖



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Timely Manner

By Scott Netherton, BCLS, Chair, Complaint Inquiry Committee

Most of us with grey hair know the Rolling Stones cover song “Time Is On My Side”. For respondents of complaint files involving ‘timely manner’, the Complaint Inquiry Committee (CIC) may conclude: “No, it isn’t”.

During a complaint investigation, one of the questions the CIC often considers is: “Has the respondent acted in a timely manner?” This question may form part of an original complaint but may also arise during the course of an investigation, which further compounds the matter.

What does the term *timely manner* really mean and where does it come from? It seems ambiguous at first glance since what may seem timely to some, can be considered a lengthy delay by others.

The choice of words is intentional as it would be impossible to anticipate every scenario and attach a response timeframe for each one. The CIC often needs to determine if the respondent has acted in a timely manner where specific dates and times have not been provided.

With respect to the Association of BC Land Surveyors, the concept of acting in a timely manner originates from the governing documentation noted below.

Bylaws of the Association of BC Land Surveyors

Bylaw 13 Code of Ethics

Every Member:

- (a) *must, at all times adhere to the Code of Ethics ...*

Code of Ethics

The ideals of ethical professional conduct require that all members shall: ... (5) Only accept a retainer or undertake an assignment if they have the ability, resources and staff to carry out such assignment or is able to obtain same prior to commencement in order to complete in a timely and professional manner.

This part of the Code of Ethics specifically refers to acting in a “timely and professional manner” in the context of an assignment as a whole.

Bylaw 14 Regulations Respecting Professional Conduct

14.1 Services

(b) Members must observe all:

- (i) British Columbia professional land surveying standards;*
- (ii) Survey Rules; and*
- (iii) other rules established by statute governing the conduct of British Columbia Land Surveyors. **

(c) When engaging in the practice of land surveying:

- (i) Members must carry out assignments and professional commitments diligently, skillfully and promptly, and are not excused from doing so by reason only of financial constraint.*

*Subsection (iii) of Bylaw 14.1(b) would include the Land Surveyors Act (RSBC 1996) Chapter 248.

Bylaw 21 - Complaint Inquiry Committee

21.4 Investigation

(h) A Member who is required to produce files, documents and other records, provide information or attend an interview under Part 21.4(g) must comply with the requirement as soon as practicable and, in any event, by the time and date set by the Complaint Inquiry Committee.

Bylaw 21.4(h) applies to the CIC requesting information during the investigation of a complaint.

Land Surveyors Act, (RSBC 1996) Chapter 248

Section 60 Disciplinary Powers...

60 (3) Unprofessional conduct includes, among other things, falsification of documents and the negligent or improper performance of a professional duty.

Section 60(3) of the Act contains a broad definition of unprofessional conduct and contemplates scenarios in which ‘timely manner’ can be included.

With respect to *timely manner*, there are numerous complaint file precedents which can be reviewed by the CIC to determine if the time required was reasonable.

There is also the concept of a reasonable amount of time as applied to the common law standard of the reasonable person. This is defined by the question of how a **reasonable person** would have behaved in circumstances similar to those in which the defendant was presented with at the time of the alleged negligence. In the context

of a determination by the CIC, the approach would ask the question of how a **reasonable land surveyor** would have behaved.

These governing documents, file precedents and the common law standard of the reasonable person, all help to guide the CIC on reaching a consensus for recommendations, which require approval from the ABCLS Board of Management.

Prioritize

“I’ll make the time” can be a typical response to a request, even when facing a multitude of deadlines. Our intention may be to organize or prioritize other tasks to allow time for action but this can become a problem if we do not follow through.

The vast majority of land surveyors respond to requests from clients, fellow professionals and the ABCLS (including the Practice Advisory Department/ Panel and the CIC) in a timely manner. However, a few may choose to ignore requests or delay responding to the point where it becomes unreasonable.

Delays are often the result of a busy workload, urgent client matters, staffing issues and sometimes it can be events that we have no control over. Regardless of the reason, if it becomes clear that your deliverables will not be completed within the agreed timeframe, it is always better to be proactive and notify the affected party in advance.

While there can be circumstances where delays are justified, it is important to consider what a reasonable land surveyor in the same position would do. ❖



Robert atop Mount Gerry Andrews.

Robert William Allen

BCLS #487

ABCLS Life Member Robert Allen, a prolific contributor to the Link Magazine, passed away on May 19, 2021. This issue includes the first of two chapters recounting important events and contributions in Robert’s life.

Chapter 1 – Early life, surveying career, and volunteer activities

An early Christmas present arrived for Nancy and Len Allen on December 23, 1946: the birth of their first child, a son they named Robert William. The local newspaper described the event.

“The long-delayed arrival of R.W. Allen was terminated at 3:50am on December 23rd, 1946 in St. Joseph’s Hospital, Comox.

Robert William is a fine 10-lb. 3 1/2 oz. specimen built along conventional lines of a fisherman and hunter. Taking after his father Leonard, in one respect at least, the new arrival demanded a drink soon after he appeared.

Mother doing fine. The boy’s mother, Nancy, seemed in a very cheerful mood and was receiving visitors with her smile of triumph.”

Robert was an early member of the post-World War II baby boomer generation. Both of his parents served in the war. His mother, Nancy Guthrie, joined the Ordnance Corps of the Army in Esquimalt in March 1942. When the Army wanted to train women in drafting, she applied and was accepted. After training in Toronto, she was transferred back to the Engineer’s Department at Work Point in Victoria where she met her husband-to-be, Len Allen. Leonard enlisted in August 1940 with the Royal Canadian Engineers. After basic training at Victoria, he went to CFB Petawawa to take courses in machine gunnery

and demolition. Then he was stationed in North Vancouver before returning to Victoria, where he met Nancy at a dance. They married on September 8, 1945, less than a month after the war ended, and settled in Courtenay where Len established his own business, Courtenay Stove & Sheet Metal.

In his 2015 BCLS biographical questionnaire Robert explained why he chose land surveying as a career. “I liked the idea of outdoor work combined with the use of higher mathematics.” His mother’s affinity for math was the likely source of Robert’s talent in this subject. Outdoor work was a natural choice for Robert. Siblings, family and friends all recall the importance of the natural world in Robert’s childhood, and how that became a vital part of his adult life.

Robert’s parents had a common bond through their enjoyment of the outdoors. Robert’s great-grandfather, Andrew Slater, was a Land Steward and forester in England and Scotland. His maternal grandfather, Patrick Guthrie,

attended Edinburgh University in Scotland where he studied botany and agriculture. He was also an avid fisherman. In 1908 he came to Canada where he purchased farm land in the Comox valley. The main allure of the area was the fishing opportunities. Robert’s mother learned her love of the natural world from her father. Robert’s father started fishing and hunting around the Victoria area when he was a teenager.

In the early 1950s a parcel of land along the ocean just north of Little River near Comox was subdivided into 50 feet wide (15m) lots, and the Allen family purchased one. The location was close enough that Len could commute to work, but far enough away to have a sense of being in the outdoors. A cabin was constructed, and it became the Allen household’s summer home, a wonderful place with lots of happy memories for Robert and his siblings. One of Robert’s childhood friends, whose family had a cabin on an adjoining lot, recalled the joy of summer vacations there.

From Easter to Thanksgiving the Allen family spent most weekends in an outdoor activity. As Robert and his siblings grew up, their outdoor activities and skills continued to expand. Robert’s sister, Margot writes that Robert and his brother Greg “enjoyed hunting deer and grouse with a bird dog as young boys through their teens.” Their father, Len, taught the boys how to handle a gun and fishing rod properly, and how to safely travel with a small, motorized boat. Salmon, trout, venison and berries, especially blackberry pies, were part of the family fare. From his mother, Robert learned bird identification, one of Robert’s life-long interests. In his BCLS questionnaire and résumé, Robert listed hiking, hunting and fishing as his top three activities. Robert’s lifetime interests were developed and nurtured through his parents, friends, community and the natural world around him.

In 1965 Robert graduated with honours from Grade 13 in Courtenay and enrolled in the surveying program at BCIT beginning that fall, a natural choice. Robert graduated from BCIT in 1967, and received the David H. Burnett Award for the highest marks in the graduating class of the Survey Technology program that year.

During the summer of 1966, after his first year at BCIT, Robert worked for the federal Department of Mines and Technical Surveys resurveying Aboriginal Reserves in Bella Coola, Greenville (north of Terrace), and Burns Lake under the direction of two Dominion Land Surveyors. This project provided Robert with an opportunity to see new areas of British Columbia and to work on some historical surveys. On his résumé,



Robert with Gerry Andrews’ daughters, Mary and Kris atop Mount Gerry Andrews.

among his interests, Robert listed “travel throughout BC, Yukon and western provinces. There are very few cities/towns in BC and the Yukon that I haven’t been to.” He also cited “historical research” as one of his interests.

After graduation, from June 1967 to January 1968, Robert worked for the Department of Highways surveying a location line for a new portion of Highway 4 along Sproat Lake near Port Alberni.

In February 1968 Robert began articling to become a BCLS with Ken Longstaff, whose office was at Fort St. John. For the next four years he worked with Ken on a variety of surveys related to the gas and oil industry in northeastern BC. Since Ken was also an Alberta and Dominion Land Surveyor he could conduct surveys in Alberta and the Northwest and Yukon Territories. Robert got the opportunity to see another part of British Columbia while he was articling with Longstaff. He also accumulated many interesting stories of surveying in cold winter conditions and tramping through the muskeg. In early 1972 Robert completed articling, passed his BCLS exam, and became BCLS #487.

From June to October 1972 Robert worked with surveyor Robert Durling at Powell River covering all aspects of legal and topographical surveys in the Powell River area as well as on the Sunshine Coast. Then the two Roberts formed the partnership of Durling and Allen. They opened an additional office in Sechelt which Robert Allen managed.

The partnership lasted for two years when Robert formed his own

surveying firm, Robert Allen and Company, Professional Land Surveyors in October 1974. He described it as a: “Multi-discipline legal and engineering surveying practice located in Sechelt, B.C. with most work being on the Sunshine Coast and with some mineral claim work done in Northern B.C., West Kootenay, and the Yukon.”

Robert had two surveyors who did their articling with him: Donald (Pat) Walker, BCLS #521, and Lawrence Penonzek, BCLS #614. In 1982 Robert passed his Canada Lands Surveyor’s exam and became CLS #1179. His firm existed for just over 30 years until Robert retired in November 2004.

Throughout his surveying career Robert was involved with the activities of the Association of British Columbia Land Surveyors (ABCLS). On his last résumé he listed his land surveying activities.

- Member of the Lower Mainland BCLS Group since 1972.
- Member of the Canadian Institute of Geomatics since 1978 and now a Life Member.
- Served on and chaired numerous BCLS Committees, some of which are: Survey Post, Subdivision Approval, Metric Conversion, Professional Affairs, Board of Examiners, Continuing Education, 2005 AGM, Professional Qualification, Discipline Inquiry, Complaint Inquiry, External Relations, Land Title and Survey Authority (LTSA) Liaison; and the Chair of the Historical and Biographical Committee.
- Served as a two-year director on the Canadian Council of Land Surveyors and a one-year member representative for British Columbia on the Canadian Council of Land

Surveyors.

- Served on the BCLS Board from 1985 to 1990 (President in 1989).
- Served on the CLS Council from 1988 to 1993 (President in 1992).
- Suggested and implemented the BCLS Pin, BCLS Decal, Past President’s Plaque, and the G.K. Burnett Award.
- Received Certificate of Recognition for commitment and participation in Association affairs in January 2000.
- Received Meritorious Service Award (now G.M. Thomson Award) for “... outstanding service to the Association ...” in February 2003.
- Received Certificate of Recognition for commitment and participation in Association affairs in March 2011.
- Elected as Life Member #65 of the Association of British Columbia Land Surveyors in March 2012.
- Have had numerous articles published in *The Link*, *British Columbia History*, and other Land Surveying magazines in the USA and Australia. [Note – For many years Robert had a surveying puzzle page in the *Link*.]

Robert was a volunteer for many civic organizations.

- Member of the Sunshine Coast Lions Club (Sechelt), 1973 to present. Served in numerous positions on the Executive, including President in 1979 and 2007. [Note – He was also President from 2014 until his death.] Received numerous President’s Appreciation Awards.
- Was President of the Sunshine Coast Lions Housing Society that provides 150 suites of low

income, seniors' and mental health housing. Robert was working with the Society, which is in the process of adding another 104 suites to their complex in Sechelt, at the time of his passing.

- Member of Sunshine Coast Search and Rescue Association since its inception in 1976 and served as a Team Leader, Treasurer, and Bookkeeper. Presented with "Top Pick Award" in 2002 for service and dedication to Search and Rescue.
- Coached minor softball and minor soccer for 7 years.
- Started a senior men's fastball league of 12 teams in the early 1980s, ran the league, and scheduled all games for both the men's league and minor softball for 3 years.
- Served as an Alderman for one term in 1982/1983 including two months of the term as Acting Mayor, after the Mayor resigned.
- Chaired the Sechelt Library Board

from 1993 to 2000.

- Charter member of the Coasters Car Club and recipient of two President's Appreciation Awards.
- Served on the District of Sechelt Board of Variance for 12 years.
- Served eleven years (seven as Chair) on the Sunshine Coast Property Assessment Review Panel.
- Active member of the Sunshine Coast Natural History Society.
- Active member of the Highland Valley Outdoor Association in Logan Lake.
- Co-organizer of two different hiking groups on the Sunshine Coast.

The Sunshine Coast Lion's Club notes that Robert received the Melvin Jones award, the Lions "highest form of recognition and embodies humanitarian ideas consistent with the nature and purpose of Lionism."

Although he closed his surveying

firm in 2004, Robert remained active in the profession, doing a variety of specialized surveys and contracts. On his 2015 BC Land Surveyor's Biographical Questionnaire he wrote, "I am retired and now doing the things I never had a chance to do while I was working."

Robert worked with the provincial government's toponymist to have an official geographical feature in British Columbia named for Gerry Andrews, the province's longest serving Surveyor-General. A mountain in the Flathead River region was selected, and in 2012 Robert organized a naming ceremony. On a beautiful late-July day, with the wildflowers at their peak, a group of about 15 people hiked to the top of the mountain to celebrate the occasion. A plaque was installed on the peak and Robert surveyed the co-ordinates for the location. ❖

Next Issue - Chapter 2 – Major volunteer projects and family life



Robert receiving an award from the Sunshine Coast Lion's Housing Society.

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BC Land Surveyors Foundation Update

By Bronwyn Denton, BCLS, Trustee

It is with gratitude that I prepare this update for the membership on the activities of the British Columbia Land Surveyors Foundation. With our primary opportunity for fundraising during the in-person AGM eliminated for the second year in a row, the foundation trustees took to the phone lines to connect directly with land surveyors across the province seeking a donation of \$100 per BCLS. See list of donors on back cover.

The phone campaign was successful, raising \$38,699 and exceeding our financial commitments for the year. We appreciate each of you who took our phone calls amidst your hectic days and made personal and corporate donations.

The generosity of our membership allowed us to make a significant impact to our awards program in 2021, creating a new \$40,000 endowment for an added bursary, bringing the total number of awards under our umbrella to eleven. This new bursary has been named the Robert W. Allen Spirit of

Generosity Bursary and \$3,000 will be awarded annually to a BCIT student in 3rd year of the Bachelor of Science Geomatics program who demonstrates financial need. To date, donations totalling \$1,800 have been made in Robert's memory.

A significant donation from the Robertson family in memory of R.G (George) Robertson, BCLS #407 resulted in the naming of the BC Land Surveyors Foundation R.G (George) Robertson Memorial Bursary at BCIT.

So significant was the response to the fundraising effort, we were able to increase the endowments for seven of our awards and increase the total value of all ten existing awards from \$2,500 to \$3,000 per year. You may ask yourself if this is a significant amount for a student, or if the Foundation really needs to have eleven awards presented annually. I can assure you these awards are critical to the students entering our profession, and here are a few words of thanks from four of this year's recipients.

Thanks from this year's recipients

"This award will support me in my second year of studies at BCIT in the Geomatics Engineering Technology Program. It is very encouraging to have this support and acknowledgement while I pursue my educational and career goals."

"This scholarship will help me significantly in my pursuit of an education in Geomatics. By alleviating some of my financial stresses, it will help me to remain focused on my studies and help others to do the same. My greatest pleasure as a student at BCIT is seeing my friends and colleagues succeed as I have."

At this time, I would like to acknowledge the leadership of our Chair, Hans Troelsen and Clerk, Kelly Stofer, and the contributions of fellow trustees Mike Taylor and Godfrey Archbold. Thanks is also extended to Ellen Wilson and Bonnie Kuyvenhoven for their administrative and financial

administration for the Foundation. Finally, on behalf of the entire Foundation, we thank Robert Allen for his years of contributions as Trustee, and for his broader impact on the profession in British Columbia and beyond. ❖



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Strata Property and Air Space Committee

By Emily Freeman, BCLS, Chair, Strata Property and Air Space Committee

In December of last year, the ABCLS Board of Management approved the formation of a new Strata Property and Air Space Committee (SPAC). This ended the long-term tenure of the Strata Property Act Working Group (SPAWG) and, due to overlapping issues and discussions; Part 9 of the Land Title Act was added to the committee's mandate.

As indicated in the SPAC's Terms of Reference, the committee operates under the following mandate:

Consistent with ABCLS strategy to assist members to deal with professional or ethical issues, the Strata Property and Air Space Committee (SPAC) contributes to the development of expert knowledge in land surveying practice for surveys pursuant to the Strata Property Act and Part 9 of the Land Title Act.

All members of the SPAWG transitioned to the SPAC. Members include Brent Taylor, Dave Parkin, Vesselina Stoyneva, Pat Korabek, Gord Gamble, and representatives from the ABCLS Practice Advisory Department including Peter Goodier and Nigel Hemmingway. The SPAC benefits greatly from the dedication and diverse experience of its members. I am incredibly grateful for each member and the valuable contributions they provide.

The committee continues to meet on a monthly basis to discuss any practice matters in regard to strata plans and air space plans. More specifically, as outlined in the Terms of Reference, the SPAC's Duties and Responsibilities are as follows:

1. *Review relevant provisions of the Land Title Act and Strata Property Act and their regulations, the Survey and Plan Rules, ABCLS Plan Checklists, and Professional Reference Manual.*
2. *Provide support to:*
 - (a) *other ABCLS committees;*
 - (b) *the Practice Advisory Department, and;*
 - (c) *members of the ABCLS.*
3. *Monitor any changes in legislation including any resulting from the BC Law Institute's Strata Property Act Reform Project.*
4. *Prepare recommendations to amend the Survey and Plan Rules and Professional Reference Manual as appropriate.*
5. *Prepare reports on matters related to the Strata Property Act and Part 9 of the Land Title Act.*

Approved minutes from each meeting are posted on the ABCLS website (members area), under the Practice Advisory Program area. Similar to the LTSA Liaison Committee, discussion items are given a unique identifier for tracking purposes and an index is available on the website along with the minutes. Some discussion items are ongoing; those items will remain on the meeting agenda for each meeting as a means to monitor and provide updates if need be. If you are unsure of the status of any particular item, or have any questions, please feel free to reach out to myself or another committee member.

So far this year, there have been many items discussed that are of interest to land surveyors. One particular item has come up recently that I would like to

bring attention to. The SPAC was asked if Part 13 – Phased Strata Plans of the Strata Property Act is an acceptable means of subdividing the remainder due to the deposit of an air space plan. As you may be aware, LTSA Practice Bulletin No. 01-16 provides certainty where a subdivision of a remainder due to the deposit of an air space plan may be accepted by the registrar.

Practice Bulletin No. 01-16 is silent on Part 13; however, it explicitly states that a reference plan pursuant to s.100(1)(a) of the Land Title Act will not be permitted on a remainder. If the owner developer elects to not proceed with a future phase, s.235(1)(b) of the Strata Property Act requires a reference plan of the remainder parcel pursuant to s.100(1)(a). This clearly has some implications if a future phase does not proceed, therefore it is important for land surveyors to be aware of this and advise their client accordingly.

There may be more details to come. In the meantime, I encourage you to have a look at the posted minutes for further information. Also, as there are increasingly more complex developments occurring that make use of phasing, whether it is phasing by air space plans or by way of a phased strata plan, I encourage you to also review LTSA Practice Bulletin No. 01-16.

If you have any questions or concerns about any land surveying practice for surveys pursuant to the Strata Property Act and Part 9 of the Land Title Act, please contact a committee member. This helps the committee stay on top of any current issues, identify any areas in need of improvement, and prioritize work. ❖

**IN THE MATTER OF THE
LAND SURVEYORS ACT, R.S.B.C 1996, C. 248, AS AMENDED
PURSUANT TO SECTIONS 60, 61, 62, 63 AND 64 OF THE LAND SURVEYORS ACT, AND THE BYLAWS OF THE
ASSOCIATION OF BRITISH COLUMBIA LAND SURVEYORS**

Re: Richard Fu, British Columbia Land Surveyor

Date & Place of Hearing

March 9, 2021, Sidney, British Columbia

**DECISION OF THE BOARD OF MANAGEMENT
ISSUED APRIL 29, 2021**

1. In this hearing, conducted by video conference, this Panel is asked to consider allegations that Mr. Fu has breached Bylaws 14.1(b) and 14.1(c) of the Association's Bylaws, and whether Mr. Fu's failure to respond to communications from the Practice Advisory Department, in a timely manner or at all, amounts to unprofessional conduct.
2. Mr. Fu does not dispute the allegations or the facts summarized below.

THE 2019 REVIEW

3. As part of a Conditional Plan Review Report issued on July 10, 2019 (the "2019 Review"), the PAD determined that Mr. Fu did not:
 - (a) file Posting Plans EPP85726, EPP86615, and EPP88339 (the "Posting Plans") with the 2-month statutory time limit under Section 68(2) of the *Land Title Act*; and
 - (b) observe applicable surveying standards and rules when preparing Strata Plan EPS5941, being a strata plan of Lot 1, Block E, District Lot 183, Group 1, New Westminster District, Plan EPP67355.
4. Specifically concerning Plan EPS5941, Mr. Fu failed to:
 - (a) set reference markers for posts (Survey and Plan Rule 1-9(1));
 - (b) mark a post cap with *Land Title Act Designations* (Survey and Plan Rule 1-9(4));

- (c) include a bearing derivation statement (Survey and Plan Rule 3-5(2)(a));
- (d) correctly show a UTM accuracy statement (Survey and Plan Rule 3-5(3));
- (e) provide appropriate bearings and distances (Survey and Plan Rule 3-9(1));
- (f) show a bearing tie from ISA monument (Survey and Plan Rule 3-9(4));
- (g) plot the primary parcel designation in a broken font (Survey and Plan Rule 3-12(1));
- (h) correctly dimension strata lot boundaries (Survey and Plan Rule 4-7(1));
- (i) monument a parent parcel corner, (Survey and Plan Rule 7-3(3));
- (j) correctly show the bearing tie from ISA monument V-3575;
- (k) show all bearings and distances between found iron posts;
- (l) show dimensions for strata lot boundaries; or
- (m) indicate the origin of found posts set on Plan H852 (PRM, Chapter 8).
5. On August 9, 2019, Mr. Fu provided the PAD Senior Practice Advisory Manager with an assurance that he would promptly file the three outstanding Posting Plans as well as a declaration correcting errors on EPS5941.
6. On August 26, 2019, Mr. Fu filed Posting Plan EPP88339 - seven months after completing the original survey.
7. On September 19, 2019, the PAD Senior Practice Advisory Manager wrote to Mr. Fu requesting an update with respect to Posting Plans EPP85726 and EPP86615 and Strata Plan EPS5941. Mr. Fu did not respond.

8. On January 20, 2020, the PAD Senior Practice Advisory Manager spoke to Mr. Fu by telephone. In response, Mr. Fu delivered the proposed Strata Plan EPS5941 statutory declaration to the PAD on January 24, 2020.
9. The PAD Senior Practice Advisory Manager provided comments to Mr. Fu the same day and required an update, as well as confirmation of the filing of Posting Plans EPP85726 and EPP86615, no later than January 27, 2020.
10. Mr. Fu filed Posting Plans EPP85726 and EPP86615 on January 27, 2020, late by fifteen and fourteen months, respectively.
11. The EPS5941 declaration was filed on January 30, 2020, but subsequently rejected by the Land Title Office. Mr. Fu failed to notify the PAD of the defect, and the Land Title Office did not accept a final correction of EPS5941 until April 22, 2020, more than nine months after the 2019 Review.

THE 2020 REVIEW

12. As part of a Conditional Plan Review Report issued on April 15, 2020 (the “**2020 Review**”), the Practice Advisory Department determined that Mr. Fu failed to observe applicable surveying standards and rules when preparing Strata Plan EPS6334, being a strata plan of Lot 1, Block 447, District Lot 526, Group 1, New Westminster District, Plan EPP96953.
13. Plan EPS6334 includes several drafting errors, including two dimensioning errors, and fourteen instances in which either the Survey and Plan Rules or the Professional Reference Manual were not followed. Errors in EPS6334 are similar in nature to those found on Plan EPS5941, strongly suggesting a failure on Mr. Fu’s part to learn from the 2019 Review.
14. Mr. Fu ultimately failed to meet deadlines set by the PAD for correction of EPS6334.
15. A statutory declaration correcting outstanding errors identified by the Practice Advisory Department was eventually sworn on May 22, 2020, one week after the

PAD referred the 2020 Review to the Practice Advisory Panel for further action; however, it was not deposited in the Land Title Office until July 3, 2020. Of interest, in a letter to the CIC sent July 23, 2020, Mr. Fu asserted that the declaration was submitted on June 30, 2020, and fully registered on July 16, 2020.

16. Given these facts, this Panel agrees that Mr. Fu has breached Bylaw 14 and engaged in unprofessional conduct. The task now before the Panel is to determine an appropriate disposition of these complaints.

DISPOSITION

17. Mr. Fu has not previously been disciplined by the Board. However, it is troubling to this Panel that he has received conditional plan reviews in six of the last eight years, many of which noted plan errors like those apparent in EPS5941 and EPS6334. Mr. Fu does not appear to be learning from his mistakes.
18. Equally troubling is Mr. Fu’s lack of diligence in responding to queries from the PAD or the CIC, accurately or at all, or Mr. Fu’s failure to address, in a timely fashion, defect notices issued by the Land Title Office. Ensuring the integrity of the profession requires prompt responses to communications from the profession’s regulatory body.
19. In short, Mr. Fu’s practice does not meet an acceptable standard.
20. In correspondence delivered to the PAD and CIC, Mr. Fu insinuates that his difficulties result from an overabundance of work and not enough support. That may be true, but if the public interest suffers, this Panel must act.
21. This Panel considered but ultimately concluded that a suspension would not meaningfully address Mr. Fu’s practice deficiencies. Instead, the Panel believes that a lengthy period of oversight is both prudent and necessary. That said, Mr. Fu is cautioned that a failure to seize the opportunity and make substantial modifications to his practice will likely result in severe, perhaps permanent, restrictions on his ability to practice.

22. In the result, the Panel makes the following orders:

- (a) Mr. Fu will be censured according to Sections 60(1) of the *Land Surveyors Act*.
- (b) Mr. Fu will pay a fine of \$4,000.00, according to Section 60(1)(c) of the *Land Surveyors Act*, to be remitted to the Association within thirty (30) days from the date on which he receives a copy of this decision.
- (c) At his cost, Mr. Fu will complete the following educational programs the next time they are offered anywhere in the province of British Columbia:
 - (i) *Getting it Right BC Fundamentals Workshop; and*
 - (ii) *Getting it Right BC Strata Property Act Workshop.*
- (a) At his cost and as directed by the Practice Advisory Department, Mr. Fu will participate in two (2) plan reviews to be completed by July 1, 2021.
- (b) At his cost, and according to Section 60(1)(d) of the *Land Surveyors Act*, Mr. Fu will participate in a peer review and mentoring program on the following terms:
 - (i) *the peer must be a British Columbia Land Surveyor approved by the Board, and selected by the Association's Secretary in consultation with Mr. Fu;*
 - (ii) *the peer will be authorized to review all aspects of Mr. Fu's practice, including, without limitation, Mr. Fu's records, systems, office procedures, client interactions, and efforts to maintain and protect the cadastre and, to that end, the peer will have the same authority and right of review as the Association's Practice Advisory Department under Bylaw 17.4(a), but without the restriction imposed by Bylaw 17.4(c);*
 - (iii) *on completion of the review, the peer will prepare and submit a report (the "Report") to the Association's Secretary, outlining recommendations, if any, concerning Mr. Fu's practice, with a focus on quality assurance in service of the public interest;*

- (iv) *the peer will review the Report with Mr. Fu and, for six (6) months thereafter, will provide Mr. Fu with advice and guidance necessary to facilitate implementation of any recommendations in the Report; and*
- (v) *the peer will be at liberty to seek further direction from the Board in the event of a dispute concerning the peer mentoring program.*

- (a) Finally, Mr. Fu will pay the costs of this inquiry within thirty (30) days following receipt of a certificate of costs from the Secretary.

23. A copy of this decision will be published on the Association's website, and entries and Gazette publication of the circumstances of this matter, the admissions, and the disposition will be made according to Section 65 of the *Land Surveyors Act*.

Dated at Sidney, British Columbia, this 29th day of April 2021.

**BY THE BOARD OF MANAGEMENT OF THE
ASSOCIATION OF BRITISH COLUMBIA LAND SURVEYORS**

**DAVE RUTHERFORD, BCLS
PRESIDENT**

**IN THE MATTER OF THE
LAND SURVEYORS ACT, R.S.B.C 1996, C. 248, AS AMENDED
PURSUANT TO SECTIONS 60, 61, 62, 63 AND 64 OF THE LAND SURVEYORS ACT, AND THE BYLAWS OF THE
ASSOCIATION OF BRITISH COLUMBIA LAND SURVEYORS**

Re: Liming (Raymond) Yuan, British Columbia Land Surveyor

Date & Place of Hearing

March 9, 2021, Sidney, British Columbia

**DECISION OF THE BOARD OF MANAGEMENT
ISSUED APRIL 29, 2021**

1. The Complaint Inquiry Committee brings this matter to the Panel following a referral from the Practice Advisory Panel.
 2. Mr. Yuan, British Columbia Land Surveyor, received three conditional plan review reports, issued on January 14, 2020, July 8, 2020, and July 14, 2020 (the “**Plan Reviews**”), each relating to a different strata plan.
 3. The CIC asserts, and Mr. Yuan admits, that in preparing Strata Plans EPS6516, EPS6526, and EPS6535 (the “**Strata Plans**”), he
 - (a) misidentified limited common property;
 - (b) included inconsistent or incorrect statements, measurements, and dimensions;
 - (c) failed to recognize significant, material omissions from the legend;
 - (d) failed to comply with Survey and Plan Rule 3-1(2);
 - (e) failed to identify buildings in the manner required under Survey and Plan Rule 7-6(2);
 - (f) and failed to identify the areas of each part of a strata lot according to Strata Property Regulation 14.4(1)(e).
 4. Mr. Yuan acknowledges that these Strata Plan errors constitute a breach of Bylaw 14.1(b) and 14.1(c).
 5. Of concern to this Panel is the fact that in 2017, 2018, 2019, and 2020, Mr. Yuan received conditional practice reviews in which the Practice Advisory Department identified significant and repetitive issues in Mr. Yuan’s practice, resulting in plan errors similar if not identical to those found in the Strata Plans. The 2019 practice review was the subject of a disciplinary hearing (<https://abcls.ca/wp-content/uploads/2020/01/R-Yuan-Decision-20-01-14.pdf>).
 6. Even though the Strata Plan errors were corrected by way of declarations filed in the Land Title Office in August 2020, the CIC says, and Mr. Yuan accepts, that the frequency with which these errors manifest in the face of previous disciplinary and remedial steps amounts to unprofessional conduct.
- DISPOSITION**
7. The Panel expresses concern with respect to Mr. Yuan’s practice but acknowledges that he has been cooperative with the CIC and the PAD, and earnest in his efforts to improve. In particular, Mr. Yuan has completed two “Getting it Right” educational workshops in November and December of 2019, and a third in July 2020. He has also hired a retired land surveyor and an additional technician to assist in plan checks. He is actively seeking to employ an additional British Columbia Land Surveyor to help with workloads and quality control.
 8. For that reason and despite the previous disciplinary matter, this Panel believes that the public interest is best served, not by a period of suspension, but by ongoing and increased oversight of Mr. Yuan’s practice.
 9. Accordingly, the Panel makes the following orders:
 - (a) Mr. Yuan will be censured according to Sections 60(1) of the *Land Surveyors Act*.

- (b) Mr. Yuan will pay a fine of \$4,000.00, according to Section 60(1)(c) of the *Land Surveyors Act*, to be remitted to the Association within thirty (30) days from the date on which he receives a copy of this decision.
 - (c) At his cost, and according to Section 60(1)(d) of the *Land Surveyors Act*, Mr. Yuan will participate in a peer review and mentoring program on the following terms:
 - (i) *the peer must be a British Columbia Land Surveyor approved by the Board, and selected by the Association's Secretary in consultation with Mr. Yuan;*
 - (ii) *the peer will be authorized to review all aspects of Mr. Yuan's practice, including, without limitation, Mr. Yuan's records, systems, office procedures, client interactions, and efforts to maintain and protect the cadastre and, to that end, the peer will have the same authority and right of review as the Association's Practice Advisory Department under Bylaw 17.4(a), but without the restriction imposed by Bylaw 17.4(c);*
 - (iii) *on completion of the review, the peer will prepare and submit a report (the "Report") to the Association's Secretary, outlining recommendations, if any, concerning Mr. Yuan's practice, with a focus on quality assurance in service of the public interest;*
 - (iv) *the peer will review the Report with Mr. Yuan and, for six (6) months thereafter, will provide Mr. Yuan with advice and guidance necessary to facilitate implementation of any recommendations in the Report; and*
 - (v) *the peer will be at liberty to seek further direction from the Board in the event of a dispute concerning the peer mentoring program.*
 - (a) At his cost, Mr. Yuan must complete the following educational programs the next time they are offered anywhere in the province of British Columbia:
 - (i) *Getting it Right BC Fundamentals Workshop; and*
 - (i) *Getting it Right BC Strata Property Act Workshop.*
 - (a) At his cost, Mr. Yuan must submit to two (2) plan reviews, to be completed by the Practice Advisory Department before July 1, 2021.
 - (b) Finally, Mr. Yuan must pay the costs of this inquiry within thirty (30) days following receipt of a certificate of costs from the Secretary.
10. This Panel cautions Mr. Yuan that further disciplinary action will likely result in a non-trivial suspension from practice.
11. A copy of this decision will be published on the Association's website, and entries and Gazette publication of the circumstances of this matter, the admissions, and the disposition will be made according to Section 65 of the *Land Surveyors Act*.

Dated at Sidney, British Columbia, this 29th day of April 2021.

**BY THE BOARD OF MANAGEMENT OF THE ASSOCIATION
OF BRITISH COLUMBIA LAND SURVEYORS**

**DAVE RUTHERFORD, BCLS
PRESIDENT**

**IN THE MATTER OF THE
LAND SURVEYORS ACT, R.S.B.C 1996, C. 248, AS AMENDED
PURSUANT TO SECTIONS 60, 61, 62, 63 AND 64 OF THE LAND SURVEYORS ACT, AND THE BYLAWS OF THE
ASSOCIATION OF BRITISH COLUMBIA LAND SURVEYORS**

Re: Darrin Connatty, British Columbia Land Surveyor

Date & Place of Hearing

March 9, 2021, Sidney, British Columbia

**DECISION OF THE BOARD OF MANAGEMENT
ISSUED APRIL 29, 2021**

1. Mr. Connatty has practiced as a British Columbia Land Surveyor for almost seventeen years.
2. In a conditional practice review completed on August 20, 2020, the Practice Advisory Department (PAD) identified several errors in Posting Plan EPP102910, prepared on June 3, 2020. Most significantly, Mr. Connatty:
 - (a) included incorrect statements on the plan;
 - (b) failed to identify disturbed monuments; and
 - (c) failed to tie all evidence or otherwise follow the boundary resolution practice prescribed by Board Advisory 2013-1.

Most concerning, field notes with respect to Plan EPP102910 were either incomplete or missing.

3. Posting Plan EPP102910 was superseded by Posting Plan EPP105467. This Panel notes that the PAD identified several errors in a draft of EPP105467; as filed, the PAD believes that EPP105467 is correct.
4. The Complaint Inquiry Committee brings this matter to the Panel following a referral from the Practice Advisory Panel.
5. Mr. Connatty acknowledges that errors in Posting Plan EPP102910 constitute a breach of Bylaws 14.1(b) and 14.1(c). He also agrees that the failure to keep appropriate field notes amounts to unprofessional conduct.

DISPOSITION

6. Mr. Connatty has not previously appeared before the Board on a disciplinary matter. However, he received conditional practice reviews in 2016 and 2017 and a conditional plan review in 2019. In each case, the PAD found plan errors similar to those items described in this matter. This includes chronic failures to follow Board Advisory 2013-1 and to keep adequate field notes (the latter issue was first identified in 2017.)
7. The Panel recognizes that as a sole practitioner, the demands on Mr. Connatty's time and attention differ from what might be expected in a partnership or larger firm. Nonetheless, and despite assertions that he has taken and continues to take steps to address practice deficiencies, this Panel is concerned that Mr. Connatty does not yet meet an acceptable practice standard.
8. The Panel believes that the public interest calls for targeted oversight of Mr. Connatty's practice.
9. Accordingly, the Panel makes the following orders:
 - (a) Mr. Connatty will be censured according to Sections 60(1) of the *Land Surveyors Act*.
 - (b) Mr. Connatty will pay a fine of \$1,500.00, according to Section 60(1)(c) of the *Land Surveyors Act*, to be remitted to the Association within thirty (30) days from the date on which he receives a copy of this decision.

- (c) At his cost, Mr. Connatty must complete the following educational programs the next time they are offered anywhere in the province of British Columbia:
 - (i) *Getting it Right BC Fundamentals Workshop; and*
 - (ii) *Getting it Right BC Boundary Resolution Workshop.*
 - (a) At his cost and as directed by the Practice Advisory Department, Mr. Connatty will participate in up to five (5) plan reviews, to be completed by August 1, 2021.
 - (b) At his cost, and according to Section 60(1) (d) of the *Land Surveyors Act*, Mr. Connatty will participate in a peer review and mentoring program on the following terms:
 - (i) *the peer must be a British Columbia Land Surveyor approved by the Board, and selected by the Association's Secretary in consultation with Mr. Connatty;*
 - (ii) *the peer will be authorized to review all aspects of Mr. Connatty's practice, including, without limitation, Mr. Connatty's records, systems, office procedures, client interactions, and efforts to maintain and protect the cadastre and, to that end, the peer will have the same authority and right of review as the Association's Practice Advisory Department under Bylaw 17.4(a), but without the restriction imposed by Bylaw 17.4(c);*
 - (iii) *on completion of the review, the peer will prepare and submit a report (the "Report") to the Association's Secretary, outlining recommendations, if any, concerning Mr. Connatty's practice, with a focus on quality assurance in service of the public interest;*
 - (iv) *the peer will review the Report with Mr. Connatty and, for six (6) months thereafter, will provide Mr. Connatty with advice and guidance necessary to facilitate implementation of any recommendations in the Report; and*
 - (v) *the peer will be at liberty to seek further direction from the Board in the event of a dispute concerning the peer mentoring program.*
 - (a) Finally, Mr. Connatty must pay the costs of this inquiry within thirty (30) days following receipt of a certificate of costs from the Secretary.
10. A copy of this decision will be published on the Association's website, and entries and Gazette publication of the circumstances of this matter, the admissions, and the disposition will be made according to Section 65 of the *Land Surveyors Act*.

Dated at Sidney, British Columbia, this 29th day of April 2021.

**BY THE BOARD OF MANAGEMENT OF THE ASSOCIATION
OF BRITISH COLUMBIA LAND SURVEYORS**

**DAVE RUTHERFORD, BCLS
PRESIDENT**

New Land Surveyors



Photo (L-R) Martin Harrichhausen, Xunchen Bao, Craig Nakamura.

Xunchen Bao, BCLS# 1037

Xunchen (Chen) was commissioned on June 24, 2021, by Dave Rutherford in Vancouver.

He was born and raised in Jinan, China, earned a Bachelor of Science in Analytical Chemistry from the University of Manitoba, and a Bachelor of Science in Geomatics Engineering from the University of Calgary.

Chen feels that land surveying fits well with his two other favourite subjects: geography and history. His father is a stage designer and drafting paper and scale rulers were Chen's childhood toys.

Chen would like to thank his principals, Martin Harrichhausen, Craig Nakamura, and Shannon Aldridge, as well as Rob Yates, Shauna Goertzen, Brian Brown, BJ Houghton, Jason Walker, Mike Rinsma and Will Oleksuik. He would also like to thank his family for their support and encouragement over the years.

When he is not working, Chen enjoys travelling, visiting museums, playing soccer and biking with his son, Evan.



Photo (L-R) Michael Dusevic, Dave Rutherford.

Michael Dusevic, BCLS# 1036

Michael was commissioned on June 23, 2021, by Dave Rutherford at Queen Elizabeth Park, Vancouver.

He was born in Delta and raised in White Rock. The combination of technical and analytical skills is why Michael chose the profession of land surveying.

Michael has many people he would like to thank: his amazing partner, Macey, for always supporting him and pushing him to be the best version of himself (i.e., go study Mike!), his parents, for providing him with the resources, education, and support to reach this career milestone, his principal, Ivan Ngan for believing in him, instilling confidence, and pushing him out of his comfort zone, and the other land surveyors practising at LNLS - Metro Vancouver Land Surveyors for their mentorship and tutelage.

When Michael is not travelling with Macey and enjoying food and wine, he enjoys a variety of sports including hockey, tennis, snowboarding, wake-surfing, and weightlifting.

New Land Surveyors



Photo (L-R) Alex Dzielski, Marissa Moore.

Alex Dzielski, BCLS# 1035

Alex was commissioned on June 22, 2021, by Marissa Moore in Kamloops.

He was born and raised in Rochester, NY, and chose the profession of land surveying for the challenging work in remote locations.

Alex would like to thank his wife, Hannah, for her support and patience through all his studies.

Prior to pursuing a career in land surveying, Alex won two hockey championships: the first in 2008 with the Kitchener Rangers of the OHL, and the second in 2011 with the Alaska Aces of the ECHL. Alex finished his hockey career in 2016 with the University of Calgary Dino's, where he graduated as an academic All-Canadian with a Geomatic Engineering Degree.

When Alex isn't working, he enjoys, snowboarding, mountain biking and hockey.



Photo (L-R) Dave Rutherford, David Skagen.

David Skagen, BCLS# 1033

Dave was commissioned on June 21, 2021, at Larry Berg Flight Path Park in Richmond by Dave Rutherford.

He was born in Calgary and raised in Medicine Hat and earned an Engineering Technology Diploma from NAIT and a Bachelor of Technology in Geomatics from BCIT. Dave is both an ALS and BCLS.

The history of land surveying is what excited Dave about pursuing it as a career. He also enjoys the variety of work and the fact that everyday can bring new challenges.

Dave would like to thank his wife Lori and their two sons (Nolan and Wesley), his parents, Kyle Beck, ALS, P. Eng, Rich Nixon, ALS, BCLS, P. Eng, and Spencer Kristenson, LST.

When he is not working Dave enjoys hockey, camping, reading, and spending time with his family.



Photo (L-R) Robert Varga, Dave Rutherford.

Robert Varga, BCLS #1038

Robert Varga was commissioned on June 28, 2021, by Dave Rutherford in Burnaby.

He was born in Bratislava, Czechoslovakia and immigrated to Canada in 1990. Robert chose land surveying as a profession because he enjoys the combination of indoor and outdoor work all over the province.

Robert would like to thank Ian Walker (the best master ever) and his wife Monika for her unwavering support. When he is not working, Robert enjoys literature, sports and exploring the great Canadian outdoors.

New Land Surveyors



Photo (L-R) Alex Dzielski and James Thomas worked together from 2017-2020 and have been studying together all along. It was a team effort!

James Thomas, BCLS #1034

James was commissioned in Kamloops on June 22, 2021, by Marissa Moore.

He was born and raised in Fredericton, New Brunswick. In school, James excelled in math and enjoyed problem solving. As such, he gravitated toward an engineering-related education, especially one that would allow him to do more than sit at a desk. Like many land surveyors, he found learning new technology, travelling, and working outdoors to be the most rewarding aspects of his career path.

James articulated under Geoff Hobbs, to whom he would like to offer his sincerest gratitude for many years of mentorship and guidance. James would also like to extend special thanks to Jen Ashton, Parker Minard, Jacob Wall, Aaron Creamer, Dave Kaczowka, Corey Doherty, Alex Dzielski and his partner Rachel Howard for their endless support, advice, and encouragement.

In his spare time, he enjoys skiing, camping, woodworking, and any kind of DIY project.



Photo (L-R) Dave Rutherford, Colin Vanderwoerd

Colin Vanderwoerd, BCLS# 1032

Colin was commissioned on May 5, 2021, by Dave Rutherford in Vancouver.

He was born in Guelph, Ontario and grew up in both Iowa and Southwestern Ontario.

Knowing he did not want to be an accountant; land surveying seemed a great career option. Offering a great variety of work: indoor, outdoor, numbers, history, technology, and many industries were all very appealing.

Colin would like to thank Evgeny Petushkov for hiring him at the start of a global pandemic, the partners at Van Harten Surveying (Ontario) for teaching him so much about surveying and business, and his fiancée Jordie for trying to explain to people what he does.

When he is not working, Colin enjoys getting outside any way he can and exploring new places.

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