

ROLE OF A CANADA LANDS SURVEYOR / LAND SURVEYOR

1. ROLE OF A CANADA LANDS SURVEYOR (CLS) FOR A LAND/CADASTRAL SURVEY

“No development will take place without having a spatial dimension, and no development will happen without the footprint of surveyors—the land information professionals.”¹

There are 4 main components² of a survey project for which a surveyor is responsible:

- [Project initiation, Preliminary planning and Research](#): discussions with the client, researching land interests, estimating the project costs, etc.
- [Fieldwork](#): locating survey evidence, placing survey monuments, taking measurements, etc.
- [Plan preparation and office work](#): research, drafting plans, calculations, quality control
- [Approvals and Finalization of a Survey Plan](#): the discussions, review and approval of the survey plans and reports, and the recording of these documents in the Canada Lands Survey Records (CLSR)



“The survey plan must be a memorial of the entire effort, an accurate reflection of the evidence which was uncovered, weighted and/or rejected, in the fact matrix which forms the opinion on the location of the boundary, akin to reasons for a judicial decision”³

2. RESPONSIBILITIES OF A LAND SURVEYOR

a. Client vs. Public

Although one property owner may hire the land surveyor to determine the location of the property line between one or more adjoining property owners, the land surveyor **cannot** favour their client. “Land surveyors are public officers. They do not represent a single client in establishing client’s boundaries but rather they represent society at large.”⁴ A land surveyor is to be impartial when carrying out their duties and will formulate an opinion through evaluating the evidence to determine the extent of a parcel, rather than basing it on who their client is.

¹ Professional Surveyors Canada <https://www.psc-gpc.ca/a-career-as-a-professional-surveyor/surveyors-and-what-we-do/>

² For a further analysis of these components and their affects on the cost of a survey, refer to: <https://www.acls-aatc.ca/aboriginal-expertise/surveys-on-Indigenous-Lands-Toolkit/>

³ Surveys: “They Work Great if you Know How to Use Them” presentation by Geoffrey Connolly, QC, P. Eng. and Serge Bernard, P. Eng, PEILS

⁴ Association of Prince Edward Island Land Surveyors <http://www.apeils.ca/>

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A land surveyor will use/apply the principles, processes and requirements set out in current applicable legislation, but also applicable common law cases in relation to establishing, defining or retracing, etc. boundaries. “Decisions made in the field may be examined in court at a later date, and the surveyor may be required to appear and explain or justify those decisions.”⁵

Therefore, a land surveyor has to be trained in and be knowledgeable in past and current legislation (as previous boundaries may have been surveyed under past legislation, while current boundaries are to be surveyed under current legislation), and case law (for example there is case law that sets out the hierarchy of survey evidence).

“Boundaries are created through the legal action of an owner, by operation of law (whether under statute or a common law) or by the order of the court; not by surveys or plans of survey.”⁶

If there is a disagreement on the location of the boundary that cannot be resolved to a property owner’s satisfaction, the courts can determine the boundary.

b. Determining Ownership of Land

A land surveyor **cannot** confirm, who owns or has an interest in a property. A land surveyor **can** conduct research to determine the chain of ownership, however the ownership in land is based on a legal interpretation or ruling. A lawyer prepares title transfer documents and conducts research regarding the previous ownership and any liens or charges registered against the land.



“Lawyers have a multi-faceted practice including real estate law, while land surveyors have a multi-faceted practice in spatial measurement and boundary law enabling us to realize this segment of a lawyer’s practice to the land. Together we can continue to enhance each other’s works by combining this expertise to the benefit of the greater public.”⁷

c. Code of Ethics for a Canada Lands Surveyor

The surveyor’s responsibilities to the public go beyond providing survey services. The surveyor is also required to comply with a code of ethics as well as standards of practice, which are in place to protect the public and help a surveyor act in the best interests of the public.

⁵ ACLS Practice Manual, June 2015

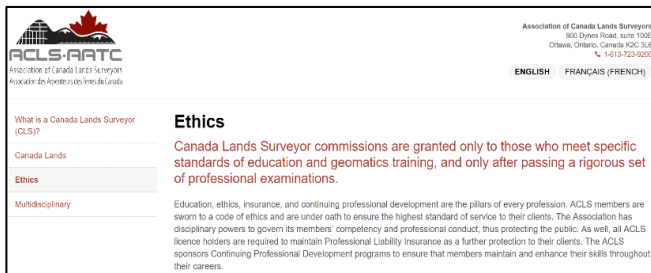
⁶ De Rijke, I. *Principles of Boundary Law in Canada*, Four Point Learning, Ontario, 2016, p. 35

⁷ Surveys: “They Work Great if you Know How to Use Them” presentation by Geoffrey Connolly, QC, P. Eng. and Serge Bernard, P. Eng, PEILS

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A brief summary of the responsibilities under the code of ethics for an Association of Canada Lands Surveyor (ACLS) member include:

- Members shall serve the public to the best of their knowledge and ability and with accuracy and efficiency for the development and peaceful enjoyment of Canada's lands and natural resources.
- Members shall be vigilant upholders of the law relating to their profession
- Members shall avoid any appearance of professional impropriety
- Members shall be honest and trustworthy
- Members shall charge and accept only fair and reasonable compensation for their services
- Members shall maintain their competence, integrity and respect for their profession in their relations with colleagues, clients, employers or employees and the public ⁸



A Canada Lands Surveyor licence and/or a Provincial Licence are only granted to those who meet specific standards of education and geomatics training, and only after passing a rigorous set of professional examinations. Education, ethics, insurance, and continuing professional development are the pillars of every profession. ACLS members are sworn to a code of ethics and are under oath to ensure the highest standard of service to their clients.

For additional information, visit: <https://www.acls-aatc.ca/public-home/public-protection/>

d. *Liability and Complaints for a Canada Lands Surveyor*

When a CLS **certifies** a plan or document, as per Section 38 of the Canada Lands Surveyors Regulations, the CLS is taking responsibility that “if the survey and all associated work, documents and drawings to which the statement applies:

- (a) were made by or under the direct supervision of that member;
- (b) were made in accordance with the instructions, requirements and standards applicable to the purposes for which they were made;
- (c) were made in accordance with the instructions of the client; and
- (d) are correct and true to the best of the member's knowledge and belief” ⁹

Dissimilar to some other professions, a land surveyor is liable for their work in perpetuity, even once their business ceases to exist.

The ACLS has disciplinary powers to govern its members' competency and professional conduct, thus protecting the public. As well, all ACLS licence holders are required to maintain Professional Liability Insurance as a further protection to their clients.

⁸ Canada Lands Surveyors Regulations, (SOR/99-142), 1999

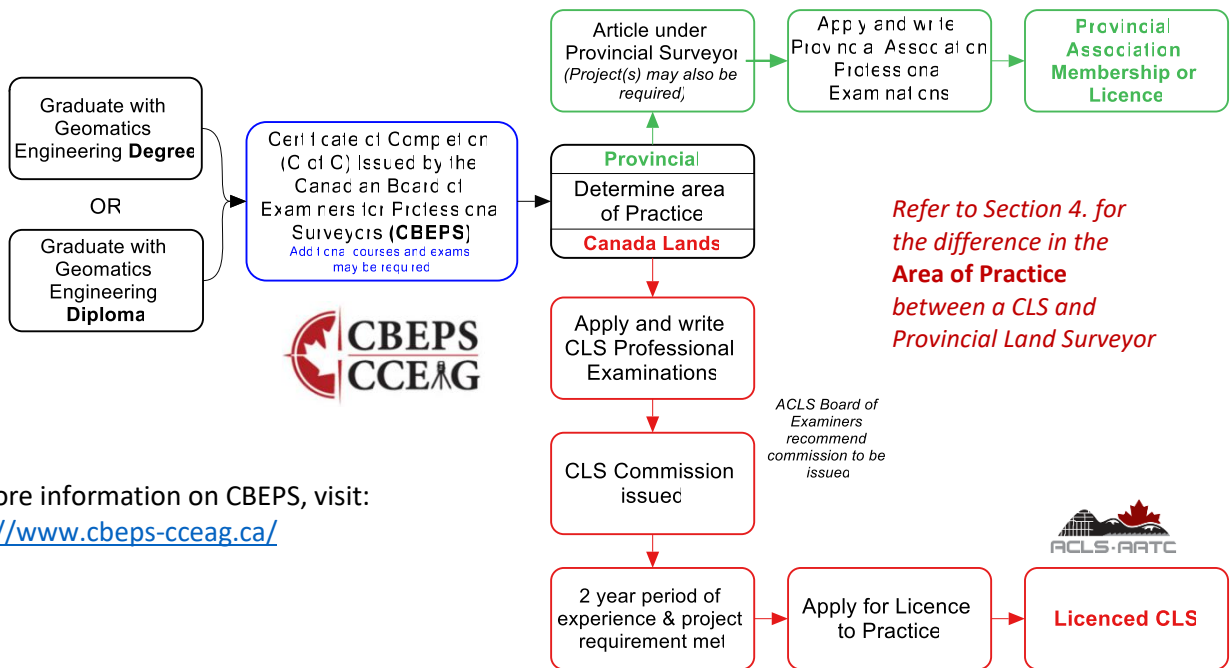
⁹ Canada Lands Surveyors Regulations, (SOR/99-142), 1999

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Most difficulties arising in client/surveyor relationships are the result of miscommunication. Depending on individual circumstances, a simple matter may be resolved within thirty days. Typically, in such a situation, the Registrar, or someone else agreeable to both parties, will act as a mediator.

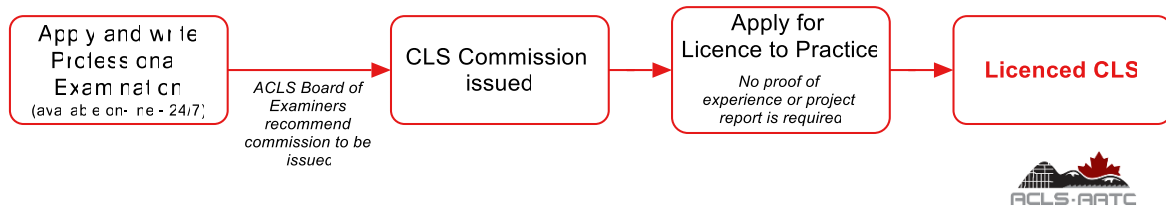
3. HOW TO BECOME A CANADA LANDS SURVEYOR / PROVINCIAL LAND SURVEYOR?

A land surveyor is a **professional** in their field of study (similar to a lawyer, engineer, etc.). To become a land surveyor in any Province or Region, formal post-secondary education in the field of surveying/geomatics, writing professional exams and practical experience is required.



For more information on CBEPS, visit:
<https://www.cbeps-cceag.ca/>

If you are a licenced¹⁰ land surveyor in a Province and want to become a Canada Lands Surveyor (CLS), the path is simplified:



¹⁰ The term "licence" may not be used or referenced by each Provincial Survey Association, other terminology may be used, such as commissioned, authorized, practising, etc.

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4. HOW DOES A CANADA LANDS SURVEYOR DIFFER FROM A PROVINCIAL LAND SURVEYOR?

Canada Lands Surveyors (CLS) are the only surveyors licensed to perform **cadastral** surveys on **Canada Lands**. Whereas, Provincial Land Surveyors are “licenced”¹¹ to perform **cadastral** surveys within a Province. A land surveyor is not able to practice land surveying in a jurisdiction that they are not licenced or authorized to practice in.

“Cadastral surveying is the branch of surveying that encompasses all activities related [to] establishing and defining the extent of a legal interest in land. These activities are also referred to as boundary or legal surveying.”¹²

A **cadastral** survey (boundary or legal survey) is different from a construction, topographic, engineering, etc. type of survey, as cadastral surveys define boundaries and these other types of surveys **DO NOT**.

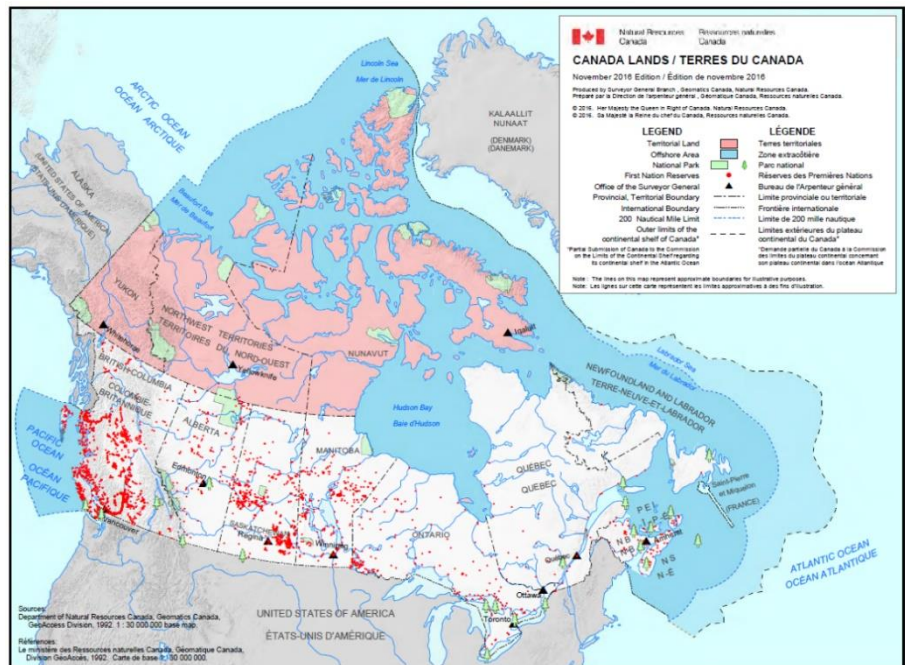
Canada Lands are defined in the [Canada Lands Surveys Act \(CLS Act\)](#) as:

any lands belonging to Her Majesty in right of Canada or of which the Government of Canada has power to dispose that are situated in Yukon, the Northwest Territories or Nunavut and any lands that are;

(i) surrendered lands or a reserve, as those expressions are defined in the [Indian Act](#), other than reserve lands described in regulations made under section 4.1 of the [First Nations Commercial and Industrial Development Act](#),

(ii) *Category IA-N land*, as defined in subsection 2(1) of the [Naskapi and the Cree-Naskapi Commission Act](#),

(ii.1) *Category IA land*, as defined in subsection 2(2) of the [Cree Nation of Eeyou Istchee Governance Agreement Act](#),



¹¹ The term “licence” may not be used or referenced by each Provincial Survey Association, other terminology may be used, such as commissioned, authorized, practising, etc.

¹² “What is a Canada Lands Surveyor (CLS)?” <https://www.acls-aatc.ca/what-is-a-canada-lands-surveyor-cls/>, 2018

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- (iii) Sechelt lands, as defined in the [Sechelt Indian Band Self-Government Act](#), chapter 27 of the Statutes of Canada, 1986,
- (iv) settlement land, as defined in the [Yukon First Nations Self-Government Act](#), and lands in which an interest is transferred or recognized under section 21 of that Act,
- (v) lands in the Kanesatake Mohawk interim land base, as defined in the [Kanesatake Interim Land Base Governance Act](#), other than the lands known as Doncaster Reserve No. 17, or
- (vi) Tliche lands, as defined in section 2 of the [Mackenzie Valley Resource Management Act](#); and <https://www.nrcan.gc.ca/earth-sciences/geomatics/canada-lands-surveys/11090>
- (a.1) any lands belonging to Her Majesty in right of Canada or of which the Government of Canada has power to dispose that are situated in any National Park of Canada or in the Rouge National Urban Park established by the [Rouge National Urban Park Act](#); and
- (b) any lands under water belonging to Her Majesty in right of Canada or in respect of any rights in which the Government of Canada has power to dispose.



For additional information, visit:

<https://www.acls-aatc.ca/>
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