

PROTECT YOUR BOUNDARIES.ca

Understand Land™ Seminar Series for Real Estate Professionals
Seminar # 4

“The Realtor’s Guide to Boundary Disputes”

Chris Kamarianakis Executive Director, Protect Your Boundaries Inc.

Today's Program

- ✓ What is a boundary dispute?
- ✓ Why do they happen?
- ✓ Why do you care?
- ✓ Anatomy of a boundary dispute.
- ✓ Remedies and costs.
- ✓ Best advice.
- ✓ How to avoid.



What is a Boundary Dispute?



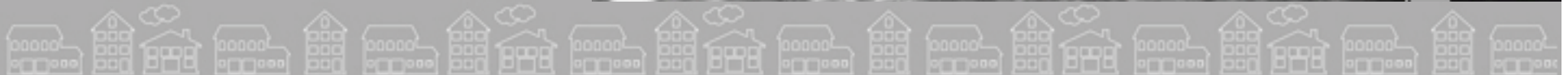
Boundary Dispute

“A disagreement between neighbours over their rights and duties with respect to adjacent, or nearby, real property.”

They can range in severity from being mildly annoyed with a neighbour to full-blown legal proceedings and trial action.



Why do
boundary
disputes
happen?



The Root Cause?

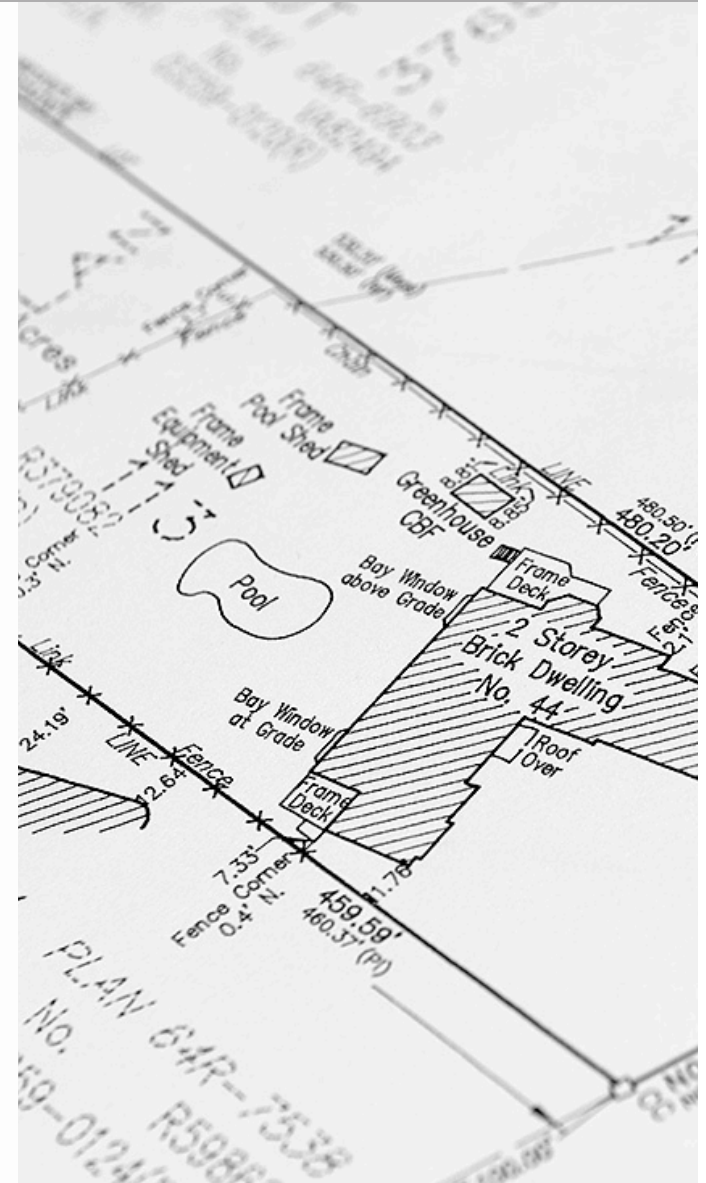
- Disagreement between two parties over the location of the boundary they share.

OR

- Disagreement as to their right and duties relative to the boundary.

How does it happen?

- You've built the fence on my side of the line!
- Your deck/driveway/pathway/patio is on my property!
- You're not respecting the right-of-way easement!
- You just cut down my hedge/tree/prize roses!
- Stop using my driveway to get to your back yard!
- The addition you just built is on my property!
- You just closed the laneway with your fence!
- Your new roof's eaves are overhanging on my property!



Why do I care?

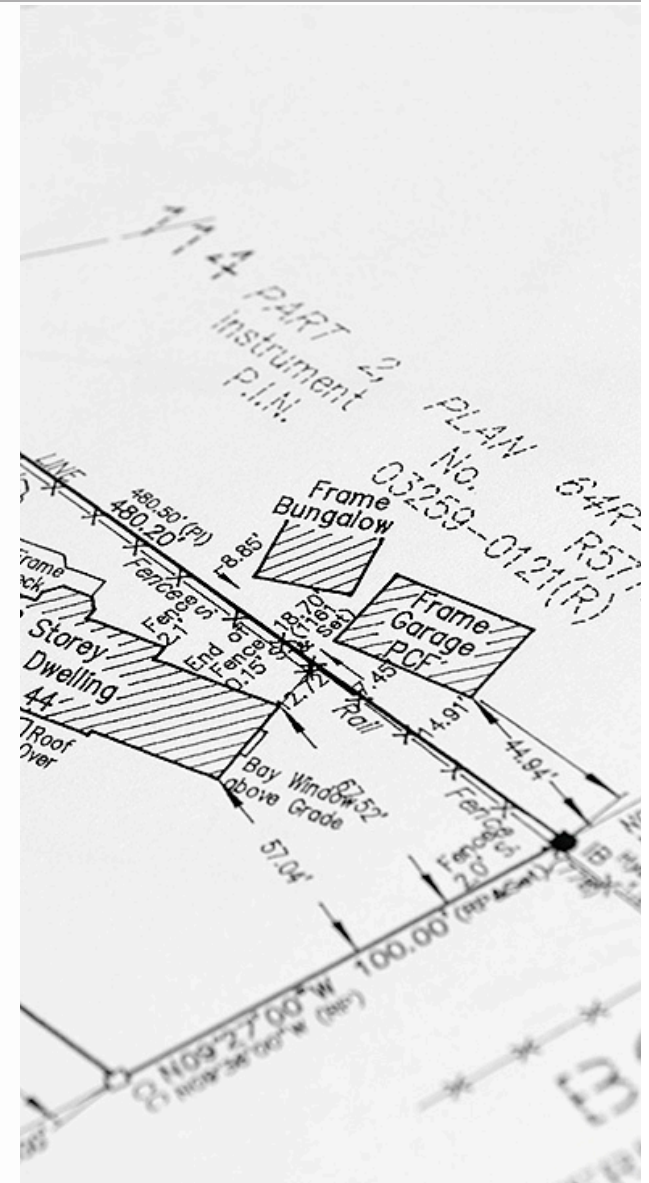


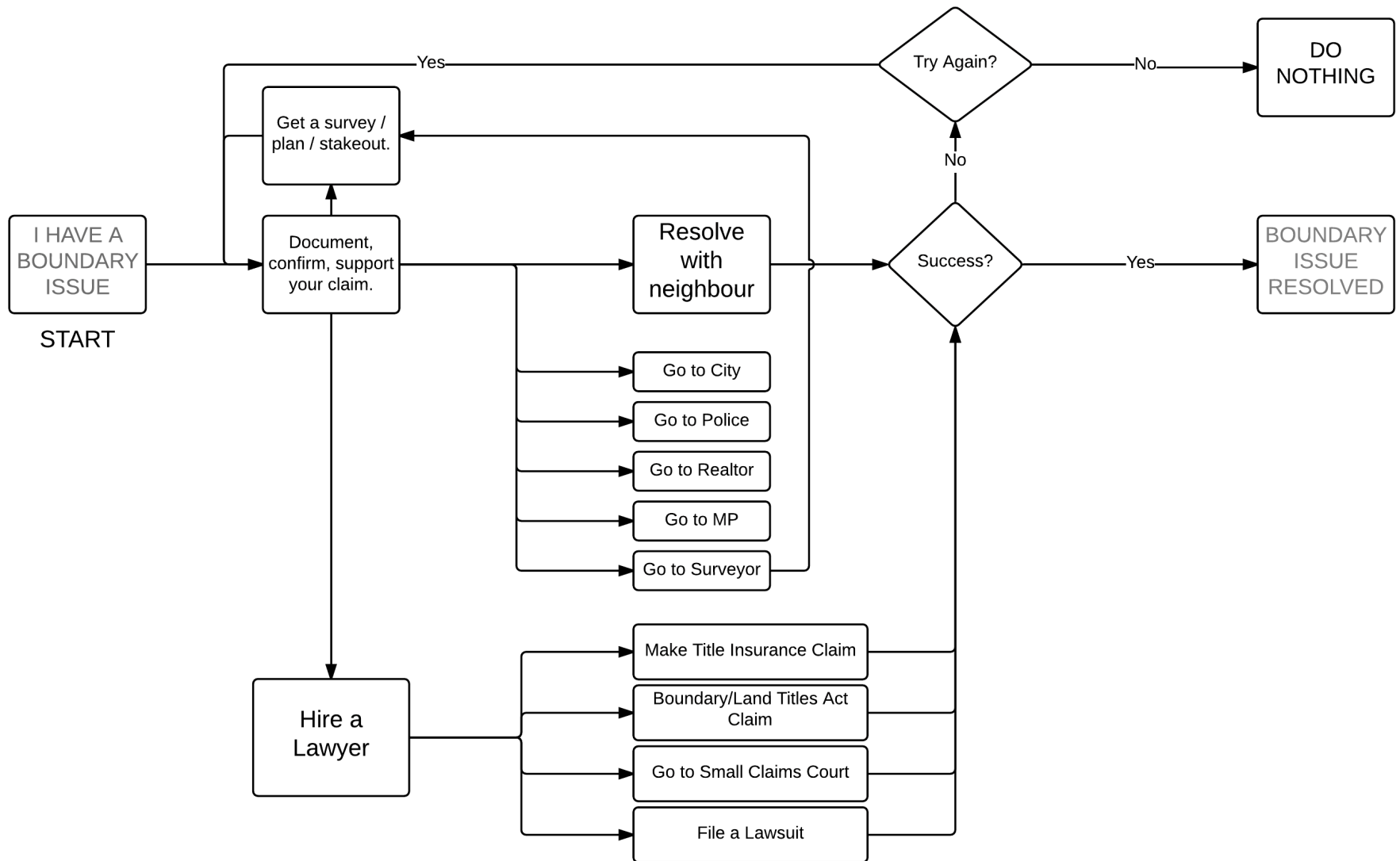
Cause and Effect

- ✓ 49% of properties in the GTA have hidden boundary issues.
- ✓ The #1 trigger for boundary disputes flaring is the sale of a property (or a neighbouring property).
- ✓ You're in the hot seat: High expectations of care and diligence of their Realtor by buyers and sellers.

Result: You get asked for advice and often get dragged in.

- All-time high in title insurance claims.
- Realtors are targets in TI efforts to recoup cost.





Remedies and Costs



Boundary Dispute

STRATEGY

TACTIC

COST | TIME

Negotiated Resolution	Figure it out together	\$0 Days	
	Hire a surveyor / get a survey	\$300 - \$2,000 30 days	
	Title Insurance Claim		\$0 - \$10,000 6 mths – 3 yrs
	Land Titles / Boundaries Act		\$15,000 6 months
Legal Proceedings & Court	Boundaries Act Hearing	\$15,000 6 months	
	Small Claims Court	\$75 - \$2,500 3 months	
	Lawyer Consult and Letter	\$2,000 - \$5,000 2 weeks	
	Lawsuit	\$20,000 - \$1M Up to 10 yrs	



Summary of Costs Awarded in Ontario boundary decisions

Tiny (township) v. Battaglia

1500 ft strip of beach. Application: \$55,000. Court of Appeal: \$18,000

Lackner v. Hall

Strip of beach. Trial: \$150,619. Court of Appeal: \$14,000

Meaford (municipality) v. Grist

Length of road. Trial: \$617,072. Court of Appeal: \$72,000

Maclsaac v. Salo

Right of way around rocky outcrop. Motion: (not reported). Appeal: \$15,000

Lima v. Sarrouh

Boundary between two homes. Costs awarded: \$35,000

Reiner v. Truxa

1ft strip of land between urban homes. Costs awarded: \$25,000



How the cost of lawsuits escalate

1. Boundaries Act application
2. Followed by an application under the Land Titles Act
3. The decision of the Deputy Director of Titles was appealed to the Superior Court of Justice by way of a new trial.
4. Trial judge heard the new trial. Decision was appealed further to the Court of Appeal for Ontario.
5. Court of Appeal refused to exercise its power and chose not to render a decision. Ordered a new trial.
6. New trial took 14 days.

Costs outweighed the value of the land by over 10x



Best advice



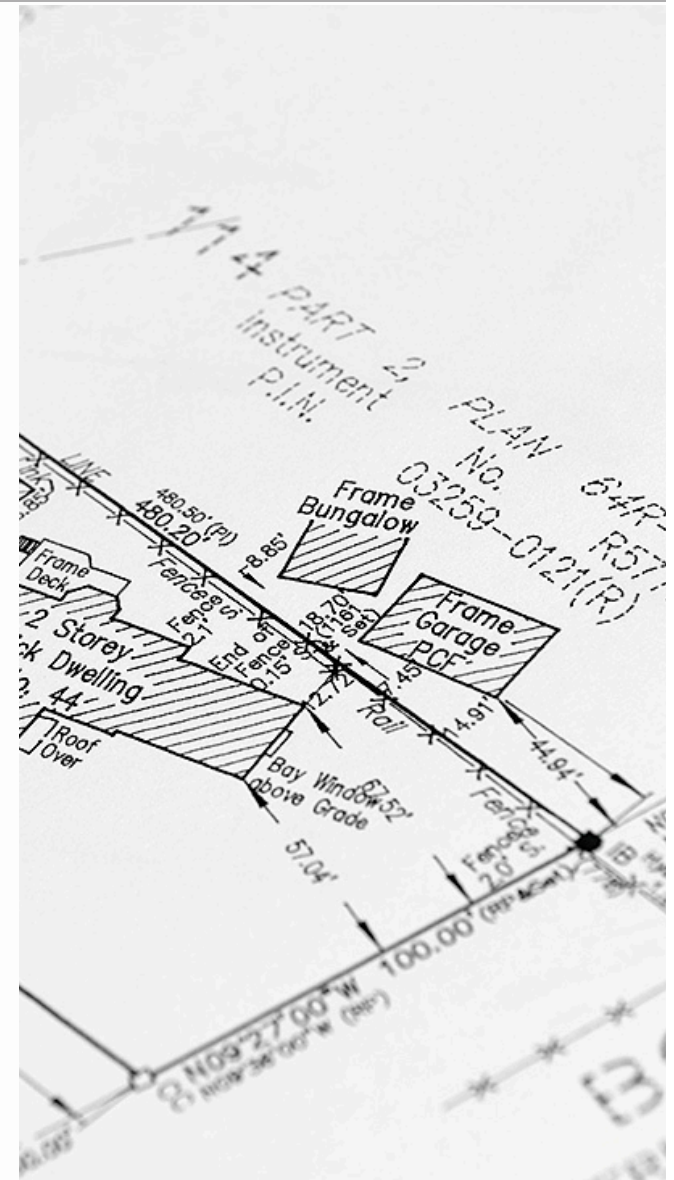
Your client is in a boundary dispute and they are calling you.

- ✓ You want to give good, useful advice.
- ✓ You don't want to get dragged in.

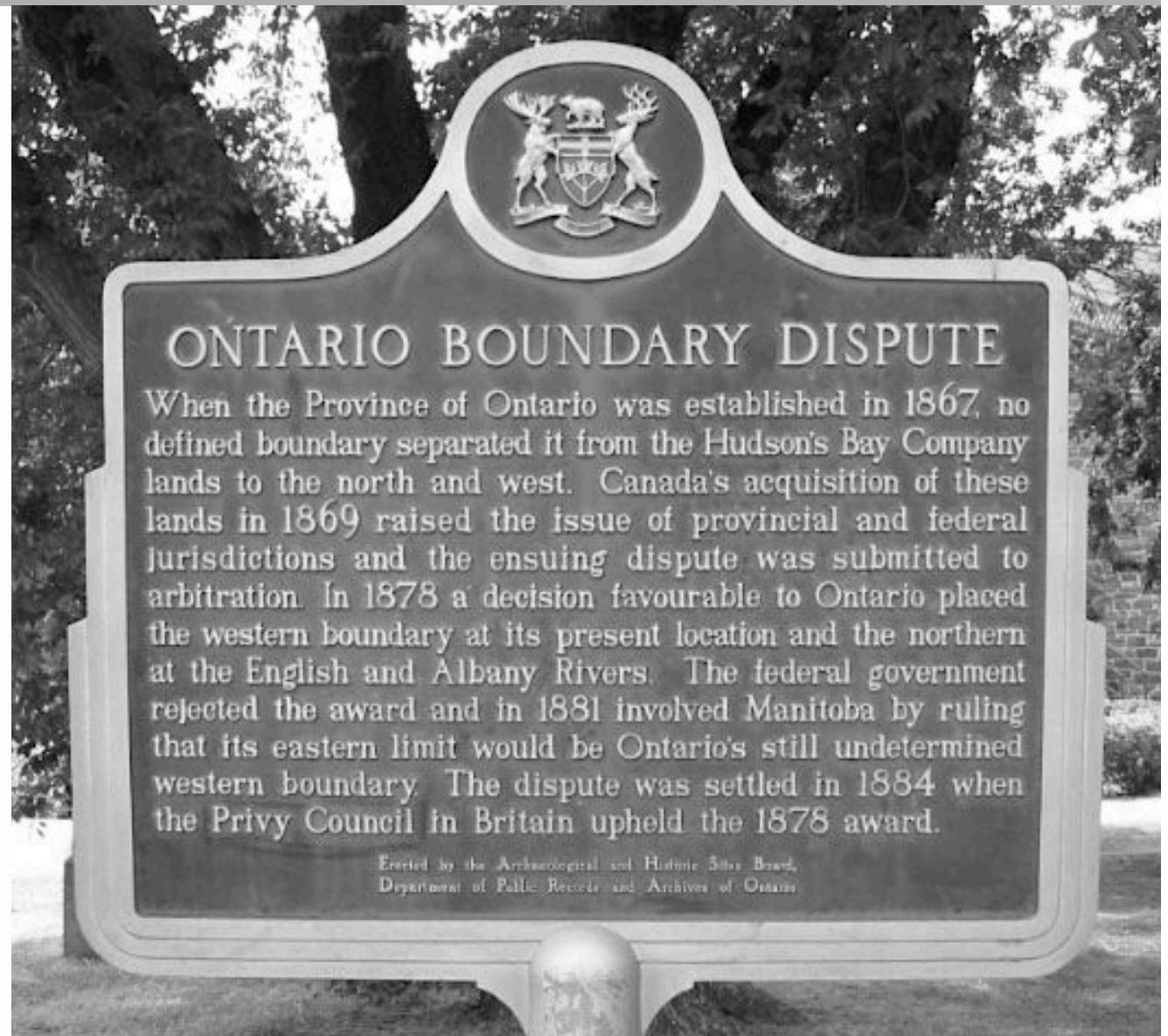
Your best advice is:

1. Try as hard as you can to resolve this between yourselves. Get a surveyor involved to confirm boundary locations. Get a survey plan!
2. If you cannot resolve it, then hire a lawyer that specializes in boundary disputes or title insurance.

Remember...it's “do it yourself” or “hire a lawyer” – there's nothing in between.



Boundary Dispute Avoidance



Boundary Disputes CAN Be Avoided

Buying Side

- ✓ Make “boundary review” an integral part of your due diligence process.
 - ✓ Make offer conditional upon review of survey.
 - ✓ Get a surveyor involved to give you an opinion.

Selling Side

- ✓ Be transparent with boundary information.
 - ✓ Make survey available to all bidders in selling package.
 - ✓ Disclose encroachments and boundary defects up front.



LANDPRO CONFERENCE 2016



Pre-register NOW to save 25%.
Use Code: PYB15 before Oct 30

- ✓ March 2, 2016
- ✓ 12 Speakers – 12 Critical Topics
- ✓ 1000 Agents and Brokers
- ✓ Focus on the trends and insights of the fundamentals of real estate and condo industry.
- ✓ \$299/\$199 per person



CLOSE

ADDRESS:
23 WANLESS CRES

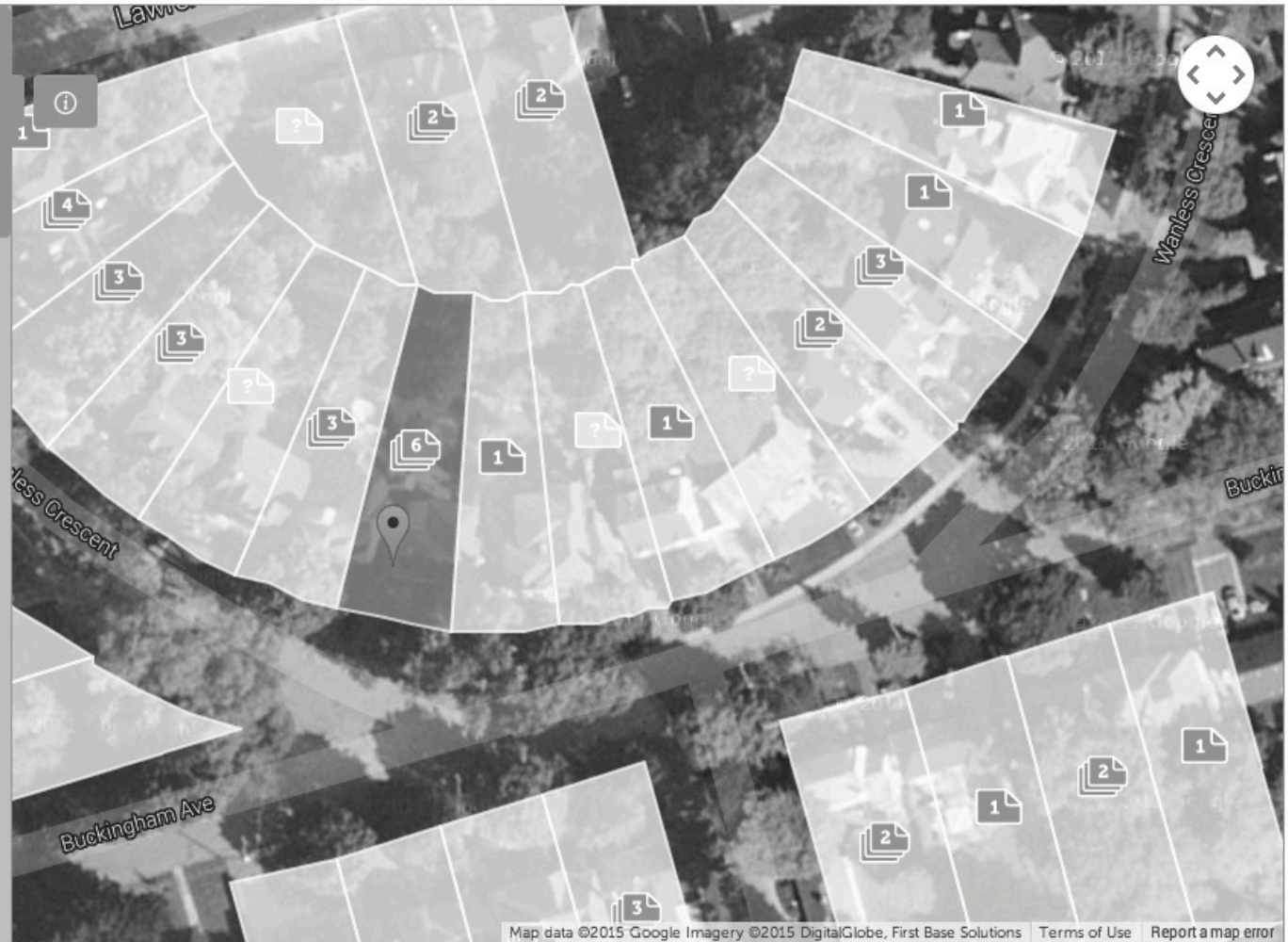


[Click here to enlarge](#)

Survey plan date: 2008
Rank: ★★★★★
Price: \$ 300.00
Source: Land Survey Records

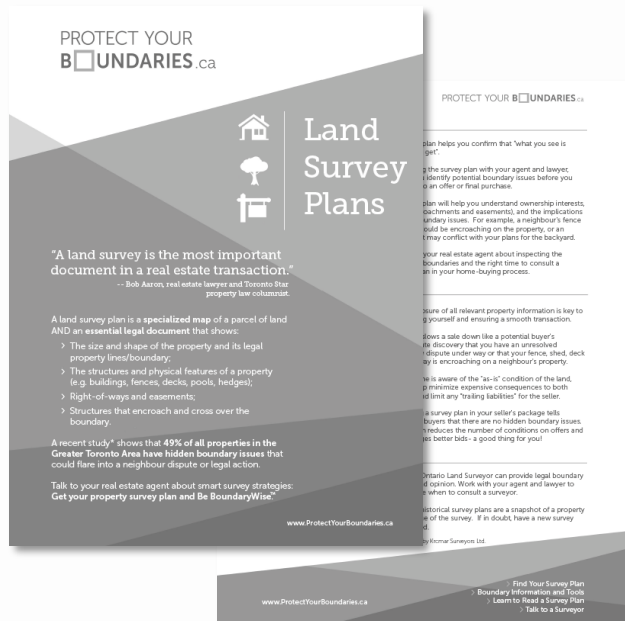
BUY

ADDRESS:
23 WANLESS CRES



PROTECT YOUR BOUNDARIES

real estate services



PLANalert Listing Notification



PROSPECT PACKAGE INSERTS



BLOG/NEWSLETTER CONTENT



WWW.BOUNDARYBOSS.COM blog



PROTECT YOUR BOUNDARIES.ca

Blog for Realtors:
www.BoundaryBoss.com

Twitter: @BoundaryBoss

Chris Kamarianakis Executive Director, Protect Your Boundaries Inc.

PROTECT YOUR BOUNDARIES.ca



Thank You!