

THE CANADIAN COUNCIL OF LAND SURVEYORS
SIXTH ANNUAL REVIEW OF THE LABOUR MOBILITY AGREEMENT
FOR CANADIAN LAND SURVEYORS

October 7, 2008
By Teleconference
12:00 p.m. Eastern Time

MINUTES

Presiding: Chuck Salmon, BCLS

Recorder: Sarah Cornett, CCLS Executive Director

Signatory Representatives:

J. C. Tétreault	Association of Canada Lands Surveyors, Executive Director
Jeff Mercer	Association of Newfoundland Land Surveyors, Executive Director
Fred Hutchinson	Association of Nova Scotia Land Surveyors, Executive Director
Alan Hicks	Association of New Brunswick Surveyors, Secretary/Treasurer/Registrar
Luc St. Pierre (in part)	L'Ordre des Arpenteurs-Géomètres du Québec, Executive Director
Bill Buck	Association of Ontario Land Surveyors, Registrar
Steve Bossenmaier	Association of Manitoba Land Surveyors, President
Dave Gurnsey	Saskatchewan Land Surveyors Association, Vice President
Brian Munday	Alberta Land Surveyors' Association, Executive Director
Chuck Salmon	Association of British Columbia of Land Surveyors, Secretary/Treasurer
Dave Morris	Association of Prince Edward Island Land Surveyors

Additional Participants:

Gary Hughes	Association of Newfoundland Land Surveyors, Vice President
Russell McKinnon	Association of Nova Scotia Land Surveyors, President
Error! Reference source not found.	Association of New Brunswick Surveyors, Executive Director
Jim Statham	Association of Ontario Land Surveyors, Executive Director
Les McLaughlin	Association of Manitoba Land Surveyors

1. CALL TO ORDER

The meeting was called to order at 12:10 p.m. Eastern Time.

2. WELCOME AND INTRODUCTIONS

Chuck Salmon welcomed all to the meeting and each participant introduced themselves.

3. APPOINTMENT OF A CHAIR

MOTION LM-08-01 BE IT RESOLVED THAT Chuck Salmon be appointed as chair until the next annual meeting of the group.

MOVED: Brian Munday SECONDED: Alan Hicks CARRIED

4. ADOPTION OF AGENDA AND MINUTES OF LAST MEETING (DECEMBER 2007)

The circulated agenda was adopted by consensus.

MOTION LM-08-02 BE IT RESOLVED THAT the minutes of the meeting of December 04, 2007 be approved.

MOVED: Fred Hutchinson

SECONDED: Dave Morris

CARRIED

5. REVIEW OF IMPLEMENTATION AND APPLICATION OF THE AGREEMENT TO DATE

This meeting is called in order to fulfill the obligations described in sections 5.1 and 5.3 of the Mutual Recognition Agreement on Labour Mobility for Land Surveyors in Canada (MRA).

The participants were asked to outline any issues since the last review meeting (December 2007) regarding their association's application of the MRA such as new applicants, questions, or issues that have arisen in responding to applicants, or changes to their legislation, by-laws, or policies affecting the processing of applicants. The compiled responses to the last review have been distributed as a guide.

No representatives reported any issues.

The specific question, "Have there been any applications under the MRA in the past year?" was asked.

- AMLS reported one MRA application in progress
- SLSA reported several over the years and a few currently in the system
- ALSA reported 15-20 in the system currently, not sure how many are new this year, know of several heading back to NL
- ABCLS reported 15 current MRA applicants, 13 of which are new this year, several of which are from Alberta under TILMA, and 4 who obtained commissions in the last year.
- ACLS reported that most applicants have provincial commission as in past and that the MRA did not significantly change the process.

6. UPDATE AND DISCUSSION TILMA BY ALSA AND ABCLS REPRESENTATIVES

Brian Munday and Chuck Salmon provided an update on the ALSA/ABCLS agreement under the Trade, Investment and Labour Mobility Agreement (TILMA) between the provinces of Alberta and British Columbia, making the following points:

- There have been a number of meetings which concluded in an agreement signed at the ALSA annual meeting in April 2008 that will come into effect January 1, 2009.
- Under the agreement, the requirement for a member in good standing will be one jurisdictional exam only, no more than ½ day long (4 hours), basically on demand. This compares to the multiple exams under the national MRA offered twice per year.
- ABCLS is using government funding to develop a computer based exam, available on line, which is now in the testing stages. Currently ABCLS allows candidates to write in their community, at a community college or in a surveyor's office, with an invigilator, but is hoping to expand regular exams to the on-line exam format.
- ALSA does not have government funding and is working on a paper examination.
- ABCLS is not using multiple-choice in its examination while ALSA is currently using short answer but looking at multiple choice for ease of marking etc.

- Both ALSA and ABCLS are creating a bank of questions. ABCLS started by developing two exams and is adding others. It will use a random number generator to create exam with specific point values based on priority subjects.
- ABCLS exams are traditionally open book while ALSA is looking at a closed book format.

The reporting highlighted that there are differences between the two associations processes for evaluating candidates under the TILMA sub-agreement within the framework of the agreement. This is also true of the current national MRA.

The following questions and answers were part of the discussion.

Q: Will there be any face-to-face interview of applicants?

A: No

Q: Will testing be only on local laws?

A: Yes local statutes and regulations and survey systems, not substantially different than current MRA as far as principle and content. The difference is in the process in order to significantly shortening the timelines.

Q: Are ABCLS and ALSA considering extending the TILMA process to candidates from other associations under the national MRA?

A: Yes, both associations have questioned why they would maintain two processes. ABCLS wants to get process functioning and tested and will then consider extension to the other jurisdictions. ALSA council has also talked about this and wants to work towards one process, but is concerned about how that would be perceived in other jurisdictions and wants feedback from other associations.

Several participants commented that a TILMA type agreement across the country seems to be the direction of the future.

7. UPDATE AND DISCUSSION PROPOSED CHANGES TO AIT

i CONTACTS WITH PROVINCIAL GOVERNMENTS & THEIR REQUIREMENTS

Association representatives were asked to outline their association's contact with government and their stated requirements related to the Agreement on Internal Trade (AIT) if any.

ABCLS: A questionnaire was received from the BC government and there have been discussions with government representatives. The government is making it very clear that their expectations are similar to those with respect to TILMA. The same representatives are working on the AIT that worked on TILMA and they are using TILMA as the template for AIT. It was noted that a jurisdictional exam was considered 'none material' rather than being linked to a 'legitimate objective'.

ALSA: A fairly generic questionnaire was received from the Alberta government but there has been no further discussion or correspondence. There may be a presumption that the TILMA will be used as a template.

SLSA: A package was received from the Saskatchewan government asking how the SLSA complied with the AIT. SLSA replied by letter stating that as far as SLSA was concerned they are in compliance through the current MRA. There has been no further

discussion or correspondence. The government seems to be concentrating first on professions and trades that have done nothing at all under AIT. It is assumed that the SLSA will hear back eventually.

AMLS: The AMLS met with government representatives who reported that the Premiers are developing a new agreement to eliminate barriers with the aim to apply the lowest standards nationally. For example, if one jurisdiction requires nothing then that will be assumed to apply across the country.

AOLS: In response to government correspondence, AOLS replied that they are in compliance, have a legitimate aim and additional requirements related to local knowledge, and this has been accepted. The Premiers of Ontario and Quebec have begun a fast track program very much like TILMA, with which AOLS and OAGQ have been involved.

OAGQ: The Quebec government inquiries were answered with information about the MRA. The government is concentrating on finalizing an agreement with France and have not yet followed up on the Canadian agreement. There is a summit on October 17 and two agreements, Engineering and Surveying, are likely to be signed. The Surveyors have received confirmation that its MRA is acceptable to government. There may be more discussions with Ontario but there has been nothing about other jurisdictions.

ANBLS: There was a recent meeting with government where ANBLS was put on notice that they will have to defend requirements for even one exam. Interest in TILMA was expressed and the government seems to be leaning towards full mobility. When legitimate objective and additional requirements were brought up government representatives stated that they wanted specific justification. ANBLS Council believes mobility is a benefit to candidates and are focusing on unique jurisdictional requirements.

PEI: APEILS has a meeting scheduled with their government and other professions on Thursday but no information has been sent out in advance of that meeting.

ANSLS: The ANSLS has been meeting with government and other professions on fair access to regulated professions. This initiative is driven more by transparency, availability, and consistency of requirements and fair access to immigrant professionals. There has been no suggestion that bar be lowered. The professions have been active in a working group that is redrafting the act, which recognizes and promotes labour mobility but does not address it specifically. With respect to AIT labour mobility issues the Nova Scotia government representatives were not aware of how far along their professions are. There does not seem to be pressure to lower the bar but there is recognition that there are unique jurisdictional requirements. Lack of demand for entry into the province and existence of current MRA seems to be resulting in a lack of any pressure from the government. There are requirements in the works for annual reporting to government on labour mobility practices and processes.

ANLS: The ANLS has not yet been approached by government and has been waiting until after this meeting to approach their government. The association is in favour of labour mobility and testing only local knowledge such as statutes, regulations, etc. There is concern that the ability to open a private practice immediately on commission, without any mentoring by a local surveyor or local experience, does not protect the public. It is thought that there should be a minimum time to practice under a local surveyor. ANLS is asking for feedback on that aspect from other associations.

ii REQUIREMENTS FOR BUSINESS OPERATION BEYOND A LICENSE

In response to ANLS request for feedback on the issue of having additional requirements to open a business beyond a valid licence, the following was discussed.

In the experience of most associations under labour mobility, successful applicants have been employed by a local firm and have been working for a time before writing the exam. This seems to be the preferred option by applicants, likely in order to be successful at the exams.

Local experience is needed to move practice within a province as well as between provinces and is a matter of professional ethics. It is unprofessional to practice outside of ones level of knowledge and is similar to the engineering profession.

Most newly licensed individuals do not go into private practice immediately and there is a comfort level that the other regulatory bodies have produced a professional with appropriate ethics with respect to practicing.

Complaints and discipline processes are in place as a safe guard when professional ethics or competency is questioned.

iii “LEGITIMATE OBJECTIVES” & “NON-MATERIAL REQUIREMENTS”

It was explained at the HRSDC hosted meeting in Ottawa in September that any requirements that did not result in a significant (i.e. days or possibly weeks) would not be considered a barrier but that technically, any additional requirement would need to be linked to a legitimate objective if questioned.

It was noted that it would help to have the professions own agreement in order and our own members on the same page without government intervention.

It was noted that the professional seems to have digressed in the last five years since the face to face meetings and the level of understanding reached at those meetings has been eroded over time. It was noted that the committee should address. A communication piece was suggested.

ACTION

iv BARRIERS TO AMENDING ENTRY REQUIREMENTS WHERE REQUIRED

ABCLS noted that their policies have been fine tuned during the TILMA work and that the government is drafting a miscellaneous amendments Act to address these types of things.

ANBLS noted that they will approach their government for advice on their requirement to be a Canadian citizen.

AOLS also has that one barrier left and has applied for the change, but noted that this usually doesn't affect labour mobility issues within Canada.

AMLS has an outdated Act and have been working for many years to get a new Act through. The new Act is quite restrictive and associated by-laws will also have to be amended. The association would have concerns if more requirements under AIT come up as the process has already been long and arduous.

8. REVIEW OF UPDATED MATRIX AS CONSOLIDATED BY BC

Information from the last associations has now been received and an updated matrix of all licensing requirements nationally will be circulated shortly. **ACTION**

AOLS clarifies that their requirement for a four year bachelor degree or equivalent would be satisfied by a CBEPS certificate of completion. This would be one means of getting an equivalent for a new applicant. This would not apply to any MRA applicant because there is no allowance for looking behind the license to critique academic requirements of an MRA applicant.

Luc St.-Pierre left the meeting for another commitment.

Jean-Claude Tétrault provided an update on the ACLS affidavit of experience and practical training noting that a new log that outlines actual experience signed by supervisor was being implemented as a more formal and comprehensive way to check a candidates experience.

It was noted that an applicant under the MRA was required to fill out this affidavit and the appropriateness of this was questioned. It was noted that this is contrary to the MRA and would be equivalent to a provincial association looking behind a license to evaluate recent experience of a candidate. This had been discussed during the negotiation of the MRA and it was concluded that a license was a license and there should be no looking behind that license other than to determine that it is in good standing as defined in the agreement. Jean-Claude agreed to address the issue with ACLS Council. **ACTION**

9. NEW BUSINESS

i COMPLAINT PROCESSES/PENALTIES

It was suggested that an appeal process for treatment or applications be added to the MRA.

The current formal route to appeal an application is government to government if the issue cannot be resolved association to association. Part of the mandate of this committee is to deal with these issues at the association level. The committee could add more substance to the process, and it could be added as an amendment or addition to the MRA.

It was agreed that the first step should be to increase transparency and availability of information to candidates and to individuals at the association level, so that both the application and the appeal process is spelled out and readily available. **ACTION**

ii COMPANY OWNERSHIP AND PRACTICE ISSUES

See also item 7. ii.

The question, will the labour mobility agreement affect the issue of restriction on business ownership, was posed.

ALSA noted that this does not yet seem to be on the radar. It is an issue but is on the back burner for now.

At the HRSDC hosted meeting in September this also seemed to be an issue that had not yet been considered.

ABCLS has raised the issue because TILMA refer to trade and investment as well as labour mobility, but government has refused to address the issue yet. It is though that it will come forward in time. Under TILMA a licensed BC company may have an

individual with an ALS license, but that individual cannot practice in Alberta through that BC company. They must practice within ALSA rules as an individual.

Labour mobility is set up to ensure individual mobility not corporate mobility. Corporate mobility is an issue of trade and investment but not labour mobility per se.

Most associations have corporate requirements of some sort.

AOLS took ownership requirements out of their Act but 50% of Directors must be surveyors. It is generally understood that an association cannot govern a non-member.

iii PEER/PRACTICE REVIEW PROCESSES ETC.

It was suggested that the group consider extending the matrix and discussing requirements for complaint processes and penalties, code of ethics, peer practice review issues, business restrictions etc, under the MRA as these issues become more of an issues.

Whether there are professional development and practice review programs in place has been included on the matrix.

It was explained that the matrix was originally created to build a comfort level that the process of licensing was consistent and equivalent across the country so that labour mobility could move forward. It is being updated so that the process of reviewing the MRA and considering updating its content can be done.

It was reiterating that once an individual is licensed in a second jurisdiction, the individual must comply with all of the requirements of that jurisdiction. These requirements must be applied consistently regardless of how the individual acquired a license, as a first license route or through the MRA.

iv OTHER

It was noted that the MRA does not affect technicians and technologist agreements nor does the AIT. Technical employees in surveying are generally not part of a technical body but are simply employees. AIT would apply only to members of a technical group if the jurisdiction has a license or certification body for technicians in that discipline. In surveying it is the licensed surveyor who is responsible for all work done by technical staff.

10. SUMMARY OF ACTION ITEMS/NEXT STEPS

Provide communication piece to improve understanding of MRA (see item 7. iii) **Sarah Cornett**

Complete and circulate requirements matrix (see item 8.) **Chuck Salmon**

Bring issue of affidavit of Experience to ACLS Council (see item 8.) **Jean-Clause Tétréault**

Refine and document on and process for application and appeal under MRA (see item 9.1)

Initial draft **ANBLS and ANLS**
Review, refine and communicate **Group**

Circulate the new draft NS fair access legislation and web link, good information on transparency and processes issues **Fred Hutchinson**

Look for funding opportunities **Sarah Cornett Federal (HRSDC), All Provincial**

Begin to look specifically at MRA Schedule B in terms of content of exams, number of exams, and requirement for projects.

Begin review with his current consultant.

Chuck Salmon

Begin to consider each process and where it should go for next meeting

Group

11. NEXT MEETING / ADJOURNMENT

Next meeting to be scheduled as necessary based on progress on next steps, especially funding.

The meeting was adjourned at 2:00 pm Eastern Daylight Saving Time.