

3.22. Ancient Filed Maps, Surveys and Records Affecting Real Property (CPLR 4522)

All maps, surveys and official records affecting real property, which have been on file in the state in the office of the register of any county, any county clerk, any court of record or any department of the city of New York for more than ten years, are prima facie evidence of their contents.

Note

This rule restates verbatim CPLR 4522. Compare Guide to New York Evidence rule 8.07 (Ancient Documents), which sets forth the common-law exception to the hearsay rule for a statement in a document that is proven to be in existence for more than 30 years; while that statement is admissible, unlike the present rule, it does not constitute prima facie evidence of the truth or accuracy of the statement.

CPLR 4522 provides that maps, surveys, and official records affecting real property, which have been on file in the state in an office specified in the rule for more than 10 years, are “prima facie evidence” of their contents. By making those items “prima facie evidence” of their contents, the rule thereby establishes a hearsay exception for those items.

The Appellate Division has held that the “prima facie” language creates a rebuttable presumption of the accuracy of the document (*Knox Vil. Assoc. v Town of New Windsor*, 219 AD2d 585, 586 [2d Dept 1995] [“the defendants overcame the presumption of accuracy afforded to the ancient documents produced by the plaintiff (*see*, CPLR 4522 . . .)"]; *Berman v Golden*, 131 AD2d 416, 417 [2d Dept 1987] [evidence was “insufficient to rebut the presumption of accuracy which attaches pursuant to CPLR 4522 to the description of the property conveyed by that deed”] *See* Vincent C. Alexander, Practice Commentaries, McKinney’s Cons Laws of NY, Book 7B, CPLR C4518:9.)