

Reading & Understanding Surveys

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Introduction

- Title companies only “see” what has been filed of record in the property records of the county in which the property is located.
- Title companies do not conduct site visits and have no way of knowing if a title problem has arisen by virtue of the physical placement of improvements on the property.
- Issues, e.g., fence and driveway “encroachments”, “protrusions” over setback lines, and “easements” can only be ascertained by studying a survey of the property by a qualified land surveyor.

Important Survey Terms & Definitions

- In order to understand the various Policy Endorsements and Exceptions pertaining to a Survey, it is necessary to understand terms used on a Survey.
- **Title Survey** - A land title survey is defined as a complete and total study, investigation and evaluation of all factors affecting and influencing the location of the boundaries, ownership lines, rights-of-way and easements within or immediately surrounding a certain lot, parcel or quantity of real estate. Such study and evaluation will culminate in the deliberate and clear location or relocation on the ground of the perimeters, division lines or boundaries and the determination of area of the certain lot, parcel or quantity of real estate.

Important Survey Terms & Definitions

- **Setback Lines** - The distance from a curb, property line, or structure within which building is prohibited. Setback requirements are normally provided by ordinances or building codes (provisions in zoning ordinance regulating the distance from the lot line to the point where improvements may be constructed).
- **Easement** - The right of the owner of one parcel of land, by reason of such ownership, to use the land of another for a specific purpose.
- **Right-of-Way** - Any strip or area of land, including surface, overhead, underground, granted by deed or easement, for construction and maintenance according to designated use, such as drainage, irrigation canals, ditches, electric power, telephone, oil, gas, water, other pipelines, highways, etc.

Important Survey Terms & Definitions

- **Plat** – A map of a town, section, or subdivision showing the location and boundaries of individual parcels of land subdivided into lots with streets, alleys, easements, etc.
- **Plat Map** - A plat map is generally drawn after the property has been described by some other means, such as, a government survey system. Once a plat map is set, legal descriptions are defined by referring to the given map in a lot and block description.
- **Encroachment** – Encroachment is the situation that exists when a structure is built in whole or in part on a neighbor's property.

“Area and Boundaries” or “Survey” Exception

- Since title companies cannot “see” the physical condition of the property, the promulgated title policy form contains the following broad exception:

“Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.”

- If survey coverage is requested in Paragraph 6.A(8), the above exception will be amended to read as follows:

“Shortages in area”

“Area and Boundaries” or “Survey” Exception

- If your client obtains the enhanced coverage, he or she will be insured for loss, costs, and attorney’s fees and expenses resulting from discrepancies, conflicts in boundary lines, encroachment, protrusions, or overlapping of improvements ***not shown on the survey and not known at the time of closing.***
- Without this enhanced coverage, an affected landowner would have to pursue a suit against a survey company to make restitution for their oversight.
- Examples: dispute with adjoining landowners over location of boundary lines, forced removal of improvements located across boundary lines, forced removal of driveways encroaching onto adjoining property, or encroachment of improvements into easements or building setback lines.

Cost of Survey Coverage

- R-16 (Basic Manual of Title Insurance). Amendment of Exception as to Area, Boundaries, etc.
- (1) 15% of the Basic Rate in an Owner Policy (T-1) or (2) 5% of the Basic Rate in a Residential Owner Policy of Title Insurance – One-to-Four Family Residences, with a minimum premium of \$20.00.

The Restrictions, Encroachments, Minerals Endorsement (T 19.1)

- This endorsement provides additional coverage for the following:

Restrictions – unknown violations of enforceable restrictive covenants existing as of the date of your Residential Owner's Policy.

Encroachments – encroachments of your improvements onto neighboring land or your neighbor's improvements encroaching onto your land which are not shown on your survey.

Minerals – certain damages to the surface of your land resulting from the extraction or development of minerals.

T 19.1 Cost

- 10% of your basic title insurance premium if purchased alone.
- If Survey amendment is also purchased, the cost of the T 19.1 is reduced to 5% of your basic title premium.

Don't Forget!

- An existing survey and T-47 or a new survey is necessary to obtain the enhanced coverages. After receipt of the survey, the title company may make specific exceptions in the Residential Owner's Policy to matters shown on the survey or delete certain provisions of the T19.1.
- Consequently, it is important to understand that you will not have additional coverages for matters reflected on your current survey or matters known at the time of closing.

The End!

Please call and/or email us if you ever have any questions. We would love to help!