

SURVEYS



The Importance of Land Surveys

Here are some of the principal reasons to obtain and review a survey:

- To determine whether improvements (buildings, driveways, fences, utility lines, etc.) intended to be located on your property encroach into a neighbor's property, or vice-versa.
- To mark the boundaries on the ground, so that they are clear to observers standing on or near the property.
- To discover trails and other evidence of use by third parties that might suggest that someone has established an implied easement over a portion of the property, or might claim a portion of the property by reason of adverse possession.
- To provide the evidence needed by the title insurer to delete certain standard exceptions to coverage and thereby provide "extended coverage" against off-record title matters (including matters that would be revealed by an accurate survey).

When to Use an Existing Survey

The TREC Contract was revised several years ago giving the option to Sellers and Buyers to use existing surveys when appropriate. Per the TREC Contract, not only does a buyer have to accept the survey but lenders and title companies must also approve and accept it. Survey Affidavits assist in research and review however the best information comes from those who have been on the property, particularly prospective Buyers and their REALTORS®.

To avoid costly delays, the following guidelines for using an existing survey are provided.

- Survey should be completely legible. It must have the property address, complete legal description, flood certification and the surveyor's signature and seal on the drawing.

- Survey must reflect all permanent improvements that are currently on the property. Includes pools, fences, spas, decks, additional sq. ft.

If Sellers have added permanent structures that are not shown on survey, it is important to identify new improvements, such as a pool, gazebo, fence, etc. when signing the Survey Affidavit. This notifies all parties that the survey provided is not an accurate rendering of the property as of the current date.

Most times it is advisable to forego using an existing survey if improvements have been built since the time the initial survey work was performed.

Likewise, when an incorrect survey is delivered to the Buyer and their Agent, a new one should be requested. The title company and lender must be informed of the need for a new survey.

When to Obtain a New Survey

It is recommend that a purchaser obtain a new survey if one or more of the following conditions exist:

- A survey reflecting that all significant improvements currently located on the property does not exist or can not be found.
- Surveys exist for portions of the property, but the property as a whole consists of two or more parcels that are not platted and that are described by "metes and bounds," such that without a surveyor's interpretation of the legal descriptions one can not be certain of whether the parcels are contiguous, or whether there might exist a "gap" between, or overlap of, property boundaries.

Even when one or more of the foregoing conditions are present, a survey might not be necessary, and the purchaser might wish to bear the risk of doing without a survey; unless required by your lender.

Information contained in this flyer is deemed reliable but not guaranteed. Some of the information in this piece was gathered from www.austintitle.com, <http://www.suchmanlandlaw.com>

QUICK REFERENCE POLICY ENDORSEMENTS



Owners Title Policy

T19.1 Restrictions, Encroachment, Mineral Owners Policy

This endorsement provides coverage to the owner relating to survey encroachments and damages to improvements excluding lawns, shrubbery and trees located on the land on or after the date of policy caused by mineral exploration and extraction.

Cost: Residential 10% of the BPR; 5% of the BPR with Survey Amendment (Minimum of \$50)/Non Residential 15% of the BPR; 10% of the BPR with/Survey Amendment (Minimum of \$50)

T19.3 Minerals and Surface Damage Endorsement Owners & Loan Policy

This is coverage against damages to permanent building (excluding lawns, shrubbery or trees) located on land on or after the date of policy, caused by mineral exploration and or development. This endorsement is only available if requested by the insured, and if the commitment/policy contains the mineral exception set out in Procedural Rule P-5.1.

Cost: \$50

Survey Amendment on Owner's Title Policies

This is optional coverage for owners that deletes language out of survey exception so that the owner has coverage from any discrepancies, conflicts, encroachments or protrusions, or overlapping of improvements.

Cost: Residential 5% of the Basic Rate/Non Residential 15% of the Basic Rate

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Lender Policy

T19 Restrictions, Encroachments, Minerals Endorsement

This endorsement gives the lender further coverage relating to survey encroachments and damages to improvements including lawns, shrubbery and trees located on the land on or after the date of policy caused by mineral exploration and extraction set out on Schedule B.

Cost: Residential 5% of the BPR (Minimum of \$50)/Non Residential 10% of the BPR (Minimum of \$50)

T17 Planned Unit Development *Residential Only

This provides the lender with coverage regarding HOA dues, restrictive covenants, the enforcement of removal of encroaching structures and right of first refusal.

Cost: \$25

T30 Tax Deletion of Rollback Exception

This coverage provides protection against rollback taxes, subsequent taxes and assessment taxes and assessments for prior years due to change in land usage or ownership.

Cost: \$20

T31 Manufactured Housing Endorsement

This coverage states that insured land includes a manufactured housing unit. / *Cost: \$20*

T31.1 Supplemental Coverage Manufactured Housing Unit

This coverage states that insured land includes a manufactured housing unit and generally insures against loss if the manufactured housing unit does not constitute real property. / *Cost: \$50*

T33 Adjustable Rate Endorsement

This coverage is required by a mortgage company whenever a mortgagee has an adjustable rate loan. It states that the company will not claim that its liability for the payment of a loss has been waived, surrendered, or been reduced, and no loss of priority due to provisions providing for a change in the rate of interest.

Cost: \$20 or BPR on amount up to 125% of loan amount

T36 Environmental Protection Lien Endorsement

This coverage protects the lender in case there are any existing liens regarding environmental issues. / *Cost: \$25*

T39 Balloon Endorsements

This coverage is required by the mortgage company as an endorsement to the mortgagee's title policy whenever the borrower has a balloon note.

Cost: \$25 with policy/\$50 post policy