

IMPORTANCE OF LAND SURVEYS

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

- To determine whether improvements (buildings, fences, driveways, 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 the 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, including pools, fences, spas, decks, and additional square footage.

If the 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.

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

In addition, 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 recommended that a purchaser obtain a new survey if one or more of the following conditions exist:

- A survey shows that all significant improvements currently located on the property do not exist or cannot be found.
- Surveys exist only 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 cannot 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 proceeding without a survey; unless required by your lender.

