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2021 Minimum Standard Detail Requirements ALTA/NSPS Land Title Surveys (effective 02/23/2021)





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Panelists

- **Lisa McEntee, CLTP -VP and Senior Underwriting Counsel, Fidelity National Title**
- **Leonard A. Shatz, CLTP –Senior Underwriting Counsel, First American Title**



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PA SURVEY COVERAGE – A QUICK REVIEW

- Pennsylvania “survey coverage” is a bit convoluted!
- **Standard** ALTA policy forms include **Covered Risk 2(c)** which provides “survey coverage”

2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from

(c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term “encroachment” includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.



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PA SURVEY COVERAGE – A QUICK REVIEW

ALTA 2006 policy forms as adopted in Pennsylvania
were modified to ***delete*** Covered Risk 2(c).

ALTA Loan Policy of Title Insurance, as modified by TIRBOP (06/17/06)

ALTA Owner's Policy of Title Insurance, as modified by TIRBOP (06/17/06)



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PA SURVEY COVERAGE – A QUICK REVIEW

- Pa “survey coverage” is by endorsement
- General survey exception removed by PA 300 (loan) or PA 301 (owner)

The Company eliminates from Schedule B of the loan policy the following exception:

Unrecorded easements, discrepancies or conflicts in boundary lines, shortages in area content, and encroachments, which an accurate and satisfactory Land title survey would disclose.



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PA SURVEY COVERAGE – A QUICK REVIEW

- General survey exception remains in Schedule B
- A “read-in” exception may be added in lieu of general survey exception

Note: Survey style coverage in Covered Risks 21-24 of ALTA Homeowners Policy of Title Insurance (policy limited to one-to-four family owner occupied residences)



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POLLING QUESTION

2006 ALTA Policy, as adopted in Pa, was modified to delete Covered Risk:

- a. 2 (a)
- b. 2 (b)
- c. 2 (c)



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ANSWER

2 (c)



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2021 MINIMUM STANDARD DETAIL REQUIREMENTS ALTA/NSPS LAND TITLE SURVEYS

“ALTA/NSPS”

- ALTA = American Land Title Association
- NSPS = National Society of Professional Surveyors
- Standards are collaborative effort of both organizations
- Replaces standards published in 2016



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“MINIMUM” STANDARD DETAIL REQUIREMENTS

Survey will include the surveyed boundary, buildings, improvements, easements, access and observed above ground evidence of utilities located on, beneath or above the subject property.



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“MINIMUM” STANDARD DETAIL REQUIREMENTS

Generally, an ALTA Survey that meets minimum standard detail requirements will be acceptable for the title insurer to:

- Delete the general survey exception (by endorsement)
- Add a “read in” exception, as appropriate
- Add, delete or revise Schedule B exceptions
- Issue survey related endorsements (e.g. access – there are many)



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TABLE A

OPTIONAL SURVEY RESPONSIBILITIES AND SPECIFICATIONS

- **19 Optional items**
- **Many Table A items viewed by the commercial real estate industry as “standard” and essential to due diligence and risk assessment.**



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REVISION HIGHLIGHTS

Grammatical

“shall” to “must” (In the 1995 case *Gutierrez de Martinez v. Lamagno* 515 U.S. 417, the U.S. Supreme Court held that the word “shall” is a false imperative that actually means “may. and that “must” is the word that imposes an obligation or command that something is mandatory”)



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REVISION HIGHLIGHTS

Terminology

- **“the surveyed property” or “the property to be surveyed”** (previous versions of the Standards had used a number of different terms to describe the property that was the subject of the Land Title Survey).
- **“Mobile home” park** replaces **“trailer” park**

Note: “Land” is the defined term in a title insurance policy



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REVISION HIGHLIGHTS

Easements and Servitudes

- Adds requirement to depict **utility locate markings** (such as paint markings, wire flags) and their known sources, or a note if unknown, as evidence of easements and utilities.
- Adds requirement to depict utility poles on or within **ten** feet of the surveyed property and the extent of encroaching utility pole crossmembers or overhangs.



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REVISION HIGHLIGHTS

Easements, Servitudes, Rights of Way, Access and Documents

- **Adds option** for surveyor to note whether an easement “affects” or “does not affect” the surveyed property is *based on the description contained in the record document*.
- The words “affects” or “does not affect” are thereby qualified as being based only on an objective assessment of *where* the easement plots pursuant to the granting instrument.



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REVISION HIGHLIGHTS

Easements, Servitudes, Rights of Way, Access and Documents

- **New obligation:** Surveyor responsible to notify title insurer when recorded easement discovered not listed in Schedule BII of the title commitment.
- Surveyor may be aware of a recorded easement not listed in Schedule B by reason of a prior survey or earlier version of a commitment.



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REVISION HIGHLIGHTS

TABLE A

Item 6 - Zoning

Zoning report provided to Surveyor must be specific to the surveyed property



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REVISION HIGHLIGHTS

TABLE A

Item 11: Underground utilities

Client now has 2 choices if desiring to locate underground utilities:

11. *Evidence of underground utilities existing on or serving the surveyed property (in addition to the observed evidence of utilities required pursuant to Section 5.E.iv.) as determined by:*

[Yellow Box] *(a) plans and/or reports provided by client (with reference as to the sources of information)*

[Green Box] *(b) markings coordinated by the surveyor pursuant to a private utility locate request.*



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REVISION HIGHLIGHTS

TABLE A

Item 11: Underground utilities

Comment:

“However, lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. In addition, in some jurisdictions, 811 or other similar utility locate requests from surveyors may be ignored or result in an incomplete response...”



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REVISION HIGHLIGHTS

TABLE A

Item 18 requiring the depiction of observed wetland markers
Deleted



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REVISION HIGHLIGHTS

Certification revised to 2021 Standards

Certification - The plat or map of an ALTA/NSPS Land Title Survey ~~must shall~~ bear only the following certification, unaltered, except as may be required pursuant to Section 3.B. above:

To (name of insured, if known), (name of lender, if known), (name of insurer, if known), (names of others as negotiated with the client):

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 20~~16~~²¹ Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items _____ of Table A thereof. The fieldwork was completed on _____ [date].

Date of Plat or Map: _____ (Surveyor's signature, printed name and seal with Registration/License Number)



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POLLING QUESTION

2006 ALTA Policy defines the insured property as the:

- a. “Land”
- b. “Premises”
- c. “Real Property”
- d. “Real Estate”



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ANSWER

“Land”



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Fun Fact (?)

Why was **February 23** chosen as the date?

- ☐ In ancient Roman religion, Terminus was the god who presided over boundaries
- ☐ “Terminus” was the Latin word for Boundary Marker.
- ☐ On **February 23rd**, Roman landowners celebrated a festival called the “Terminalia” in honor of Terminus.