

SURVEY COVERAGE BASICS

What Is Survey Coverage and Why Should a Buyer Purchase It?

Many circumstances and issues can impact the ownership of a home and the land it sits on: tax liens, wills, unknown heirs, mechanic liens and the like. Title insurance covers such issues that are found in public records. But what about the actual land, the buildings and other improvements located on the land? Those are detailed on a *survey*.

A surveyor details how the home structure and improvements such as driveways, fences and pools are situated on the land in relation to property and setback lines, as well as easements such as those for gas, water and other utilities. These items are shown in Schedule B on the title commitment. Here are some examples of potential survey errors that could put your buyer in a difficult situation after the closing:

- ▶ A neighbor could discover the buyer's driveway or fence encroaches (is located across) the property line
- ▶ A utility company could find it needs to access a line that's underneath a structure sitting within its easement
- ▶ A homeowner's association or city could request the removal of an improvement located beyond a building setback line

These types of disputes are costly as well as complicated. Who would the buyer turn to for relief? The surveyor? The former seller? What about the title insurer, who as regulated by the Texas Department of Insurance, has the reserves to cover such a claim?

These situations are why a buyer can purchase survey coverage in addition to the standard Owner's Policy of Title Insurance in Texas. Survey coverage is highly recommended when using a One to Four Family Residential Contract (Resale).

The cost for survey coverage on a residential property is only an additional 5 percent (5%) of the amount of the T-1R Owner's Title Policy premium. For instance, on a \$250,000 home, the cost of survey coverage is only \$85.30.*

Give your buyers the peace of mind they deserve by recommending the purchase of survey coverage on the Owner's Policy. Call our title experts if you have any questions.

This information is not intended to provide legal advice or a determination of actual coverage. Please consult a real estate attorney if you have specific questions on the applicability of a specific transaction.

*For a T-1 Owner's Policy, the survey coverage costs an additional 15 percent of the amount of the policy premium.

2014 TREC Contract Requires Decision on Standard Survey Exception

The TREC One to Four Family Residential Contract (Resale) (effective June 1, 2014) includes a new provision where home buyers now have to decide whether they want the survey exception amended/ deleted in their Owner's Title Policy:

6. TITLE POLICY AND SURVEY: A. TITLE POLICY

(8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements: (i) will not be amended or deleted from the title policy; (ii) will be amended to read, "shortages in area" at the expense of Buyer Seller.

In Item 2, Schedule B of the Title Commitment and Title Policy, the Survey Exception specifies that the title insurance policy will not cover claims relating to discrepancies in boundary lines, encroachments, protrusions and overlapping improvements that would be shown on a survey. When a buyer checks option (ii) on the TREC residential contract, it means that exception in the Title Policy *will be amended*. At that point, title insurance coverage will now extend to claims relating to those items EXCEPT for "shortages in area." Shortages in area – a discrepancy in the amount of property measured – is not insurable by title companies in the state of Texas. Therefore, that item will always remain as an exception and will not be covered.

When option (ii) is checked, an additional fee of 5% of the policy premium will be added for the coverage, and an indication must be made whether the Buyer or the Seller will pay that fee at closing.

If the buyer chooses option (i) specifying the Survey Exception *will not be amended or deleted*, it means the title insurance policy will remain as is. That is, the title policy will not cover claims relating to boundary lines, encroachments, protrusions and overlapping improvements.



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