

TITLE INSURANCE & THE SURVEY

SURVEY SYSTEMS

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I have been giving this analogy for years when discussing title insurance with clients to demonstrate why you should have a survey conducted on the property before you buy. It goes like this...

If I was a car insurance salesman, and I proposed to sell you car insurance and agreed to cover you with insurance against a loss...with one exception. That exception would be if you were to get into a wreck, the insurance would not cover you, no matter who's fault it was. Would you buy the insurance?

I hope that everyone can agree that it is ludicrous to purchase any insurance with exceptions similar to this.

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When you purchase a piece of property you are more than likely going to have a lender. They will require you to have title insurance to protect them against a loss in the event you default on the loan. This title insurance is very similar to car insurance and basically it guarantees that you have title to your property and also your lender. In order for the title insurance company to issue insurance there will be "requirements", often listed as Schedule B, Part I, that you have to accomplish for them to issue the insurance.

There are also "Exceptions", often listed as Schedule B, Part II, to their coverage. This is where the "wreck" shows up. In Schedule B, Part 2, Exceptions from title, there is an item that usually reads as follows.

Any encroachments, encumbrances, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by Public Records.





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You can always call me to discuss this document, and we are more than willing to talk about our services and how to protect your investment.

Regards,

Gerald Matt Nichols, PLS, CFeds
President

I have a “requirement” for a survey and an “exception” for the survey. It is up to you to negotiate with the title company to have this exception removed so you have coverage in the event of a “wreck”.

For instance, in the requirements Schedule B, Part I, the title company will list an Improvement Location Certificate (ILC) “this is not an accurate and complete land survey and we will cover this in a later discussion” as a requirement and then they leave the survey exception in Schedule B, Part II.

As a client, you contact them and inquire to how to have the survey exception removed they might require you to have an Improvement Survey Plat “this is an accurate and complete land survey” conducted at a minimum to remove the survey exception. It is important to have this conversation with the title company so you don’t contract for a survey that will not meet the minimum requirement to delete the survey exception.

Usually I have this conversation with owners after the purchase, and an issue has arisen with an encroachment and the owner does not have coverage under their current title policy. This can get extremely expensive to defend and not having title insurance to pick-up these expenses, can cost on the order of \$50k to \$100k, once lawyers get involved.

To avoid complications, it is important to have your property surveyed at the beginning of a transaction. This way you know what you are buying and can avoid costly issues in the future. This way you have your best interest in mind.