Why ALTAÂ®/NSPS Surveys Matter in Virginia Residential Real Estate Transactions

Description

Article by Hayden-Anne Breedlove

When a buyer, lender, or settlement agent asks, â??Do we really need a survey?â?•, theyâ??re rarely thinking about the downstream risks. Yet for Virginia title professionals, surveys are one of the most powerful tools for uncovering problems before they turn into litigation, coverage claims, or unmarketable title.

The American Land Title Association (ALTAÂ®) and the National Society of Professional Surveyors (NSPS) set national standards for land title surveys[1], and Virginia law imposes its own minimum requirements[2]. Together, these frameworks ensure that surveys are not just optional extras, but essential instruments for protecting property rights, clarifying legal descriptions, and giving real meaning to the title insurance policy we issue.

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This article explores the practical value of ALTAÂ®/NSPS surveys, how they interact with title insurance coverage, and what Virginia practitioners need to know when talking with customers.

What Does A Survey Actually Show?

Surveys are often misunderstood as little more than â??drawings of the property.â?• In reality, they are the only reliable way to confirm:

â?? Location and boundaries: Surveys establish the parcel on the ground, not just on paper.
â?? Encroachments: Decks, fences, chimneys, pools, and patios that cross property lines.
â?? Easements: Rights for utilities, ingress/egress, or even unusual â??sight easementsâ?• restricting tree growth or paint colors.
â?? Improvements and utilities: From manholes and transformers to overhead lines.
â?? Access: Whether the property touches a public road, has a valid easement, or only appears to.
â?? Adjoining properties: The relationship between parcels, which often clarifies discrepancies in deeds.

Without this fieldwork, settlement agents and attorneys are left relying solely on the land records, which do not always tell the full story.

Virginiaâ??s Legal Framework

Surveying in Virginia is a licensed profession regulated by the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects. Minimum standards for â??physical surveysâ?• are codified at 18VAC10-20-380, which set field and office procedures for identifying boundaries and improvements.

Virginia law allows certain localities (including Arlington, Fairfax, Loudoun, Prince William, Stafford, and Spotsylvania Counties, and the cities of Alexandria, Manassas, Fredericksburg, and Falls Church) to permit house location surveys that do not require corner monumentation. These are often seen in residential transactions but can leave critical questions unanswered.

For larger commercial transactions, ALTAÂ®/NSPS surveys remain the standard.

Surveys and Title Insurance

Every title insurance policy includes some level of survey coverage unless it is excluded or excepted.

Covered Risk 2 (c) of the ALTAÂ® Ownerâ??s Policy insures against loss from â??the effect on the Title of an encumbrance, violation, variation, adverse circumstance, boundary line overlap, or encroachment (including an encroachment of an improvement across the boundary lines of the Land), but only if the encumbrance, violation, variation, adverse circumstance, boundary line overlap, or encroachment would have been disclosed by an accurate and complete land title survey of the Land.â?• The ALTAÂ® Loan Policy contains identical language. The ALTAÂ® Homeownerâ??s Policy goes further, insuring against forced removal of improvements that encroach, denial of contracts because of encroachments, or damage from easement use.

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However, these protections often evaporate if no survey is obtained. From an underwriting standpoint, this leaves a stark choice: either obtain a current survey and issue robust coverage or take broad exceptions that can leave owners exposed to possible issues that would have been shown by a survey.

Common Problems Shown By Surveys

Surveys repeatedly uncover issues that would never appear in a deed search. Some Virginia examples include:

1. Fence Disputes: Fences often sit inches or feet off the actual boundary line. In one case, a property had fences that encroached 6 inches onto the neighboring lot in one direction and sat 100 feet inside the boundary on another. Title policies routinely except to â??fences not conforming with lot lines.â?• Lenders tend to accept this exception without comment, depending on the amount of variation between lot line and fence line. Fences are not normally covered by a standard ownerâ??s or lenderâ??s policy and has limited coverage in the ALTAÂ® Homeownerâ??s policy. Surveyors often cannot determine which property owner â??ownsâ?• the fence and often say so on the plat.
2. Setback Violations: Not all setback violations create title claims, but they can be costly. For example, a builder constructed a home ten feet too close to the road, violating a county regulation. When his variance was denied, he had to cut ten feet off the front of the house, reconfiguring the kitchen and living space. Other setback issues violate restrictive covenants for the neighborhood and may require the majority or all of the owners in the subdivision to agree to a variation. It depends on the operating agreement.
3. Driveway Encroachments: Driveways are one of the most common survey problems. A gravel drive that strays onto a neighborâ??s property can sometimes be fixed with a shovel and sometimes with an easement, but often requires negotiation, relocation, or litigation.
4. Access Confusion: Access is one of the four core title coverages (ONAM: ownership, no liens, access, marketability). Yet surveys reveal frequent gaps: pipestem driveways that exist outside recorded easements, â??paper streetsâ?• that were never improved, or roads where state maintenance

ends unexpectedly. Easements or court orders are the common solutions. From a title insurance perspective, no coverage exists until legal access is determined.
5. Utility and Drainage Easements: Encroachments into easements are common. In one case, A/C units and a planter wall encroached into a storm drainage easement. Loan policies might except to the A/C units but not the wall; ownerâ??s policies often except to everything.
6. Boundary Overlaps: Perhaps most disruptive, some parcels simply donâ??t align. One case showed a lotâ??s boundary ending 24 feet off from its neighborâ??s property. The result: overlapping claims that required either a boundary line agreement or judicial determination.

The real-world consequences of skipping a survey are illustrated by Virginia case studies:

A. Pool Encroachment: An inground pool and patio extended nearly 10 feet into the adjoining lot, with fencing and equipment further beyond. Without a survey, the buyer would have faced a lawsuit.
B. Storm Drain Easement: A home corner was built directly into a 20-foot storm easement. Resolution required the locality to relocate the easement, a process that took over a year.
C. Access Mismatch: A parcel had a legal 50-foot pipestem for access but the actual driveway lay entirely outside the ownerâ??s land. The solution was either to obtain an easement, rebuild the drive, or ignore the issue until the neighbor, over whose yard the driveway ran, made an issue of it. The last option may or may not be practical and may be the basis for the seller lowering the sales price.

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In each of these cases, the survey didnâ??t create the problem. It revealed it before closing.

Drafting Effective Survey Exceptions

When a survey is not provided, underwriters must take general survey exceptions, often using language mirroring Covered Risk 2(c):

â??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.â?•

Sometimes the exception is more specific, adding â??Covered Risk 2(c) is deleted. There is no survey coverage.â?• Where a survey is obtained, specific exceptions should reference the plat, surveyor, and date, listing encroachments or easements of concern. Lenders generally demand specificity, and vague exceptions may be unacceptable.

Practical Guidelines

1. Educate customers early. Buyers and lenders may see surveys as unnecessary costs. Framing them as risk elimination tools helps.
2. Know when â??house location surveysâ?• suffice. These may be acceptable in certain localities, but they rarely meet the needs of commercial or complex transactions.
3. Use endorsements strategically. ALTAÂ® 9, 25, and 28 series endorsements provide targeted protections, but only when the survey supports them.
4. Balance lender demands with underwriting discipline. Competition sometimes drives pressure to delete survey exceptions, but overextending coverage without a survey can create risk for both the company and the insured.
5. Document resolutions. Easement agreements, boundary line adjustments, or variances should be recorded and excepted as needed. â??Handshakeâ?• deals between neighbors are not substitutes.

Conclusion

Surveys are often optional in the minds of buyers and lenders, until the moment they arenâ??t. Once a pool crosses a property line, a driveway veers onto a neighborâ??s land, or a utility easement swallows part of a house, the absence of a current survey turns into a six-figure problem.

For Virginia title agents, settlement agents, and attorneys, the message is clear: surveys are not a luxury; they are a shield. They protect the buyerâ??s expectations, the lenderâ??s collateral, and the title insurerâ??s promise of marketable title. The best time to discover an encroachment, access issue, or easement conflict is before closing, and the only way to do that is with an accurate, current survey.

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[1] ALTA/NSPS Minimum Standard Detail Requirements, 2021 version

[2] 18VAC10-20-379 et. seq.Â®Â®

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Hayden-Anne Breedlove
A Virginia native, Hayden-Anne Breedlove received a Bachelor of Arts degree in both Politics and History (with a minor in French) from the University of Virginia and her Juris Doctor from the University of Richmond School of Law. She is associate counsel for Old Republic National Title Insurance Company. Before joining Old Republic National Title Insurance Company, Hayden-Anne clerked for the Honorable judges of Henrico County Circuit Court. She is involved in the Virginia State Bar Real Property Section and serves as the co-editor for the Fee Simple, the state barâ??s journal publication on Real Property. She also serves as the academic liaison with the University of Richmond for the Virginia Bar Associationâ??s Young Lawyer Division.

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