

WHEN TO ORDER A NEW SURVEY: a comparison of a new survey, a survey update, and the visual inspection.

When deciding between ordering a new survey, an updated survey prepared by a third party surveyor, or a 'drive by' visual inspection made by a municipal examiner many important factors should be considered. From this article we hope that the reader gets a true understanding of the beneficial and detrimental aspects of each of these options.

1. Privity:

- a. New Surveys create a relationship of privity between your client and the surveyor. This relationship provides your client with the highest level of survey protection. In the event of a boundary line dispute your client may not only have recourse in the form of a possible claim against the title company, but may also have a direct cause of action against the surveyor.
- b. For the survey inspection the title company hires a municipal examining company to send its representative out to personally drive by the premises and compare what he/she sees on location to what the original survey shows, and because the original survey is usually certified in the name of the prior owner no relationship of privity exists between your client and the surveyor. Any possible cause of action against the surveyor is denied to your client and your client's sole avenue of recourse is limited to the title company.
- c. A survey update is prepared by a licensed surveyor and usually does result in some limited privity between the surveyor and your client. An update results in a recertification of the existing survey; however, the question is how far does this privity extend. In the case where the original surveyor is updating and recertifying the survey the resulting privity extends to the full survey; however, if the survey is updated by a different surveyor the privity your client has extends only to the changes shown in the update and not to the underlying survey as a whole.

2. Measurement:

- a. A new survey will provide the purchaser with a full and clear picture of the current state of the boundary lines of the property. This includes exact measurements of the location of structures and fences in relation to boundary lines.
- b. A survey inspection will show changes affecting the boundary lines of a property; however, because an inspection is visual and does not include any actual measurements you will not get coverage as to the location of fences and structures which are at or near the boundary lines.
- c. A survey update will include measurements as to fences and structures that have been added since the date of the original survey or the last update, whichever is more recent. The potential problem is that often a fence, wall or structure is removed only to be replaced by a similar fence, wall or structure. A change of this nature may not be apparent to the surveyor and may result in the failure to take new measurements of the location of these improvements. This may result in a boundary line dispute if the replacement fence, wall or structure actually does encroach over the boundary line.

3. Easements and Setbacks:

- a. Easements and setbacks can be plotted and additional measurements can be added upon request on a new survey. For example if the survey did not include a measurement of the distance from the street to the structure, this can usually be added without any additional expense. It should be noted that depending upon the complexity of some easements; some surveyors do charge additional fees to plot the exact locations of easements.
- b. With a survey inspection it is unlikely, although not always impossible, that you will be able to get the original surveyor to add any additional information to a pre-existing survey. Therefore if the survey did not include measurements of the structure, distances of the structures from lot lines or easements, then you will not be able to have this information added unless you have ordered a new survey.

- c. With a survey update easements and setbacks not included in an original survey can be added, upon request, Again however, depending upon the surveyor, having these items plotted may result in an additional fee to your client

4. Boundary Line Disputes:

- a. New surveys are useful in resolution of possible boundary line disputes or for use in connection with any possible construction intended on the property.
- b. A survey inspection will not be helpful in this regard because of the lack of measurement. As mentioned above the exact location of fences, walls or structures which may possibly affect the boundary lines are merely pointed out but not measured.
- c. A survey update may be helpful but as noted above, if a fence or structure has been removed and replaced by a similar fence or structure this replacement may not be apparent to the inspector and it will go unnoticed and therefore will not be measured by the updating surveyor.

5. Cost:

- a. A new survey is the most costly of the options presented. Not all clients will want to expend the money, which is generally somewhere in the range of \$600-\$1200 for residential property and can be in excess of tens of thousands of dollars for commercial property.
- b. An inspection and reading of an existing survey will cost approximately \$150.00.
- c. A survey update will cost from a few hundred to several thousand dollars, depending upon the size, nature and location of the particular property. This option will always be less costly than a new survey of the same parcel.

6. Structural Changes:

- a. Changes to the actual structure, i.e. extensions and additions may not always be apparent on a new survey. A surveyor does not usually reference either the original building plans or the certificate of occupancy

search when preparing the survey so if there is no apparent seam between the original structure and the extension or addition the surveyor will not draw the survey so as to identify the extension or addition. The ideal would be to have a new survey and an older survey that can be compared to spot structural changes and avoid possible certificate of occupancy issues.

- b. While a survey inspection will show changes to the structure, a survey reading of that inspection usually calls out only changes to the boundary lines. So if there is a structural change and it does not appear to have any possible affect to a boundary line it will not be called out on the reading of the visual inspection.
- c. A survey update, because it is a full comparison between the existing survey and the property as it currently exists, will not only include extensions and additions. Since an update does include the taking of measurements, the exact location of the extension and/or addition will also be noted.

*The Survey Inspection option is not available for commercial properties.