



CONESTOGA TITLE INSURANCE CO.

50 YEARS IN BUSINESS

January 19, 2024

To: Maryland Land Title Association
From: Conestoga Title Insurance Co.

In response to the MLTA 2024 Convention Call for Presenters, Conestoga Title would like to submit the following for your consideration as a proposed one hour Title session: **Commercial Real Estate Transactions & Title Endorsements** to be presented by John Papoutsis, Esq. Commercial Counsel for Conestoga Title Insurance Co.

Per Submission Requirements, Standards and Deadlines, we have included in this package:

- Description of the course
- Speaker resume
- Detailed timed outline
- Presentation materials – these are currently in draft form only and are subject to modification

Please note that **all enclosed content is in draft form** and if this session, as outlined, meets with MLTA approval we will submit the actual presentation and course handouts in a final form at a later date. A power point presentation will be used by the presenter during this one hour, one credit session.

Please contact us with any questions and thank you for considering our proposed session topic.

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“Commercial Real Estate Transactions & Title Endorsements”

Session Description and Learning Objective

This one credit **title** session for Maryland title agents and attorneys practicing real estate will consist of several topic areas: defining some of the differences between commercial and residential transactions, a discussion of four common ownership types in commercial transactions, how to review entity creation documents for the title agent, and examples of other documents that do not often apply in residential or consumer transactions. Finally, the session will conclude with a presentation on a variety of commercial title policy endorsements, many relating to surveys and specifically an overview of survey coverage under ALTA. The **objective** of this session is strengthen the title professional’s understanding of the nuances in commercial real estate transactions vs. residential property transfers and to provide specific tools to help them manage related documents.



CONESTOGA TITLE INSURANCE CO.

John N. Papoutsis **DOB: 10-30-1968**

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717-418-2636
jpapoutsis@johnpaplaw.com

WORK EXPERIENCE

Law Office of John N. Papoutsis
Attorney

Camp Hill, PA
June 2004 to Present

Owner and Attorney of a private law practice specializing in residential and commercial real estate law, commercial business law and estate probate law

Cumberland Settlements, LLC
Attorney

Camp Hill, PA
May 2012 to Present

Owner and Attorney of Cumberland Settlements, LLC, a Pennsylvania Title Insurance Agency handling residential and commercial real estate settlements

Chelsea Settlement Services, Inc.
Attorney

Camp Hill, PA
June 2004 to April 2012

In-house Legal Counsel to a high business volume Title Insurance Agency doing business in the states of Pennsylvania and Maryland

Conestoga Title Insurance Company
General Counsel and Corporate Officer

Lancaster, PA
January 1996 to May 2004

Vice President and General Counsel to a regional Title Insurance Underwriter, at the time, doing business in Pennsylvania, Ohio, Maryland, Delaware, New Jersey, New York and Virginia

Law Office of Keith Blank
Attorney

Camp Hill, PA
October 1993 to December 1995

Staff Attorney specializing in real estate and business law.

EDUCATION

Franklin and Marshall College
Bachelor of Arts in Economics

Lancaster, PA
Graduated 1990

Widener University School of Law
Juris Doctorate

Harrisburg, PA
Graduated 1993

PROFESSIONAL RECOGNITIONS

Speaker for Attorney Continuing Legal Education seminars for the Pennsylvania Land Title Association and the Pennsylvania Bar Association

Author of educational publications for the Pennsylvania Land Title Association and the Maryland Land Title Association

Real Estate Expert Witness for various Pennsylvania Court of Common Pleas Civil Court cases

COMMUNITY INVOLVEMENT

Holy Trinity Greek Orthodox Cathedral Parish Council Secretary and Executive Officer

Cumberland Valley Youth Basketball Association Coach

Hampden Township Youth Baseball Coach

SKILLS

Second Language: Greek (Proficient)

INTERESTS

World and American History

Religious Studies

Professional and Amateur Baseball



COMMERCIAL REAL ESTATE TRANSACTIONS & TITLE ENDORSEMENTS

1. **What makes Commercial/Corporate transactions different than consumer/residential transactions?** **5 min**
 - a. \$ Size (frequently)
 - b. Complexity of financing and documents
 - c. Number of attorneys involved
 - d. Differences in title requests from lender

2. **Common Ownership approaches to Commercial transactions** **8 Min**
 - a. Limited Liability Company (LLC)
 - b. General Partnership
 - c. Limited Partnership
 - d. Corporation

3. **Entity Creation Documents for Review by Title Agent** **8 min**
 - a. State registration to create entity or to authorize to conduct business in state (for entities created out of state)
 - b. Operating Agreement or By-Laws
 - c. Minutes authorizing purchase, financing and naming signer for all documents

4. **Documents that may apply in Commercial/Corporate Transaction that don't usually apply to consumer/residential transactions** **15 min**
 - a. Uniform Commercial Code filings
 - i. UCC-1 creates lien on chattel, real estate, cash on hand. Can be filed with Dept. of State or Recorder of Deeds
 - ii. UCC-3 terminates existing UCC-1 lien filing
 - iii. Can also file an amendment to existing filing.
 - b. Assignment of Rents and Leases
 - c. Personal guarantees of individuals involved
 - d. Environmental indemnity agreement
 - e. Non-Disturbance/Attornment Agreement
 - f. Estoppel Certificate
 - g. Bulk Sales Tax affidavit or indemnity agreement
 - h. FIRPTA Affidavit
 - i. Highway Occupancy Permit (HOP)

5. **Commercial Title Policy Endorsements** **24 min**
 - a. Common Commercial Endorsements
 - b. Commercial Endorsements that Involve Surveys
 - c. Overview of Survey Coverage Under ALTA
 - d. Types of Surveys relevant to Title Insurance

Commercial Real Estate Transactions and Title Endorsements

Presented by: John Papoutsis, Esq.
Commercial Counsel
Conestoga Title Insurance Co.



Disclaimer

Conestoga Title Insurance Co. states that this material is for educational purposes only and does not constitute legal advice. We assume no liability for errors or omissions.



TODAY'S DISCUSSION

What makes Commercial/Corporate transactions different than consumer/residential transactions?

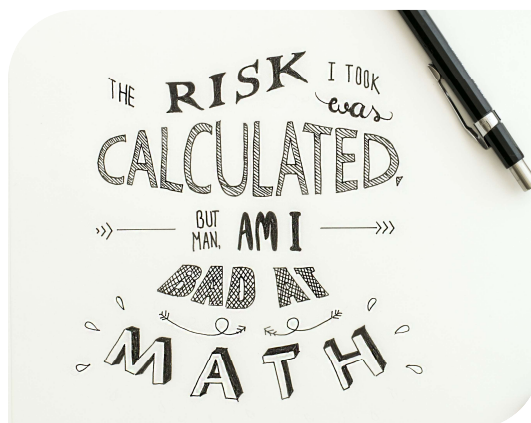
Common Ownership approaches to Commercial transactions

Entity Documents to be reviewed by Title Agent

Documents that may apply in Commercial/Corporate Transaction that don't usually apply to consumer/residential transactions

Commercial Title Policy Endorsements

Course Agenda



Common Commercial Concerns

Survey Related Endorsements and Issues

What makes commercial transactions different?

They're larger (\$\$\$)

- ▶ More complicated - more documents, more requirements, more sources of financing.



What makes commercial transactions different?

More "interested folks" including attorneys

Unusual title requests from lender



What makes commercial transactions different?

- ▶ Will use a HUD-1 as a settlement sheet. No CD. Could also use a “Sources and Uses of Funds”
- ▶ Not covered by RESPA!
- ▶ No limitation on types of charges that can be passed through to borrower.
 - appraisal
 - environmental reports
 - survey and engineering fees
 - legal fees
 - courier fees

HUD-1 SETTLEMENT STATEMENT

A. U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		SETTLEMENT STATEMENT	
B. TYPE OF LOAN		1. CD FHA	2. CD FHA
3. CD CONV. UNINS.		4. CD VA	5. CD CONV. INS.
		E. 1st Lien Number	F. 2nd Lien Number
C. NOTE: *The form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked (S) or (C) were paid outside the closing. They are shown here for informational purposes and are not included in the total.			
D. NAME AND ADDRESS OF BORROWER		E. NAME AND ADDRESS OF SELLER	
		F. NAME AND ADDRESS OF LENDER	
G. PROPERTY LOCATION		H. SETTLEMENT AGENT NAME AND ADDRESS	
		I. SETTLEMENT DATE	
J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
101. GROSS AMOUNT DUE FROM BORROWER		401. GROSS AMOUNT DUE TO SELLER	
102. Conveyance price		402. Conveyance price	
103. Personal property		403. Personal property	
104. Settlement charges to borrower (see 404)		404. Settlement charges to seller	
105. Adjustments for items paid by seller in advance		405. Adjustments for items paid by seller in advance	
106. Cashier fees		406. Cashier fees	
107. County taxes		407. County taxes	
108. Assessments		408. Assessments	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER		420. GROSS AMOUNT DUE TO SELLER	

Sources and Uses

Source of Funds		Use of Funds	
\$ 5,000,000.00	MAFC - New Term Loan	\$ 558,759.93	Aluminum shelving
		\$ 20,895.00	Aluminum sideboards
		\$ 61,000.00	Nets
		\$ 444,853.00	Wood materials
		\$ 95,000.00	Welding work
		\$ 160,000.00	Earthwork, drains, etc.
		\$ 34,801.15	Excavation, stone, etc.
		\$ 71,866.00	Spray foam
		\$ 129,117.00	Insulation
		\$ 701,400.00	Shelving and roof installation
		\$ 550,000.00	Transformer, generator, wiring, etc.
		\$ 950,971.84	Air conditioners
		\$ 33,862.08	Actuators and heat valves
		\$ 42,560.00	Air dampers
		\$ 60,496.50	Controls and sensors
		\$ 976,500.00	Cement block
		\$ 107,917.50	Closing costs, cost overruns, etc.
\$ 5,000,000.00		\$ 5,000,000.00	

What makes commercial transactions different?

- ▶ They frequently occur entirely digitally.
- ▶ Not necessarily using RON.
- ▶ In many cases, all documents are emailed to the title clerk to hold in a document escrow until authorization to fund is given by the lender and the parties authorize release of all documents for recordation and/or release to the other party.
- ▶ You may be holding onto signed and finalized closing documents for weeks!

What else makes commercial transactions different?

Entities as parties (Probably)



Mandatory Entity Issues for the Title Agent

1. Lien Concerns

- a) Obtain a lien certificate indicating no unpaid taxes for entity. If there are unpaid taxes, pay them on the sheet and send the \$\$ directly to the Dept. of Revenue.
- b) Insure the Company is in good standing with Maryland. This establishes that the entity has met all the registration and organizational requirements of the state of Maryland.
- c) If attorneys don't want you to collect/pay unpaid taxes/fees, propose an escrow agreement for you to hold \$ pending resolution. If that doesn't work, call underwriting.

2. Who can sign?

- a) Entity must provide minutes of entity showing that the transaction has been approved (purchase/sale/loan) on the terms outlined and that XXX has been authorized to sign all the documents on behalf of the entity. (Can be name or title of person authorized)

So you know....

1. PA, MD, NJ, NY do not require a written general partnership agreement. Check for fictitious name registration. Will still need minutes of the organization authorizing the transaction and identifying partner(s) authorized to sign.

In the absence of a partnership agreement, all partners need to sign the minutes.

2. Entities can have other entities as owners/partners.
3. You are not an investigator. Just ask for the documents, review them to make sure they say what they need to say. You don't have to delve deeply into the minutes, authorizations, etc. These are mostly to CYA - so that you and Conestoga have evidence that we reasonably believed that the parties were authorized to enter into the transaction. KEEP THEM!

What documents should you be prepared to handle and how do you keep it all straight?

Remember that the title clerk is the conductor in this matter.

Everything runs through the title clerk.



DOCUMENT	Prepared by	Complete y/n	Notes
Agreement of Sale	Buyer		
Deed*	Seller		
Seller's FIRPTA	Seller		
Seller 1099	Title		
Seller's Affidavit	Title/Seller		
Buyer's Affidavit	Title/Buyer		
Seller Entity documents	Seller		
Buyer Entity Documents	Buyer		
Dept. of Revenue lien clearance	Title		
Dept. of State Subsistence cert.	Title		
Minutes Authorizing Transaction	Buyer/Seller		
Utility prorations	Title		
Real Estate Tax information	Seller/Title		
Assignment of Lease*	Seller/Buyer		
Tenant Estoppel/SNDA	Lender/Seller		
Bulks Sales Affidavit	Seller		
Realtor Commission Agrmt. (x2)	Seller/Buyer/Realtor		
Wire Instructions	Buyer/Buyers/Title		
UCC filings *	Lender		
Mortgage*	Lender		
Note	Lender		
Assignment of Rents & Leases*	Lender		
Open Ended Mortgage*	Lender		
Construction Loan Agreement	Lender		
Personal Guaranty(s)	Lender		
Environmental Indemnity Agreement *	Lender		
Warranty Transfer Agreement	Seller/Buyer		

What are all these documents? A Quick Review

Starts with the Agreement of Sale.
Much more complicated
Highly negotiated and complicated
Contains due diligence provision

Make sure the copy you are given is fully executed and contains all exhibits
Review carefully.

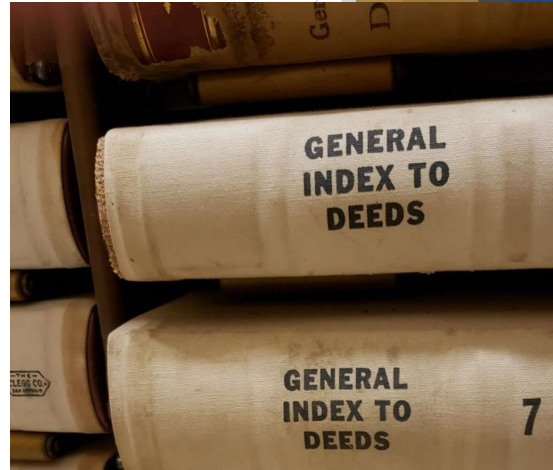
Ask questions. Start your checklist.

What are all these documents?

- ▶ For you to review before closing:
 - ▶ Seller Entity Documents & Minutes
 - ▶ Buyer Entity Documents & Minutes
 - ▶ lien clearance certification - for Buyer and Seller
 - ▶ Good standing certification - for Buyer and Seller

What are all these documents?

- ▶ For you to handle at closing: (the easy ones)
 - ▶ Deed
 - ▶ Mortgage
 - ▶ Note
 - ▶ Assignment of Rents and Leases
 - ▶ Open Ended Mortgage
 - ▶ Construction Loan Agreement
 - ▶ UCC filings



What are all these documents?

- ▶ Things that are generally present at commercial transactions that may not be present for residential transactions:
 - ▶ Seller FIRPTA certification - Foreign Investment in Real Property Tax Act of 1980.
 - ▶ If the seller is a foreign person, may have to withhold a percentage of seller's closing proceeds (15%).
 - ▶ Doesn't apply if Seller is owner occupant and transaction is \$300,000 or less.
 - ▶ Foreign person doesn't include citizens, lawful resident alien or foreign corporation that has not made an election to be treated as a domestic corporation.
 - ▶ Seller may supply a FIRPTA certification/affidavit. (Not prepared or provided by you.)
 - ▶ Review of AOS will probably show this is a document required to be provided by Seller at closing.

What are all these documents? (cont.)

- ▶ Tenant Estoppel/SNDA - Subordination, non-disturbance and attornment agreement.
 - ▶ “Subordination” changes the lien priority of any existing tenant leases to insure lender has first position lien.
 - ▶ “Non-Disturbance” insures that the lender will not disturb the existing tenant’s right to possession as long as tenant not in default.
 - ▶ “Attornment” requires that the tenant recognize the purchaser as the new landlord.
 - ▶ This generally isn’t recorded, though some lenders will require it to be recorded. Check with lender. Not your job to review.

What are all these documents? (cont.)

UCC-1

Puts lien on real estate, machinery & equipment, cash, inventory, etc.

Real estate liens can be filed in the County Recorder of Deeds as well as with the Dept. of State.

Do not draft paragraph #4 yourself - Collateral description. Make lender or attorney draft. Can be an attachment.

UCC FINANCING STATEMENT
FOLLOW INSTRUCTIONS

A. FILER'S PHONE OR COUNTY BY FILER (OPTIONAL)

B. E-MAIL CONTACT AT FILER (OPTIONAL)

C. SEND ACKNOWLEDGMENT TO: (NAME AND ADDRESS)

THE ABOVE SPACE IS FOR FILER OFFICE USE ONLY

1. DEBTOR'S NAME: (Provide only one Debtor name (1 a or 1b) per asset, but name, do not omit, modify, or abbreviate any part of the Debtor's name. If any part of the individual Debtor's name will not fit in the 30, name of all 2007's marks, check here and provide the individual Debtor information in Item 10 of the Financing Statement Attachment (Form UCC1A-99).

OR

1a. ORGANIZATION'S NAME

OR

1b. INDIVIDUAL'S SURNAME **FIRST PERSONAL NAME** **ADDITIONAL NAME(S) (INITIALS)** **SUFFIX**

1c. MAILING ADDRESS **CITY** **STATE** **POSTAL CODE** **COUNTRY**

2. SECURED PARTY'S NAME: (Provide only one Secured Party name (2a or 2b) per asset, but name, do not omit, modify, or abbreviate any part of the Debtor's name. If any part of the individual Debtor's name will not fit in the 30, name of all 2007's marks, check here and provide the individual Debtor information in Item 10 of the Financing Statement Attachment (Form UCC1A-99).

OR

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S SURNAME **FIRST PERSONAL NAME** **ADDITIONAL NAME(S) (INITIALS)** **SUFFIX**

2c. MAILING ADDRESS **CITY** **STATE** **POSTAL CODE** **COUNTRY**

3. SECURED PARTY'S NAME (A NAME OR ADDRESS OF ANOTHER SECURED PARTY): (Provide only one Secured Party name (3a or 3b).

OR

3a. ORGANIZATION'S NAME

OR

3b. INDIVIDUAL'S SURNAME **FIRST PERSONAL NAME** **ADDITIONAL NAME(S) (INITIALS)** **SUFFIX**

3c. MAILING ADDRESS **CITY** **STATE** **POSTAL CODE** **COUNTRY**

4. COLLATERAL: (The financing statement covers the following collateral)

FINANCING STATEMENT ATTACHMENT (Form UCC1A-99) (Required for all filings)

1. PUBLIC FINANCE TRANSACTIONS (PFT) **2. MULTIPLE FINANCE TRANSACTIONS (MFT)** **3. A DEBTOR IS A TRANSFEREE (DT)** **4. ASSIGNMENT (AS)** **5. UCC100 (UCC100)**

6. ALTERNATING JURISDICTIONS (AJ) **7. COLLATERAL CHECK (CC)** **8. PARTIAL COLLATERAL (PC)** **9. RETENTION OF TITLE (RT)** **10. UNPAID COLLATERAL (UC)**

8. OPTIONAL FILER REFERENCE DATA:

FILING OFFICE COPY — UCC FINANCING STATEMENT (Form UCC1) (Rev. 04/2011)

UCC-3 (Amendment)

Used to make changes to the filing. Can change collateral description, secured party (lender), addresses, entity names, etc.

Also used to terminate the lien.

Also used to continue the filing. UCC-1 filings at the Dept. of State terminate automatically by law in 5 years so must be renewed prior to termination.

Requires filing information from the original UCC-1 filing for completion.

UCC FINANCING STATEMENT AMENDMENT
FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

D. ORIGINAL FINANCING STATEMENT FILE NUMBER

E. TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the Security Interest of Secured Party authorizing this Termination Statement.

F. ASSIGNMENT (Full or partial): Provide name of Assignee in Item 7A or 7C, and address of Assignee in Item 7c add name of Assignor in Item 8 for other assignments, complete Item 9 and 10 add UCC section number in Item 11

G. CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest of Secured Party authorizing this Continuation Statement is continued for the additional period provided for applicable law

H. PARTY INFORMATION CHANGE:

I. CREDITORS' RECORD INFORMATION: Complete for Party Information Change. Provide only add, delete, or change.

J. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change. Provide only add, delete, or change. Do not check any part of the Other Change.

K. COLLATERAL CHANGE: Add, check, delete, or change for items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

L. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT: Provide only add, delete, or change. If this is an Assignment, if Part 9 of Amendment authorized by a RESORT, check here [] and provide name of authorizing Owner.

M. OPTIONAL FILER REFERENCE DATA:

FILING OFFICE COPY — UCC FINANCING STATEMENT AMENDMENT (Form UCC3) (Rev. 04/2011)

What else is different in Commercial Transactions?



Title Endorsements!

Title Policy Endorsements in Commercial Transactions.

- May be asked to write endorsements you've never heard of!
- Some large lenders and government lenders are very fussy and very sophisticated. May ask for endorsements not written in your state.
- If you don't know - that's why underwriting is here - ask us!
- May require you to obtain more information than you usually do, so be prepared to ask questions
- Endorsements can get pricey so prepare your customer.

Common Commercial Endorsements

ALTA 13.1-06; ALTA 18-06/18.1-06; ALTA 25-06/25.1-06; ALTA 37-06; and
Removal of Mechanic's Lien Exception

ALTA 13.1-06 (Leasehold - Loan)

- ▶ This endorsement is unique, as it should be attached to the ALTA Loan Policy when insuring a leasehold estate. (Please note, that the Lender may not specifically ask for this endorsement.)
- ▶ Underwriting:
 - ▶ The lease or memorandum of lease, must include an insurable legal description
 - ▶ The lease or memorandum of lease must be recorded
 - ▶ If the transaction involves an existing lease, you must obtain an Estoppel Certificate from the Landlord
 - ▶ The Insured Mortgage must be a leasehold mortgage
 - ▶ Schedule B must contain an exception for the rights, duties, and obligations set forth in the lease
 - ▶ All matters that affect the fee simple interest must be listed as exceptions
 - ▶ Requires prior underwriting approval before issuing.

ALTA 18-06 or 18.1-06 Single/Multiple Tax Parcels

- ▶ What does it insure:
 - ▶ 18-06 - Insures against loss or damage by reason of the Land being taxed as part of a larger parcel or failing to be a separate real estate tax parcel
 - ▶ 18.1-06 - It insures against loss or damage arising by reason of the parcels listed not being assessed under the tax identification numbers listed and the easements, if any, described in Schedule A being cut off or disturbed by the nonpayment of taxes, assessments or other charges
- ▶ Underwriting:
 - ▶ Tax parcel number(s) and compare them to the insured Land (They must be identical)
 - ▶ If Tax parcel numbers have not been issued, do not issue this endorsement

ALTA 37-06 (Assignment of Rents & Leases)

- ▶ What does it insure:
 - ▶ Insures against loss or damage sustained by the Insured by reason of:
 - ▶ any defect in the execution of the Assignment of Rents or Leases Document referred to in Schedule B - Part II; or
 - ▶ any assignment of the lessor's interest in any lease or leases or any assignment of rents affecting the Title and recorded in the Public Records at Date of Policy other than as set forth in any instrument referred to in Schedule B.
- ▶ Underwriting:
 - ▶ The Assignment of Rents or Leases must be duly executed on behalf of the entity by the individual authorized to execute the loan documents, and acknowledged by a notary
 - ▶ The Assignment of Rents and Leases must be recorded as a part of the insured loan transaction and must be shown on Schedule B-Part II of the Loan Policy

Removing Mechanic's Lien Exception

- ▶ While not technically an endorsement, a lender's request to remove this exception can be treated as one.
 - ▶ What is the effect of this request:
 - ▶ It removes the following language from Schedule B-I of the policy:
 - ▶ "Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records."
 - ▶ Underwriting:
 - ▶ Has there been any construction or materials supplied for construction in the last 6 months?
 - ▶ If no, get an affidavit to that effect.
 - ▶ Are there statutes which would give the insured mortgage priority over mechanics liens?
 - ▶ *Contact Underwriting!*
 - ▶ Don't forget the additional premium.

Commercial Endorsements that Involve Surveys

CTIC 1270; ALTA 17-06; ALTA 19-06; and ALTA 17.2-06

CTIC 1270 (Same as Survey - Loan) In Maryland - ALTA 25-06

- ▶ What does it insure:
 - ▶ Insures against loss or damage sustained by reason of the failure of the Land to be the same as delineated on a survey described in the endorsement
- ▶ Underwriting:
 - ▶ A survey certified to Conestoga and the Agent must be provided and reviewed to confirm that the legal description of the Land being insured is identical to that shown on the survey
 - ▶ An appropriate survey reading identifying any issues that are shown on the survey must be added to Schedule B of the Policy

ALTA 17-06 (Access and Entry)

- ▶ What does it insure:
 - ▶ Loss or damage if at the Date of the Policy the Land does not have both actual vehicular and pedestrian access from a specified road that is open and publically maintained or if the insured has no right to use the curb cuts or entries.
- ▶ Underwriting:
 - ▶ The named street must be physically open
 - ▶ The property must abut a public street
 - ▶ The property owner must have the legal right to use the access points
 - ▶ There must be no physical conditions that impede vehicular or pedestrian access
 - ▶ If any of the above is in question, you must obtain Underwriting Approval

ALTA 19-06 (Contiguity - Multiple Parcels)

- ▶ What does it insure:
 - ▶ Insures against loss or damage by reason of the failure of the boundary lines described to be contiguous and loss or damage by reason of the presence of any gaps, strips, or gores separating any of the contiguous boundary lines described
- ▶ Underwriting:
 - ▶ There must be at least two parcels being insured
 - ▶ A survey certified to Conestoga and the Agent must be received and show at least one common boundary that is contiguous without gaps, gores, or strips
 - ▶ Note: the second parcel does not have to be in fee; it can be an easement that has been searched and is being insured

ALTA 17.2-06 (Utility Access- Loan)

UW Approval Required

- ▶ What does it insure:
 - ▶ Insures against loss or damage by reason of a lack of a right of access to utilities identified in the endorsement. (NOTE: The specific utilities this endorsement is requested to cover must be identified)
- ▶ Underwriting:
 - ▶ A survey must be reviewed to ascertain that the Land adjoins a public right of way in which the utility lines are located
 - ▶ Determine the insurability of private easements providing services listed on the endorsement (make sure they are still valid and not terminated)
 - ▶ Verify that the easements providing services are shown on the survey
 - ▶ Verify that the Land is improved
 - ▶ Obtain a letter from the Owner identifying that the Land is serviced by the requested utilities
 - ▶ **Special Concern** - Make sure that any septic tank is not being used instead of connecting to the public sewer system

Overview of Survey Coverage under an ALTA Policy

ALTA Policy Jacket and overview of a few state specific distinctions

ALTA 2021 Policy Provisions

▶ Covered Risk 2(c):

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

(c) 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

Despite this, you will still find the following standard exception in a Pennsylvania Commitment:

Any variation in location and dimensions, conflicts in boundary lines, encroachments, overlaps, easements not of record and any other objections which a survey made in accordance with 'Minimum Standard Detail requirements for Land Title Surveys as adopted by American Land Title Association and National Society of Professional Surveyors' would disclose.

ALTA 2021 Policy Provisions - Continued

- ▶ Conestoga removes survey coverage with a survey exception in Schedule B-II of the commitment
- ▶ To bring survey coverage back in Maryland you simply need to omit the exception in Schedule B-II of the commitment (or B-I of the policy)
 - ▶ Note: In Maryland, Conestoga has three approved endorsements (300, 300NS, 301) which can be used rather than omitting the exception

Types of Surveys Relevant to Title Insurance

ALTA/NSPS Surveys, Boundary Surveys, and Location Surveys

ALTA/NSPS Surveys

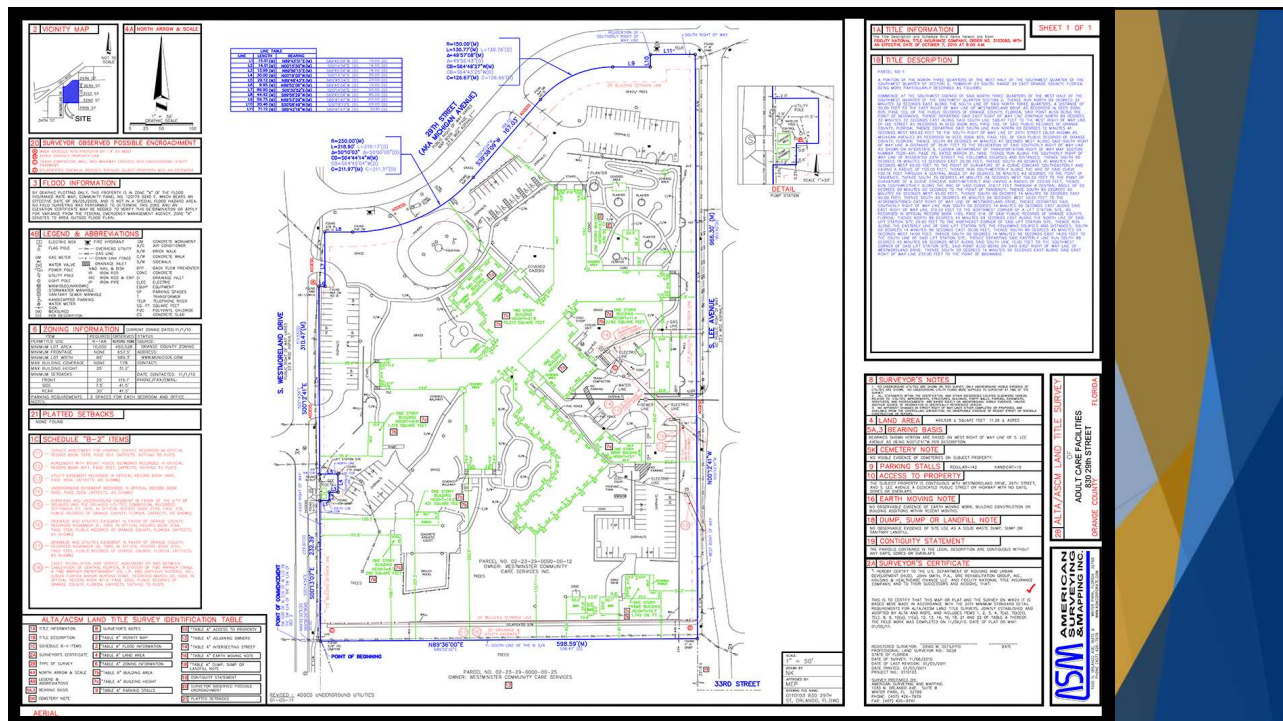
- ▶ ALTA/NSPS Survey
 - ▶ An ALTA Survey is a detailed survey performed by a registered licensed surveyor, and prepared in accordance with the standards specified by the American Land Title Association (ALTA) and the National Society of Professional Surveyors (NSPS).
 - ▶ “Gold standard” for all land surveys.
 - ▶ Includes a property with boundary lines, location of main building, auxiliary buildings, unrecorded improvements, and easements.
 - ▶ The survey must be prepared to meet certain minimum standard detail requirements.
 - ▶ **Practice tip** - ALTA surveys are quite expensive and require a great deal of time and title information to complete.

Minimum Standards Include

- ▶ Boundary standards
 - ▶ Must be established or retraced in accordance with boundary law principals
- ▶ Measurement Standards
- ▶ Record Research
 - ▶ The surveyor will need your commitment
- ▶ Fieldwork
- ▶ Lines of Possession and Improvements
- ▶ Easement and Servitudes
- ▶ Plat or Map
 - ▶ Includes standards for presentation
- ▶ Table A negotiated items

The Certification

- ▶ 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 2021 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)



20 SURVEYOR OBSERVED POSSIBLE ENCROACHMENT

ALL ENCROACHMENTS OBSERVED BY THE SURVEYOR ARE SHOWN ON THIS PLAN BY ITEM NUMBER (IN A SQUARE) CORRESPONDING WITH THE ITEM NUMBERS SHOWN ON SCHEDULE B - PART II. SURVEYOR'S COMMENTS IN [ITEM NUMBERS] ARE SHOWN.

3 FLOOD INFORMATION

NO FLOODING INFORMATION WAS OBSERVED BY THE SURVEYOR ON 12/5/19. THERE IS NO OBSERVED EVIDENCE OF ANY CURRENT EARTH MOVING ACTIVITIES, BUILDING CONSTRUCTION OR BUILDING ADDITIONS. FURTHERMORE, THERE IS NO OBSERVED EVIDENCE OF ANY STREET REPAIR AND/OR CONSTRUCTION.

4B LEGEND & ABBREVIATIONS

1	ELECTRIC BOX	CONCRETE FOUNDATION
2	FLY ASH	CONCRETE
3	FLY ASH	CONCRETE
4	FLY ASH	CONCRETE
5	FLY ASH	CONCRETE
6	FLY ASH	CONCRETE
7	FLY ASH	CONCRETE
8	FLY ASH	CONCRETE
9	FLY ASH	CONCRETE
10	FLY ASH	CONCRETE
11	FLY ASH	CONCRETE
12	FLY ASH	CONCRETE
13	FLY ASH	CONCRETE
14	FLY ASH	CONCRETE
15	FLY ASH	CONCRETE
16	FLY ASH	CONCRETE
17	FLY ASH	CONCRETE
18	FLY ASH	CONCRETE
19	FLY ASH	CONCRETE
20	FLY ASH	CONCRETE

6 ZONING INFORMATION

CURRENT ZONING: RES-10 (R-10)

7 RELATED SETBACKS

NONE FOUND

1A TITLE INFORMATION

1B TITLE DESCRIPTION

THIS IS A SURVEY OF THE NORTH 3/4 QUARTER OF THE WEST 1/4 OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 20N, RANGE 10W, COUNTY OF BRADDOCK, PENNSYLVANIA. THE SURVEY IS BEING MADE IN ACCORDANCE WITH THE 2019 MICHIGAN SURVEYING ACT AND THE 2019 MICHIGAN SURVEYING REGULATIONS. THE SURVEY IS BEING MADE FOR THE PURPOSE OF DIVIDING THE SURVEYED LAND INTO TWO (2) LOTS. THE SURVEY IS BEING MADE FOR THE PURPOSE OF DIVIDING THE SURVEYED LAND INTO TWO (2) LOTS. THE SURVEY IS BEING MADE FOR THE PURPOSE OF DIVIDING THE SURVEYED LAND INTO TWO (2) LOTS.

8 SURVEYOR'S NOTES

1. THIS SURVEY WAS MADE IN ACCORDANCE WITH THE 2019 MICHIGAN SURVEYING ACT AND THE 2019 MICHIGAN SURVEYING REGULATIONS. THE SURVEY IS BEING MADE FOR THE PURPOSE OF DIVIDING THE SURVEYED LAND INTO TWO (2) LOTS. THE SURVEY IS BEING MADE FOR THE PURPOSE OF DIVIDING THE SURVEYED LAND INTO TWO (2) LOTS. THE SURVEY IS BEING MADE FOR THE PURPOSE OF DIVIDING THE SURVEYED LAND INTO TWO (2) LOTS.

4 LAND AREA 450,328 & SQUARE FEET 11.26 & ACRES

5A,3 BEARING BASIS

BEARINGS SHOWN HEREON ARE BASED ON BEST RIGHT OF WAY LINE OF S. LEE AVENUE, AS SHOWN IN THE PLAN.

5K CEMETERY NOTE

NO VISIBLE EVIDENCE OF CEMETERIES ON SUBJECT PROPERTY.

9 PARKING STALLS REGULAR-142 HANDICAP-10

10 ACCESS TO PROPERTY

THE SUBJECT PROPERTY IS CONTIGUOUS WITH WINDSORWOOD DRIVE, 29TH STREET, AND S. LEE AVENUE. A DEDICATED PUBLIC STREET OR HIGHWAY WITH NO GAIS, DORES OR CHALLENGES.

16 EARTH MOVING NOTE

NO OBSERVABLE EVIDENCE OF EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS WITHIN OCCUPYING PORTION.

18 DUMP, SUMP OR LANDFILL NOTE

NO OBSERVABLE EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.

19 CONTIGUITY STATEMENT

THE PARCELS CONTAINED IN THIS LEGAL DESCRIPTION ARE CONTIGUOUS WITHOUT ANY GAIS, DORES OR CHALLENGES.

2A SURVEYOR'S CERTIFICATE

I, THE SURVEYOR, DO HEREBY CERTIFY THAT I AM A LICENSED SURVEYOR IN THE STATE OF MICHIGAN AND THAT I HAVE PERSONALLY CONDUCTED THIS SURVEY. I HAVE BEEN A LICENSED SURVEYOR IN THE STATE OF MICHIGAN SINCE [DATE]. I HAVE BEEN A LICENSED SURVEYOR IN THE STATE OF MICHIGAN SINCE [DATE]. I HAVE BEEN A LICENSED SURVEYOR IN THE STATE OF MICHIGAN SINCE [DATE].

7. THE LEGAL DESCRIPTION HAS BEEN REVISED TO INCLUDE THE FOLLOWING:

- REVISED EASEMENT CALLOUTS
- UPDATED ADJOINERS
- MATCH NAD 83 PENNSYLVANIA, SOUTH ZONE BEARING

8. THERE ARE NO PROPOSED CHANGES IN STREET RIGHT-OF-WAYS.

9. AS PER A FIELD VIEW ON 12/5/19, THERE IS NO OBSERVED EVIDENCE OF ANY CURRENT EARTH MOVING ACTIVITIES, BUILDING CONSTRUCTION OR BUILDING ADDITIONS. FURTHERMORE, THERE IS NO OBSERVED EVIDENCE OF ANY STREET REPAIR AND/OR CONSTRUCTION.

10. A TITLE COMMITMENT FOR DOSDARBS LLC, A PENNSYLVANIA LIMITED LIABILITY COMPANY, COMMITMENT NUMBER 2019-340, PREPARED BY CONESTOGA TITLE INSURANCE COMPANY AND DATED DECEMBER 4, 2019, WAS PROVIDED TO MCTISH, KUNKEL & ASSOCIATES ON JANUARY 6, 2020 BY LEHIGH-NORTHAMPTON AIRPORT AUTHORITY FOR REVIEW. THE FOLLOWING NOTES PERTAIN TO THE "EXCEPTIONS" FROM SCHEDULE B, PART II OF THIS DOCUMENT.

A. TO PRESERVE SPACE ON THIS DRAWING, EXCEPTIONS 1 THRU 7 ARE NOT PLOTTABLE, AND EXCEPTIONS 9, 11, 12 AND 14 ARE NOT ON THE SUBJECT PROPERTY. AS SUCH, ALL THE ABOVE REFERENCED EXCEPTIONS HAVE NOT BEEN SHOWN.

B. THE FOLLOWING "EXCEPTIONS" FROM SCHEDULE B - PART II ARE REFERENCED ON THIS PLAN BY ITEM NUMBER (IN A SQUARE) CORRESPONDING WITH THE ITEM NUMBERS SHOWN ON SCHEDULE B - PART II. SURVEYOR'S COMMENTS IN [ITEM NUMBERS] ARE SHOWN.

8 SUBJECT TO RIGHT OF WAY GRANTED TO BELL TELEPHONE CO. AND PENNSYLVANIA POWER AND LIGHT CO. IN BOOK 508, PAGE 198 IN THE OFFICIAL RECORDS AND IN BOOK 586, PAGE 486 IN THE OFFICIAL RECORDS.

10 SUBJECT TO RIGHT OF WAY GRANTED TO LEHIGH-NORTHAMPTON AIRPORT AUTHORITY IN BOOK 611, PAGE 486 IN THE OFFICIAL RECORDS.

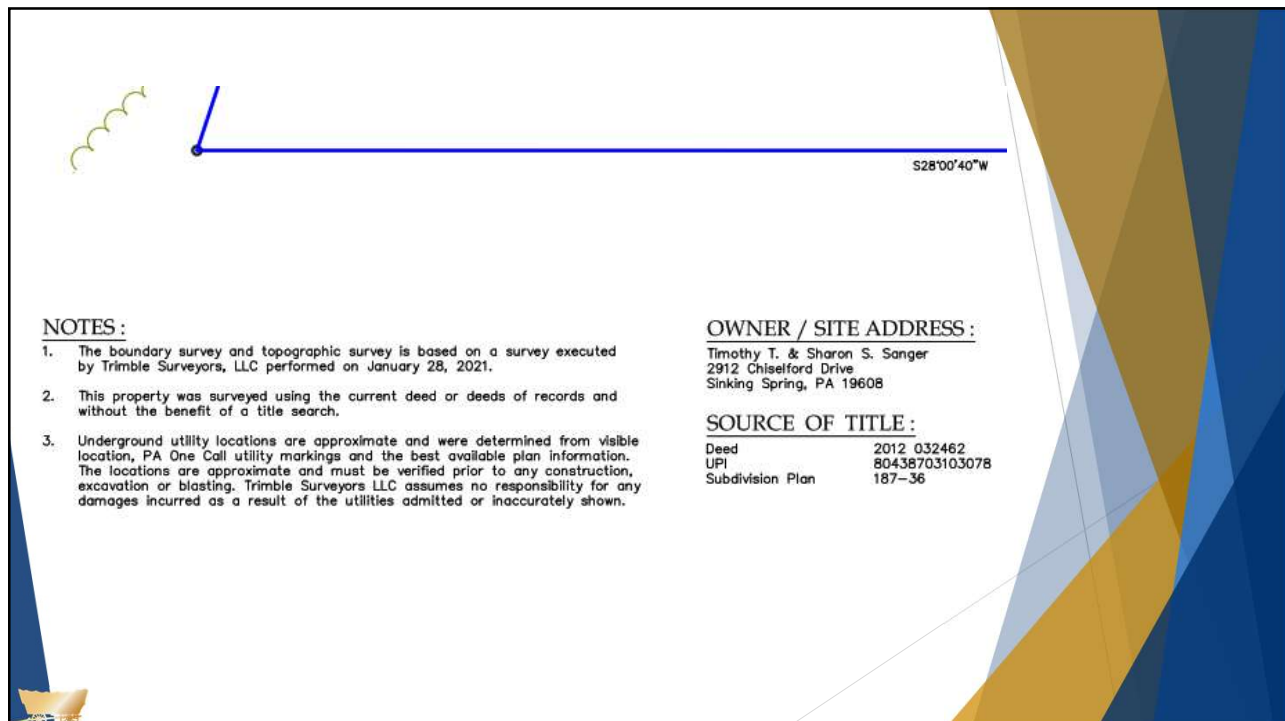
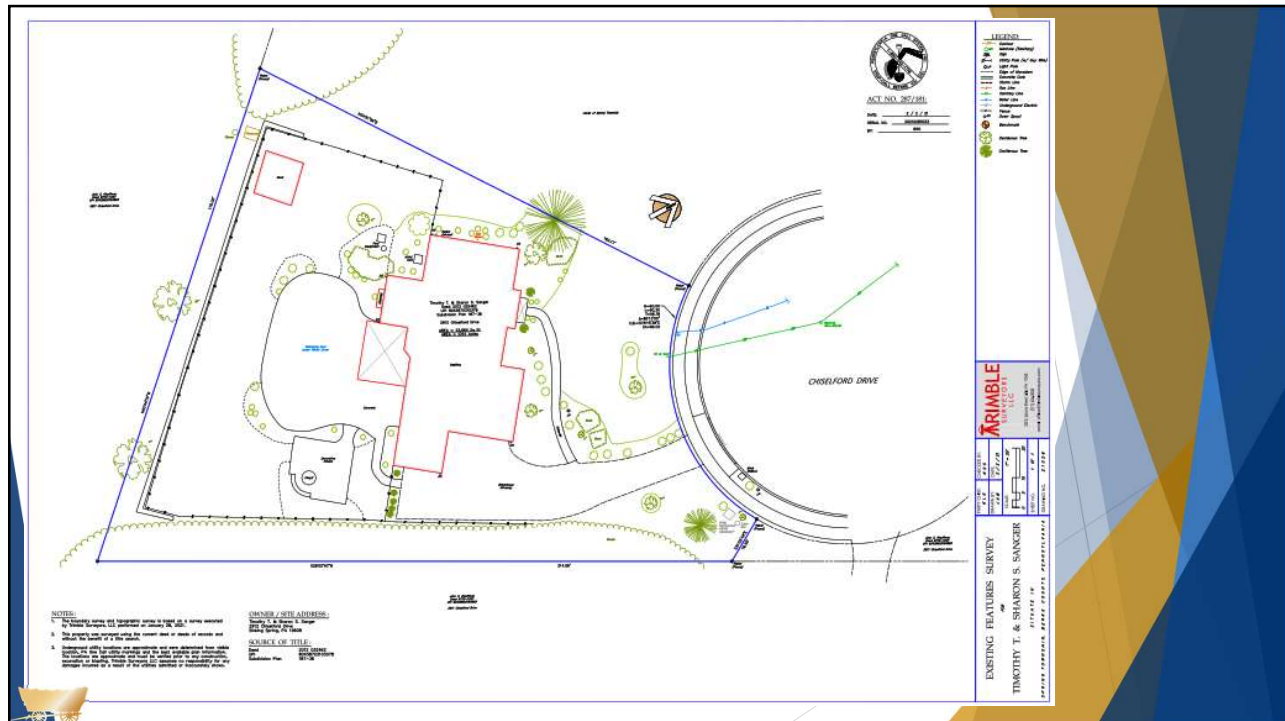
13 SUBJECT TO THE LEGAL OPERATION AND EFFECT OF THE PLAN NOTES, EASEMENTS, CONDITIONS AND ENCUMBRANCES AS SHOWN ON THE SUBDIVISION PLAN OF GENERAL AVIATION HANGAR AREA IN PLAN BOOK 21, PAGE 37 IN THE OFFICIAL RECORDS. [THE 30' WIDE ELECTRICAL UTILITY EASEMENT WAS SUCCEEDED BY A 30' WIDE ELECTRICAL AND TELEPHONE EASEMENT]

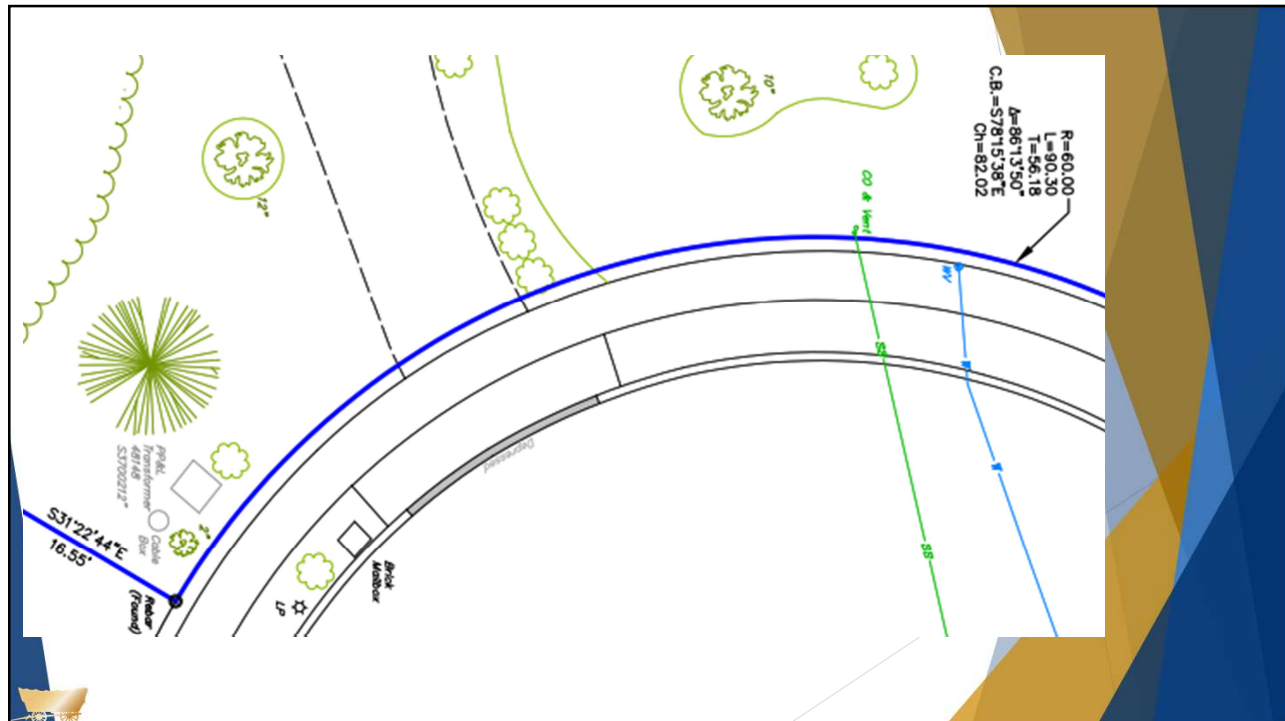
Overview of 2021 Changes to ALTA Survey Standards

- ▶ “Shall” to “Must” - Addresses the 1995 US Supreme Court case - *Gutierrez de Martinez v. Lamagno*
 - ▶ The concern being that Shall is a false imperative, that actually means “may”
- ▶ Section 5.E clarifies that the surveyor must note those easements or servitudes which are on or across the surveyed property
- ▶ Section 6.C requires the Surveyor to notify the title company if they discover a recorded easement not listed in the 1C section
- ▶ Wetlands delineation must be negotiated as an additional Table A item

Boundary Surveys

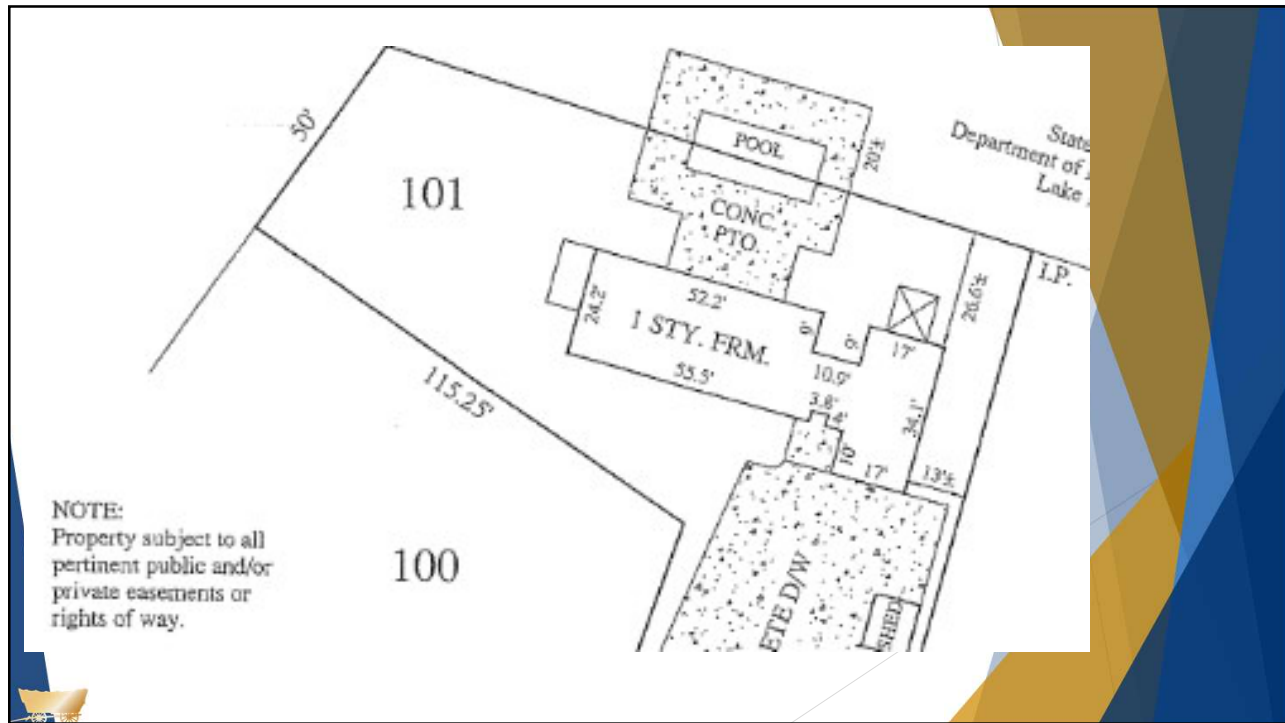
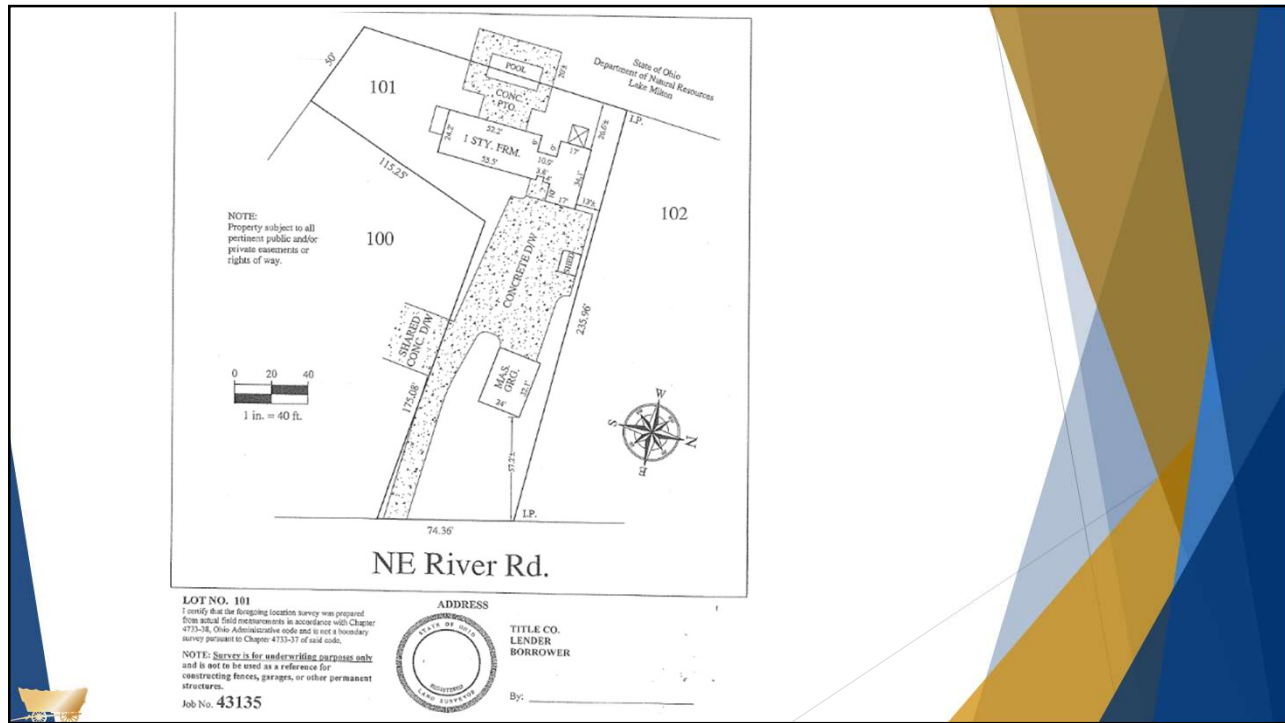
- ▶ Locates the boundary corners of a piece of property
- ▶ Can be as simple as a retracement of an older survey
- ▶ The results are shown on a scale drawing with distances and bearings
- ▶ The boundary survey will also reflect existing improvements, fences, and pools
- ▶ Similar to ALTA surveys but there are no set minimum standards
- ▶ Tend to be significantly less expensive than an ALTA Survey





Location Surveys/Drawing

- ▶ May look very similar to boundary surveys
 - ▶ Despite the similarity, in many states they can be done without the benefit of field work
- ▶ Because of this, accuracy can be a concern
 - ▶ Location surveys are accurate within a foot
 - ▶ Boundary surveys are accurate within $1/8^{\text{th}}$ of an inch
- ▶ Location surveys tend to be relatively inexpensive, sometimes being only a few hundred dollars



Survey Readings

Parts of a Survey, Small Print, Surveyor's Certificate, Steps to create a survey reading

Parts of a Survey

Project No. f:\2008\sample survey

Date: November 5, 2007

For: John Smith

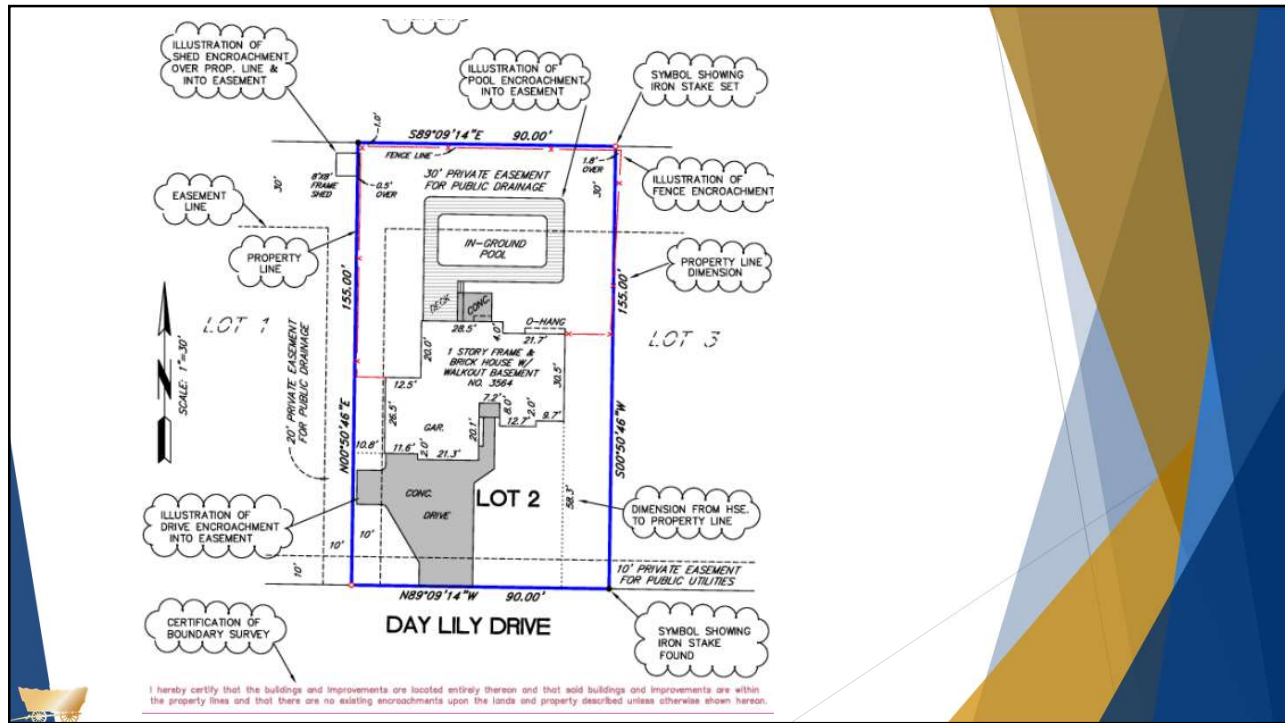
3564 Day Lily Drive
Grand Rapids, MI 49546

SAMPLE BOUNDARY SURVEY

LEGAL DESC. OF
PROPERTY FROM
TITLE INSURANCE

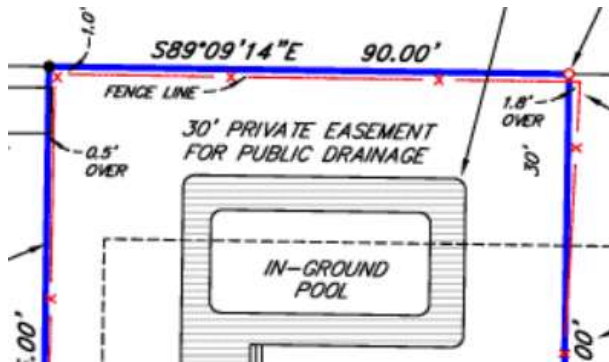
LEGAL DESCRIPTION

Lot 2, Day Lily Trail, part of the SE 1/4 of Section 29, T7N, R12W, City of Walker, Kent County, Michigan, as recorded in Instrument No. 200000060000598.



Look at the small print

I hereby certify that the buildings and improvements are located entirely thereon and that said buildings and improvements are within the property lines and that there are no existing encroachments upon the lands and property described unless otherwise shown hereon.



Look at the Certification

► On an ALTA Survey:

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 2021 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)

► On other Surveys, the certification may be much less comprehensive

Creating a Survey Reading

COMMITMENT SURVEY READING

File Number: OR-1956

Commitment Number: OR-1956

BLOCK: 6145 LOT: 13

Survey by Rogers Surveying PLLC dated August 13, 2019, shows 2 story brick and frame building with asphalt parking areas, 1st and 2nd story balconies, vault and generator on concrete pad. Survey shows the following variations or encroachments:

- a) concrete curb and 1 ft. concrete wall encroach northerly record line onto adjoining Lot 300
- b) 6 ft. chain link fence on 1 foot concrete wall on easterly record line
- c) approximately 15 feet of a 30 foot access easement along westerly record line
- d) Approximately 25.62 feet to 29.35 feet of the premises described in Schedule "C" lies in the bed of WOODROW ROAD as same is laid out on the official map of New York City. Policy affirmatively insures that no portion of the building lies within the widening area.

SUBJECT to any state of facts since the date of said survey.



Questions?

Conestoga Title Insurance Co.
800-732-3555
Conestogatitle.com