



CONCURRENT SESSION IV: B

Yeah, So the Building Slipped Over the Line? Big Deal – How Title Insurance and Surveys Help You Avoid Committing a Foul

MODERATOR

Alan Sable, Attorney at Law, Meyer, Unkovic & Scott LLP

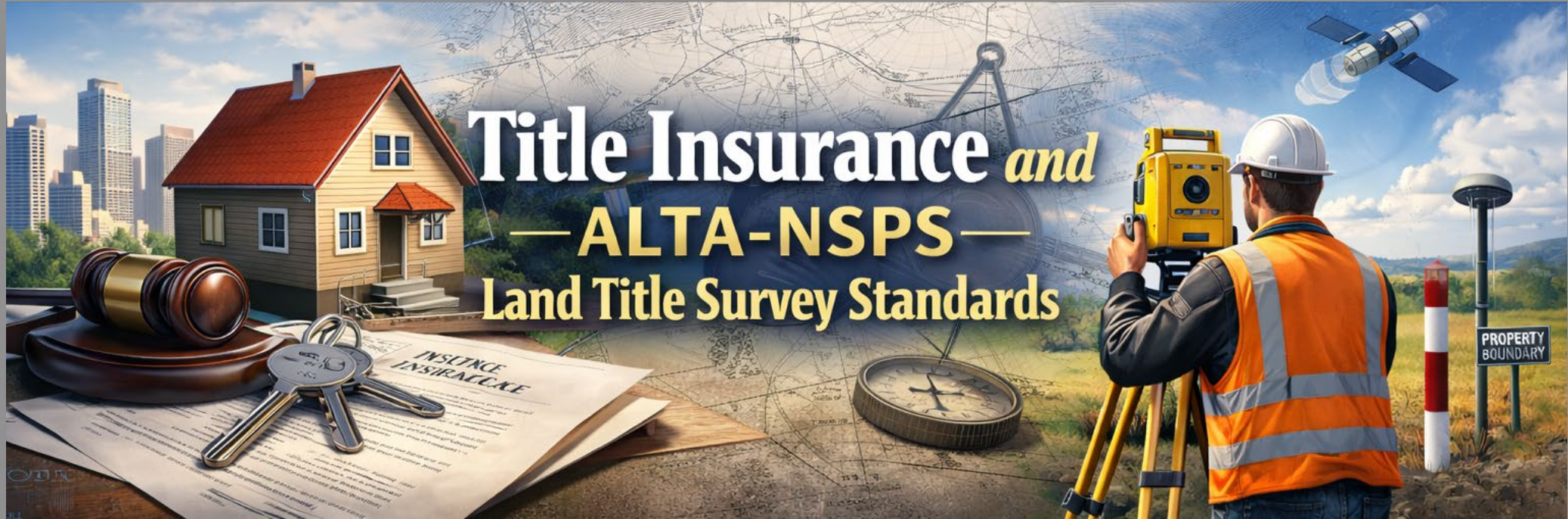
PANELISTS

Don Groesser, VP, Civil & Environmental Consultants, Inc.

Emi Kaneko, Regional Underwriting Counsel, First American Title

Jen Somma, Underwriting Counsel, First American Title





Title Insurance *and* —ALTA-NSPS— Land Title Survey Standards

ICSC+LAW SYMPOSIUM OH/KY/IN/MI/PA
Hilton Columbus/Polaris
Columbus, Ohio, United States
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Introduction – Jennifer Somma

- ◆ First American Title Insurance Company, National Commercial Services
- ◆ Senior Underwriting Counsel
- ◆ Based in Pittsburgh, handles national transactions

Introduction – Emi Kaneko

- ◇ First American Title Insurance Company
- ◇ Regional Underwriting Counsel
- ◇ Based in Michigan, handles transactions in Indiana and Michigan

Introduction – Don Groesser

- ◇ Surveying for 40 years, Licensed in seven states (PA, IL, WI, KY, NY, AZ, FL)
- ◇ Past President of the Illinois Professional Land Surveyors Association; current Vice President of the Board of Directors of the Pennsylvania Society of Land Surveyors; Chair of the Standards of Practice Committee (2020–2022); Chair of the Geospatial and Education Committees (2023–2025).
- ◇ 2022 PSLS Surveyor of the Year!
- ◇ Vice President in the Survey / Geospatial Practice for Civil & Environmental Consultants, Inc. (CEC) based in our headquarters in Moon Township.
- ◇ CEC provides Surveying and Geospatial Services in 23 of CEC's 33 offices, including 190 Survey / Geospatial staff members with 40 Professional Land Surveyors licensed in 32 states.
- ◇ Very happily married for 37 years, and have 12 kids and 1 granddaughter ...

Introduction – Alan Sable

- ◇ Partner in the Real Estate & Lending practice group of Meyer, Unkovic & Scott, LLP.
- ◇ Licensed title insurance agent who operated a commercial title insurance agency affiliated with his prior law firm
- ◇ Previously, a founding member of Sable and Sable, LLC, and a partner in the Pittsburgh office of Reed Smith LLP
- ◇ Almost 34 years of experience offering legal advice in all areas of commercial real estate law
- ◇ Education: J.D., Penn State Dickinson Law, 1992 - B.A., Colgate University, 1989
- ◇ Served as an expert witness on real estate title issues in federal and state court litigation matters
- ◇ Resides in Pine Township with his wife and their miniature dachshund, and sometimes their 2 children

What is the name of this national monument?



“The Three Surveyors and the Other Guy”

“Only 1 Attorney”

ALTA / NSPS LAND TITLE SURVEYS



- ◆ What is ALTA / NSPS?
- ◆ Purpose of ALTA/NSPS Land Title Surveys
- ◆ ALTA/NSPS Land Title Survey Standards
- ◆ Content of the Standards (abridged)
- ◆ Table A Items



What is ALTA / NSPS?

- ◇ American Land Title Association (ALTA), founded in 1907, represents the title insurance industry.
- ◇ American Congress on Surveying and Mapping (ACSM), founded in 1941, represented the interests of those engaged in measuring and communicating geospatial data.
- ◇ National Society of Professional Surveyors, originally a subgroup of ACSM, founded in 1981, represents the surveying profession. In 2012, ACSM legally merged into the NSPS.
- ◇ In 2016, the ALTA / ACSM Land Title Survey Standards were changed to the ALTA / NSPS Land Title Survey Standards

What is ALTA / NSPS?

- ◆ The collaboration of ALTA and ACSM (now NSPS) led to the creation of standards for surveys conducted for real estate transactions.
- ◆ ALTA/NSPS Land Title Surveys are essential in providing a comprehensive and standardized assessment of a property's status.



Purpose of ALTA/NSPS Land Title Surveys

- ◇ Ensuring Clear Land Title
 - ◇ Assures stakeholders that the property is free from unexpected title issues that could jeopardize their interests
- ◇ Protecting Investments
 - ◇ Key term “Extended Title Coverage”
- ◇ Legal Compliance
 - ◇ ALTA/NSPS surveys ensure compliance with legal requirements related to property transactions by requiring adherence to a national standard, professional standards and local regulations

ALTA/NSPS Land Title Survey Standards

- ◆ “MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS”
- ◆ Originally adopted 1962. Revised '86, '88, '92, '97, '05, '11, '16, '21
- ◆ **New Standards Effective February 23, 2026**
(Festival of the Roman God Terminus)



Content of the Standards (abridged)

1. **Purpose** - Members of the American Land Title Association® (ALTA) have specific needs, unique to title insurance matters, when asked to insure title to land without exception as to the many matters which might be discoverable from survey and inspection, and which are not evidenced by the public records.

Content of the Standards (abridged)

6. Plat or Map

C. Easements, Servitudes, Rights of Way, Access, and Documents

- ◆ i. The location, width, and recording information of all plottable rights of way, easements, and servitudes burdening and benefitting (i.e. appurtenant to) the surveyed property, as evidenced by documents provided to or obtained by the surveyor pursuant to Section 4.
[EXCEPTIONS]

Content of the Standards (abridged)

- ◆ ii. A summary of all rights of way, easements, and other survey-related matters burdening the surveyed property and identified in the title evidence provided to or obtained by the surveyor pursuant to Section 4. Such summary must include the record information of each such right of way, easement or other survey-related matter, a statement indicating whether it lies within or crosses the surveyed property, and a related note for each of the following conditions, if present:

Content of the Standards (abridged)

- ◇ (a) its location is shown;
- ◇ (b) its location cannot be determined from the record document;
- ◇ (c) there was no observed evidence at the time of the fieldwork;
- ◇ (d) it is a blanket easement;
- ◇ (e) it is not on, does not touch, and/or - based on the description contained in the record document – does not affect, the surveyed property;
- ◇ (f) it limits access to an otherwise abutting right of way;
- ◇ (g) the documents are illegible; or
- ◇ (h) the surveyor has information indicating that it may have been released or otherwise terminated.

- ◇ In cases where the surveyed property is composed of multiple parcels, indicate which of such parcels the various rights of way, easements, and other survey-related matters cross or touch.

8	7
<p>A.L.T.A. COMMITMENT FIRST AMERICAN TITLE INSURANCE COMPANY EXCEPTIONS – SCHEDULE B – SECTION II</p> <p><i>The following items are exceptions outlined in Schedule B – Section II, A.L.T.A. Commitment for Title Insurance, First American Title Insurance Company, Commitment No. 76009, effective date April 19, 2022.</i></p> <p><i>Items 1–11 are not matters of survey and have been intentionally excluded.</i></p> <p>12. <i>Right of Way Easement dated December 15, 1986 by and between Appalachian Power Company and Mason County Public Service District, of record in Mason County Deed Book 287, at page 292.</i></p> <p style="background-color: yellow;"><i>This item is located on the subject property and is plotted.</i></p> <p>13. <i>Agreement dated July 31, 1984 by and between Appalachian Power Company and Union Drilling, Inc., of record in Mason County Deed Book 276, at page 525, as amended by Assignment, Conveyance and Bill of Sale dated August 27, 2008 by and between Base Petroleum, Inc. and RAM Energy Resources (WV), Inc., of record in Mason County Oil and Gas Lease Book 69, at page 815, as amended by Amendment to Assignment, Bill of Sale and Conveyance dated February 25, 2014 by and between HRC Energy Resources (WV), Inc. and Coleta LLC, of record in Mason County Oil and Gas Lease Book 71, at page 927.</i></p> <p style="background-color: yellow;"><i>This item is located on the subject property and is plotted.</i></p> <p>14. <i>Agreement dated July 10, 1984 by and between Appalachian Power Company and Union Drilling, Inc. of record in Mason County Deed Book 276, at page 394, as amended by Assignment, Conveyance and Bill of Sale dated August 27, 2008 by and between Base Petroleum, Inc. and RAM Energy Resources (WV), Inc., of record in Mason County Oil and Gas Lease Book 69, at page 815.</i></p> <p style="background-color: yellow;"><i>This item is located on the subject property and is plotted.</i></p>	

ALTA/NSPS Land Title Surveys and Title Insurance

Content of the Standards (abridged)

- ◇ 7. Certification –
- ◇ A. The plat or map of an ALTA/NSPS Land Title Survey must bear only the following unaltered certification except as may be required pursuant to Section 3.B. above:

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 2026 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)

- B. Certification may be extended to successors and assigns of the lender if requested.

Additional Certified Parties

- ◇ Additional certified parties = additional risk
 - ◇ Additional certified parties can and do file lawsuits
 - ◇ It is bad business practice to accept risk without remuneration
- ◇ Are all parties to be certified on the survey included in the title insurance?
- ◇ Does the surveyor (and title company) have an agreement in place with the additional certified parties that address terms and conditions?
 - ◇ Limit of liability / Indemnification
 - ◇ Scope of work / Assumptions and exceptions
 - ◇ Solution: Reliance letter addressed to additional certified party that they sign indicating acceptance of the same T&C that were agreed to by the client
 - ◇ There should be a fee associated with the additional certification

TABLE A ITEMS

- ◆ Optional Survey Responsibilities and Specifications
- ◆ Additional to the standard requirements
- ◆ Negotiated between client and surveyor
- ◆ Lender requirements should be considered
- ◆ Often attached to a Request for Proposal
- ◆ Included in proposal text from surveyor
- ◆ Listed in the survey certificate
- ◆ **TITLE ENDORSEMENTS DETERMINE TABLE A ITEMS**

TABLE A ITEMS – notable change in 2026

20. _____ *When observed in the process of conducting the fieldwork or otherwise identified in the process of preparing the survey the following conditions and potential encroachments must be summarized in a table and indicated on the face of the plat or map. Without expressing a statement of legal opinion or an opinion as to ownership, the table must identify the physical conditions, and provide a means by which the conditions can be readily located on the face of the plat or map by a reviewer; however, this table may not be a comprehensive list of all concerns shown on the plat or map of the survey.*
- *Potential encroachments over boundary lines onto the surveyed property from adjoining property and onto adjoining property from the surveyed property.*
 - *Potential encroachments into rights of way and easements for which written documentation of the existence of such rights of way and easements was provided to or obtained by the surveyor pursuant to Section 4.*
 - *Potential encroachments of front, side or rear setbacks, but only when the setback requirements specific to the surveyed property were provided to the surveyor pursuant to Table A item 6(a) or 6(b) or provided in recorded documents.*
 - *Physical access between adjoining parcels without benefit of an easement for which written documentation of the existence of such easement was provided to or obtained by the surveyor pursuant to Section 4.*
 - *Use of adjoining parcels by apparent occupants of the surveyed property without benefit of an easement for which written documentation of the existence of such easement was provided to or obtained by the surveyor pursuant to Section 4.*

TITLE INSURANCE

- A. What is it?
- ◇ a policy of indemnity that insures against risk of loss arising from events that occurred in the past
 - ◇ a contract between an insured (owner, lessee, lender, or other holder of an estate or interest in real estate) and an insurer (title insurance company) where the insurer, in exchange for the payment of a fee (a premium), agrees to pay the insured a sum of money if a certain event or events occurs that is covered by the policy.

TITLE INSURANCE

B. Why do you need it?

- ◇ Protects owner's investment in the real estate
 - ◇ Commitment will identify existing title defects that seller should resolve prior to purchase
 - ◇ Includes coverages for (a) forgery, fraud, incompetency and incapacity, (b) lack of authority of a person or entity to authorize a transfer or conveyance, including the granting of a security interest, or (c) improper, or lack of notarization, witnessing or execution of a document.
- ◇ Most lenders require it

TITLE INSURANCE

- c. What does it show and how does it show it?
 - 1. Jacket: Covered Risk, Terms and Conditions, Exclusions from coverage
 - 2. Schedule A: Named Insured, Estate Insured, Title Vesting, Land Insured
 - 3. (Commitment) Schedule B-I: Requirements for Issuance
 - 4. (Commitment) Schedule B-II: Standard and Specific Exceptions

TITLE INSURANCE

- D. What do you get with title insurance?
 1. Comfort that your seller has good title to the property
 2. Information regarding covenants, conditions, restrictions, and easements affecting the property
 3. A check for liens, mortgages and other encumbrances affecting the property to be purchased

TITLE INSURANCE DEFECTS

- A. What are title issues?
 - ◇ A potential threat to a current owner's full right or claim to sell a property, such as a recorded lien, mortgage or judgment that gives another party a claim to the property.
 - ◇ Common title issues include:
 - ◇ Errors in public records
 - ◇ Unknown liens
 - ◇ Unknown easements
 - ◇ Missing heirs
 - ◇ Boundary/survey disputes
 - ◇ Delinquent taxes

TITLE ISSUES AND DEFECTS

- B. Where do title issues show up?
 - 1. Schedule B-II of the Title Commitment
 - i. CC&Rs
 - ii. Easements
 - iii. Leases
 - iv. Liens
 - 2. ALTA/NSPS Land Title Survey
 - i. Contiguity, gaps and overlaps
 - ii. Water boundaries
 - iii. Easements under structures
 - iv. Encroachments
 - v. Access

TITLE DEFECTS – CURING & INSURING

- A. Title Policy Endorsements
 - ◇ ALTA 9 Series – Restrictions, Encroachments & Minerals/ Covenants, Conditions & Restrictions/Private Rights (“Comprehensive”)
 - ◇ ALTA 17 Series – Access Endorsements
 - ◇ ALTA 19 Series – Contiguity Endorsements
 - ◇ ALTA 25 Series – Same As Survey Endorsements
 - ◇ ALTA 28 Series – Easements & Encroachments Endorsements
 - ◇ ALTA 35 Series – Minerals & Other Subsurface Substances Endorsements

TITLE DEFECTS – CURING & INSURING

B. Curative Actions

- ◊ Quiet Title Actions
- ◊ Releases/Terminations
- ◊ Quitclaim Deeds
- ◊ Affidavits

PRACTICAL TIPS

- ◇ READ
 - ◇ The Title Commitment
 - ◇ The ALTA/NSPS Survey
 - ◇ The Proforma Title Policy
- ◇ ASK QUESTIONS
 - ◇ Your Counsel
 - ◇ Your Title Company
 - ◇ Your Surveyor

PRACTICAL TIPS

- ◇ IDENTIFY & DISCLOSE
 - ◇ Discrepancies/Inaccuracies
 - ◇ Problems
 - ◇ Inconsistencies in title and survey documents

CONTACT INFORMATION



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