The 2011 ALTA/ACSM
Land Title Survey Standards
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The 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys (hereinafter 2011 Standards) are in effect as of February 23, 2011—the date of the festival held in honor of Terminus, the Roman god who protected boundary markers. These new standards represent the first major revision of the land title survey standards since they were adopted in 1962 by the American Congress on Surveying and Mapping (ACSM) and the American Title Association (now the American Land Title Association, or ALTA). These new standards were drafted by an ALTA/ACSM liaison committee chaired by one of the authors of this article, Gary R. Kent, an Indianapolis surveyor. This article will explain the most significant changes to these standards.

Changes to the Main Text of the Standards

In general, the 2011 Standards have been completely reformatted and reorganized.

The 2005 ALTA/ACSM land title survey standards (2005 Standards) contained a few untitled preliminary paragraphs, followed by an extensive section that detailed what the plat of survey should include. In contrast, the 2011 Standards contain eight numbered sections. These standards begin with a “Purpose” section, setting out the premise that title companies, lenders, and their respective customers are entitled to rely on plats of survey that are appropriately uniform, complete, and accurate. This section 1 also includes a definition of a 2011 ALTA/ACSM Land Title Survey:

A complete 2011 ALTA/ACSM Land Title Survey includes the on-site field work required under Section 5 herein, the preparation of a plat or map showing the results of the fieldwork and its relationship to record documents as required under Section 6 herein, any information in Table A herein that may have been negotiated with the client, and the certification outlined in Section 7 herein.

This paragraph illustrates a fundamental change in the structure of the survey standards. As noted above, the 2005 Standards contained a lengthy section (section 5) that set forth what the plat of the land title survey should contain. But it was a mixture of other things as well, such as field work requirements and calculations. In the 2011 Standards, the ALTA/ACSM liaison committee decided that it would make more sense to have one section that details what the surveyor must do in the field to gather all of the information that the title company needs to issue its title policy. This section is followed by a section that addresses—now that the field work has been done—the transfer of the survey field work onto the plat (or map) of survey.

Section 2, entitled “Request for Survey,” provides that the surveyor’s client should request the survey and that the request should include which, if any, of the optional items listed in Table A must be incorporated into the plat of survey. This section also includes some guidance for surveying nonstandard real estate:

Certain properties, including, but not limited to, marinas, campgrounds, trailer parks and leased areas, may present issues outside those normally encountered on an ALTA/ACSM Land Title Survey. The scope of work related to such properties should be discussed with the client, lender and insurer, and agreed upon in writing prior to requesting the survey. The client may need to secure permission for the surveyor to enter upon the property to be surveyed, adjoining properties, or offsite easements.

Note the naming of four specific properties: marinas, campgrounds, trailer parks, and leased areas. Why were these four property types singled out? Because surveyors frequently ask about these types of properties.

For example, with marinas, surveyors are concerned about possible riparian rights. With marinas, campgrounds, and trailer parks, surveyors often ask, “what do I locate and show on my plat of survey?” With leased real estate, surveyors simply wonder, “can I survey a leased area?” Ultimately, this paragraph was drafted to encourage surveyors to communicate with their clients and with title companies so that everyone has the same expectations.

Section 3 is entitled “Surveying Standards and Standards of Care.” This section illustrates how the drafters of the 2011 Standards walked the fine line between drafting a national standard and recognizing a possible local standard of care. On the one hand the committee wanted the surveyor to essentially follow an objective set of guidelines so that, when the surveyor is finished, he or she knows that the survey reflects all information the standards require and that the surveyor can certify that the plat of survey meets these survey standards.

On the other hand, because these standards are a national standard but used on a local level, the liaison committee recognized that there may be written statutes, administrative rules, or ordinances that regulate the practice of surveying. In addition, the committee noted that there may be subjective unwritten local, state, or regional standards of care as defined and practiced by the “prudent surveyor” in a particular geographical location. Because of these considerations the committee had to deal with three sets of survey guidelines:

1. the actual ALTA/ACSM land title survey standards;
2. written statutes, administrative rules, or ordinances; and
3. an unwritten and therefore subjective and possibly nebulous standard of care for the “prudent surveyor” in the community or regional area.

The problem confronting the ALTA/ACSM liaison committee (and its solution) is set forth in sections 3.B and 3.C of the 2011 Standards as follows:
Problem: The committee wanted to create an *objective* land title survey standard, but it also wanted to remind the surveyor to be aware of a possible *subjective* local or regional standard of care.

Solution: The 2011 Standards require surveyors to “*conduct their surveys*” in accordance with both the ALTA/ACSM land title survey standards and the written statutes, administrative rules, and/or ordinances . . . . But the standards also require that the surveyor “recognize that there may be unwritten local, state, and/or regional standards of care defined by the practice of the ‘prudent surveyor’ in those locales.” [Emphasis added.]

In the past, these survey standards have not addressed the issue of properly establishing the *boundary* of the surveyed property. Section 3.D now addresses this issue as follows:

The boundary lines and corners of any property being surveyed as part of an ALTA/ACSM Land Title Survey shall be established and/or retraced in accordance with appropriate boundary law principles governed by the set of facts and evidence found in the course of performing the research and survey.

Section 3.E modifies and expands on the measurement precision standard of the land title survey. Formerly the term of art was “Relative Positional Accuracy.” Now the term is “Relative Positional Precision.” The committee is currently working to develop a document that will not be part of the 2011 Standards but instead will be a reference for surveyors about this measurement standard.

Section 4 is entitled “Records Research.” It requires that the so-called “Record Documents” be furnished the surveyor. These documents include the following items:

1. Complete copies of the most recent title commitment, the current record description of the property to be surveyed (or, in the case of an original survey, the parent parcel), the current record descriptions of adjoiners, any record easements benefiting the property, the record easements or servitudes and covenants burdening the property . . . .

Contrary to popular belief, this section does not require that the title company perform a title search of the adjoining property. Rather, the surveyor needs only the “current record descriptions of adjoiners.” This section 4 requirement, however, should be read in conjunction with paragraph 6.C.vi of the 2011 Standards, which requires that the plat of survey show “[f]or platted adjoining land, names and recording data identifying adjoining owners according to current public records. For platted adjoining land, the recording data of the subdivision plat.” In other words the “Record Documents” relating to adjoining land will be copies of current recorded deeds and, if appropriate, either one or more subdivision plats or the recording data of those plats.

Although ALTA anticipated that any records research would probably be performed by the title insurance company, the 2011 Standards do not state that the title company is responsible for providing these documents.

Rather, section 4 of these standards merely indicates that this information “shall be provided to the surveyor for use in conducting the survey.” Because the contract between the surveyor and client is to survey Blackacre and to prepare a land title survey according to the 2011 Standards, these standards would essentially be part of the contract. One might argue that the client should furnish the surveyor these “Record Documents.” Practically, though, in many instances the title company will be the logical source for these documents.

Notwithstanding the dictates and fine points of section 4, in many states surveyors are required by administrative rule to conduct their own deed research. A surveyor in those states may never ask a title company for copies of recorded deeds, plats, and other documents, unless the surveyor encounters difficulties while conducting the title search. Of course, nothing in the standards requires that these documents be provided at no cost to the party that ordered the survey.

Section 5, entitled “Field Work,” is the heart of the standards. This section requires that the surveyor’s field work include the following: monuments, rights of way and access, lines of possession and improvements along the boundaries, buildings, easements and servitudes, cemeteries, and water features. This section contains several new elements. For example, the issue of access (paragraph 5.B.iv) is greatly expanded:

The location and character of vehicular, pedestrian or other forms of access by other than the apparent occupants of the surveyed property to or across the surveyed property, including, but not limited to driveways, alleys, private roads, sidewalks and footpaths observed in the process of conducting the survey.

Section 5.D requires the surveyor to show the location of all buildings on the surveyed property “[b]ased on the normal standard of care.”

What, then, is the surveyor’s standard of care when surveying a particular property? For example, if a surveyor is surveying an office building

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in downtown Chicago, can the building be described as being "on line" if it is located to the nearest 0.01 foot? At the other extreme, if a surveyor has to locate a barn in the middle of a quarter section (2,640 feet square) that is in a rural countryside, is it appropriate for the surveyor to locate the barn to the nearest 10 feet on the plat of survey? Depending on where the surveyor is working and the type of property being surveyed, the standard of care may be different. The ALTA/ACSM liaison committee wanted to emphasize that surveyors must know and apply the appropriate standard of care in any given situation.

Section 5.G is entitled "Water Features." Paragraph 5.G.ii is a new water rights paragraph:

The location of any water boundary on the surveyed property. The attribute(s) of the water feature located (e.g., top of bank, edge of water, high water mark, etc.) should be congruent with the boundary as described in the record description, or, in the case of an original survey, in the new description.

For example, if a legal description contains a call, "to the west bank of the creek," then the surveyor should locate and show the west bank of the creek on the plat of survey. Similarly, if there is a call that reads, "to the edge of the river," the surveyor should locate and show the edge of the river on the plat of survey. In other words, the committee believed that there should be some connection, some concurrence, between the way in which the legal description describes the boundary of the surveyed property and what the surveyor actually locates and shows on the plat of survey. The description and the survey should agree regardless of whether the surveyor is performing a retracement survey using an existing legal description or surveying a newly created tract of land and writing a brand new legal description. Thus, if the surveyor is performing a retracement survey of an existing parcel of land and the legal description contains the call "to the west bank of the Fox River," he should show the west bank of the river on his plat of survey.

Consider this example: a surveyor is conducting an original survey for what will become the "first deed out" of a 44-acre tract of land carved out of a quarter section of land. Blackberry Creek flows through this quarter section. The surveyor’s client asks that the center of Blackberry Creek be the eastern boundary of the new tract. Accordingly, because the client has requested that the surveyor’s legal description of this 44-acre tract reference the center of Blackberry Creek, the surveyor’s plat of survey should locate the center of the creek and represent it as the eastern boundary of this newly created parcel.

Other water-related paragraphs in the 2011 Standards are 5.B.vii and 6.B.vi. Section 6 is entitled "Plat or Map." It provides that "[a] plat or map of an ALTA/ACSM Land Title Survey shall show the following information. "Where dimensioning is appropriate, dimensions shall be in accordance with the appropriate standard of care." The dimensioning of features shown on a plat of survey has never been addressed in previous versions of the standards, except for the provision with respect to building locations in the 2005 Standards.

Section 6.A carries forward the surveyor’s field work described in section 5. This section provides that the plat of survey shall show "[t]he evidence and locations gathered during the field work as outlined in Section 5 above."

Section 6.B concerns "Boundary, Descriptions, Dimensions and Closures." Paragraph 6.B.i provides that the "[p]reparation of a new [legal] description should be avoided unless deemed necessary or appropriate by the surveyor and insurer."

Surveyors will sometimes create a new legal description of the land being surveyed. They may not like the existing legal description, or the proposed lender may ask that the surveyor write a new description. Often, however, there is no real need for a new legal description. Paragraph 6.B.i allows, but discourages, the unnecessary rewriting of legal descriptions. Paragraph 6.B.v clarifies the way in which the remainder of a parcel should be depicted on a plat of survey, noting that "[s]uch remainder does not need to be included as part of the actual survey, except to the extent necessary to locate the lines and corners of the surveyed property."

Paragraph 6.B.vii concerns the "gap/overlap" or "junior and senior rights" issue, stating: "Where gaps or overlaps are identified, the surveyor shall, prior to preparation of the final plat or map, disclose this to the insurer and client for determination of a course of action concerning junior/senior rights."

On a national level, surveyors are not in agreement about how they should address the issue of junior and senior rights. In some parts of the country, surveyors address gaps and overlaps by attempting to resolve the junior and senior relationships during the process of conducting their survey of the land. But in most parts of the country, surveyors simply identify and disclose gaps and overlaps between current record descriptions on their plats of survey. The ALTA/ACSM liaison committee had this latter procedure in mind when it drafted paragraph 6.B.vii. That is, the committee viewed the junior and senior rights problem as a title issue to be addressed collaboratively by both the surveyor and the title company. The committee did not believe that it was a matter to be resolved solely by the surveyor.

Paragraph 6.B.x sets forth the requirement that the title commitment or policy information (commitment or policy number, commitment or policy effective date, and name of title insurance company) of any title work furnished to the surveyor be shown on the plat of survey.

Section 6.C is entitled "Easements, Servitudes, Rights of Way, Access and Record Documents." Paragraph 6.C.i requires that the width of all rights of way, easements, and servitudes be shown on the survey. "Width" was not specified in corresponding paragraph 5(h) of the 2005 Standards.

Paragraph 5(h) of the 2005 Standards required that if an easement could not be located on the plat of survey, "a note to this effect shall be included."
Paragraph 6.C.ii of the 2011 Standards greatly expands on this concept of offering explanatory notes concerning easements. Six topics are mentioned:

A note regarding any right of way, easement or servitude evidenced by a Record Document which has been provided to the surveyor (a) the location of which cannot be determined from the record document, or (b) of which there was no observed evidence at the time of the survey, or (c) that is a blanket easement, or (d) that is not on, or does not touch, the surveyed property, or (e) that limits access to an otherwise abutting right of way, or (f) in cases where the surveyed property is composed of multiple parcels, which of such parcels the various rights of way, easements, and servitudes cross.

Section 6.D is entitled “Presentation.” Paragraph 6.D.i requires, among other things, “a vicinity map showing the property in reference to nearby highway(s) or major street intersection(s).” A vicinity map was merely an optional Table A item in the 2005 Standards.

Section 7 is entitled “Certification.” For years surveyors have struggled with lenders who demand “long form certifications” on their land title surveys. These certifications invariably require the surveyor to make express guarantees and warranties that expose the surveyor to excessive and unreasonable liability. In addition, the language used in these certifications often results in the surveyors violating the terms of their state-issued licenses. For example, a surveyor who certifies that there are “no violations of zoning setbacks” or that there are “no encroachments” may be making a legal determination.

This section makes it clear that the plat of survey shall bear only the certification set forth in this section, unaltered except as may be required by statutes, administrative rules, or ordinances adopted by the federal agencies, states, and local jurisdictions mentioned in section 3.B of the 2011 Standards. State surveying licensing boards sometimes require that certain wording be included in the surveyor’s certificate. The inclusion of this wording in the surveyor’s certificate is a permitted exception to the generally unalterable certificate language set forth in section 7.

If a surveyor and a lender wish to contract for the execution of an alternative certification, they can do so, but this nonstandard certification will have to be provided on a separate document; for example, in a letter that refers to the plat of survey. A hybrid certificate cannot be placed on the actual plat.

In an important and notable development, the U.S. Department of Housing and Urban Development has already issued new HUD Lean 232 Surveys. The introduction to Table A in the 2005 Standards included a statement about surveying for the U.S. Department of Housing and Urban Development (HUD). That statement has been eliminated from the 2011 Standards. (See item 12 of Table A of these new standards, however, which is described below.)

The committee has included a new statement in the introduction to the 2011 Standards: “Notwithstanding Table A items 5 and 11(b), if an engineering design survey is desired as part of an ALTA/ACSM Land Title Survey, such services should be negotiated under Table A, item 22.”

Table A, item 2, provides a new requirement: “Address(es) if disclosed in Record Documents, or observed while conducting the survey.” (As noted above, the former item 2, a vicinity map, is now a requirement in paragraph 6.D.i.)

Table A, item 5, concerning “vertical
Title insurance zoning coverage is highly regulated in some states and even prohibited in at least one state. Fortunately, the failure to include items 6(a) or 6(b) on a land title survey will not invalidate its “land title survey” status. Table A makes it clear that these items, like all of the items in Table A, are “Optional Survey Responsibilities and Specifications.” (Emphasis added.)

Table A, item 7, concerns square footage. Item 7(b)(2) of the 2005 Standards was “gross floor area of all buildings.” This wording has been deleted from the 2011 Standards. Depending on the type of building, the request to compute “gross floor area” under the 2005 Standards raised several questions. A determination of “gross floor area” suggests that the surveyor will have to make measurements inside a building. In that event, how would the surveyor address such features as atriums, stairwells, balconies, and elevator shafts? Item 7(b)(3) of the 2005 Standards was “other areas to be defined by the client.” This item, slightly reworded, is now Table A, item 7(b)(2), in the 2011 Standards: “other areas as specified by the client.”

Table A, item 10, of the 2005 Standards was “indication of access to a public way on land such as curb cuts and driveways, and to and from waters adjoining the surveyed tract, such as boat slips, launches, piers and docks.” The access issue is crucial to title companies as well as many clients, so the disclosure of access is now mandatory under the 2011 Standards. In this regard, see paragraphs 5.B.iii and 5.B.vii of these standards.

Table A, item 10(a), of the 2011 Standards concerns party walls, and Table A, item 10(b), of these new standards deals with whether certain walls are plumb. These two new items were created from the last sentence of paragraph 5.i of the 2005 Standards. The ALTA/ACSM liaison committee believed that whether a wall is legally a “party wall” or whether a wall is “plumb” may require extra work, and any such work should be negotiated between the surveyor and the client. Therefore, the committee believed that these two issues should be moved from the main text of the standards and become an optional item in Table A. (Walls are also covered in paragraph 5.C.ii of the 2011 Standards.)

Table A, item 11, deals with the location of utilities on or serving the surveyed property. Because there has been a great deal of confusion and misunderstanding about the surveyor’s ability to locate underground utilities accurately, a qualifying note has now been added to this item:

Note—With regard to Table A, item 11(b), source information from plans and markings will be combined with observed evidence of utilities to develop a view of those underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely and reliably depicted. Where additional or more detailed information is required, the client is advised that excavation may be necessary.

Item 12 of Table A of the 2005 Standards was “Governmental Agency survey-related requirements as specified by the client.” Item 12 has been expanded in 2011:

12. Governmental Agency survey-related requirements as specified by the client, such as for HUD surveys, and surveys for leases on Bureau of Land Management managed lands.

Item 15 of Table A concerns the use of alternative technologies, such as photogrammetric mapping. The 2005 Standards included the term, “laser scanning.” The 2011 Standards replaces this term with “airborne/mobile laser scanning,” thus making it clear that laser scanning can be either terrestrial (that is, ground-based) or airborne.

The committee made some minor changes to the wording of items 16 and 17:

16. Observed evidence of current earth moving work, building construction or building additions.

17. Proposed changes in street right of way lines, if information is
available from the controlling jurisdiction. Observed evidence of recent street or sidewalk construction or repairs.

Item 19 is new:

19. Location of wetland areas as delineated by appropriate authorities.

Item 20, consisting of two lettered paragraphs, is also an addition to the 2011 Standards:

20(a): Locate improvements within any offsite easements or servitudes benefiting the surveyed property that are disclosed in the Record Documents provided to the surveyor and that are observed in the process of conducting the survey (client to obtain necessary permissions).

20(b): Monuments placed (or a reference monument or witness to the corner) at all major corners of any offsite easements or servitudes benefiting the surveyed property and disclosed in Record Documents provided to the surveyor (client to obtain necessary permissions).

Item 20(a) should be of particular interest to both lenders and title insurers. When title companies are asked to insure easements appurtenant, they (and any new lender) may want to have the servient parcel surveyed to make sure that access through the easement area is still open and not obstructed in any fashion. Item 20(a) authorizes the surveyor to provide this additional service.

Because the servient parcel is most likely not owned by the surveyor’s client, the ALTA/ACSM liaison committee included in this item the requirement that the client obtain the necessary consent to allow the surveyor onto the servient property. A similar statement is set forth in the last sentence of section 2 of the 2011 Standards.

Item 21 is also new:

21. Professional Liability insurance policy obtained by the surveyor in the minimum amount of $______ to be in effect throughout the contract term. Certificate of insurance to be furnished upon request.

But what exactly is the contract term? For example, should this professional liability insurance policy be in effect only through the date of the title insurance policy? Or should the contract term continue for one or more years after this date, in case a survey problem is not discovered until months and months after the closing? The answer is found in the first sentence of Table A. This item, like all of the optional items set forth in Table A, “must be negotiated between the surveyor and the client.”

Miscellaneous Comments

The ALTA/ACSM liaison committee attempted to standardize the wording of the 2011 Standards.

For example, in the past, the land being surveyed has been referred to as the premises, the property, the parcel, and the tract. The new standards use the term, the surveyed property, except where the use of this term is not appropriate.

Also, earlier versions of these standards included such terms as visible, observed, observable, and physical. The 2011 Standards use the term, observed in the process of conducting the survey, when possible and where appropriate.

It has been suggested that this new phrase, “observed in the process of conducting the survey,” provides an “out” for the surveyor. That is, if a surveyor fails to show a manhole on the plat of survey, he or she can simply argue, “Paragraph 5.E.ii and section 6.A of the 2011 survey standards provide that I have to show on my plat of survey all evidence of easements observed in the process of conducting the survey. However, I did not observe any evidence of this easement while I was surveying this property.”

This suggestion seems misplaced. One might make this argument with any of the other words used in previous versions of these standards. For example: Paragraph 5.h of the 2005 Standards provided: “Observable evidence of easements and/or servitudes of all kinds.” Paragraph 5.E.ii of the 2011 Standards states: “Evidence of easements or servitudes . . . observed in the process of conducting the survey.” That is, a manhole partially hidden under a lilac bush is likely “observable,” but it may or may not be observed in the process of conducting the survey.

Assume for the moment that a surveyor fails to note the manhole cover on the plat of survey and argues that the cover was not “observed in the process of conducting the survey.” The resolution of this issue is not this artificial and possibly unrealistic parsing of the 2011 Standards. Rather, the answer is found in section 3.C of these standards—the “unwritten local, state, and/or regional standards of care defined by the practice of the ‘prudent surveyor’ in those locales.” That is, under the normal standard of care of surveyors in a particular location, should the surveyor have observed the manhole cover while surveying the property?

Conclusion

The 2011 ALTA/ACSM Land Title Survey Standards are the culmination of two years of work by a committee comprising land surveyors, attorneys who represent lenders, and title company attorneys. The committee’s work was made difficult because of the inherent challenges of writing a national standard. For example, the surveyor’s final product is called a “plat” in most states but a “map” in a few states. For this reason, the 2011 Standards refer to a “plat or map.” Another issue concerned whether the setting of monuments at the corners of the surveyed property should be mandatory or optional. In some states setting a monument would require the filing of a “Record of Survey” for jurisdictional or administrative review; consequently, this monumentation is an optional item in Table A. Another issue was the difference in views on when a new legal description should be prepared.

The ALTA/ACSM liaison committee believes that it has met these challenges and drafted a new set of survey standards that will successfully satisfy the different needs and requirements of surveyors, lenders, and title companies in 2011 and the coming years.