



# ALTA/ACSM Land Title Survey corner

by Gary Kent

**Q:** Several of the surveyors in my firm, along with the engineers, feel that they can add all the comments that the lender wants in the certification. The question they are posing now is “who is educating the lenders? Who is the ALTA police? What are the consequences, if any, for altering the certification? Can we have two certifications to please the client, such as the ALTA/ACSM certification, plus our State Certification with all the other wording the lender wants added to it? Who at the ALTA / ACSM / NSPS can we contact to settle this dilemma between us and the Lenders\ Realtors? Many of these problems occur with repeat clients, and we do not want to lose them.

**A:** The “problem” with the premise here is that the standards are just that—standards. The only “police” are the state boards of registration (no one else has authority over registered surveyors), and the only way for them to be able to act is if (1) they know about infractions, and (2) are willing to tackle them. And the only way they will find out about them in the first place is if the persons who “consume” these surveys (title companies, attorneys or clients), or other surveyors, report substandard work to their boards. There is no other entity that has authority over surveyors! Certainly neither NSPS nor ALTA has any authority over surveyors; they merely promulgate the standards.

I tell surveyors who ask “Who educates the \_\_\_\_\_ [fill in the blank]” by responding that we all need to look in the mirror. I educate lenders one at a time by taking the time to explain the standards and by dissecting their certificates to show that the wording these documents contain is either unnecessary (i.e. already covered by the standard certification) or unreasonable (and therefore I cannot sign it anyway). I talk to attorneys every chance I get; I talk to title companies every chance I get; I write columns and articles. I am hoping to get an article published in a Bar Association publication; I am speaking at the ALTA Annual conference soon. Any surveyor can do these things—and should.

If there was a venue to reach all lenders that would be wonderful, but I do not see that by merely writing an article or speaking at a conference we will get them to stop asking for unreasonable things. That’s merely dreaming. I am convinced that the only way to impact lenders on the certification issue is for every surveyor in the United States to start saying, “No, I am not using that certificate and here is why...”—and then educate them.

The consequences for altering the standard certificate (i.e. using a lender’s certificate) is that the survey is no longer an ALTA/ACSM Land Title Survey. I have mentioned numerous times before that the word “SHALL” in paragraphs 2 and 8 of the ALTA/ACSM Standards was not put there by accident. I don’t know what else the committee can do. As long as surveyors continue to bend to the slightest pressure from lenders, and are unwilling to engage and educate them, surveyors will continue to have these problems. I should add that state-mandated certificate wording is not in conflict with the ALTA/ACSM standards (you HAVE to meet your state requirements—that’s who licensed you!)

There is no one at ALTA or ACSM/NSPS to “settle” the dilemma between surveyors and lenders. In fact, there is no “settling of the dilemma,” and I would even question whether there is a “dilemma” at all! This problem is directly the result of a lack of understanding and education on the part of the lenders. Each and every surveyor has the responsibility to be part of the solution. (Forget realtors, they are not part of this problem—other problems, perhaps, but not this one).

Surveyors can retain long-time clients if they take the time to educate them, with confidence and knowledge. They will respect you for doing it.

If there are engineers anywhere who are telling surveyors how to certify a survey, that is an entirely different problem! But the answer there is again—  
*EDUCATION.*

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