



ALTA/ACSM Land Title Survey corner

—by Gary Kent

Q ■ If I find an easement when conducting an ALTA/ACSM Land Title Survey which the title company didn't find, should I list it under the standard exception item that usually says something along the lines of "Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises," or should I just point it out in the surveyor's report or notes?

A ■ Surveyors should always work collaboratively with the title company to the benefit of their mutual client(s). I suggest doing the following if you discover an easement which the title company did not find and did not list in Schedule B2 of their commitment:

1. Notify the title company and ask them to look into it.
2. If the title company confirms that it is a valid easement, they should revise the commitment and add a Schedule B2 item.
3. If the title company does not respond, then you could add the easement as another item in your table of easements. For example... Easements identified in ABC Title Insurance Company Commitment No. 123456, Effective date 11/07/2009:
 - Item 6—Ten foot gas line easement per Easement Record H, Page 435. Shown hereon.

- Item 7—Fifteen foot access easement per Deed Record 234, Page 46. Shown hereon.
- Item 10—Twenty five foot sanitary sewer easement per Miscellaneous Record 89, Page 32. Shown hereon.
- Item 12—Gas line easement per Easement Record 15, Page 21. Blanket easement.
- Note, a 30 foot transmission line easement recorded in Miscellaneous Record 54, Page 165 was found by the undersigned during research being conducted for this survey. It is not in the title commitment, yet, it appears to affect the surveyed real estate, and is shown hereon. The title company has been notified.

4. The title company may respond that, yes, this was a valid easement, and that it has been released by a subsequent document. This is the why you need to check with the company. It may turn out that you found the easement, but not a subsequent release, abandonment, or vacation. Or it may be that they missed it and they will appreciate you contacting them.

The item you cite, "Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises," is the "standard survey exception" which notifies the client and covers the title company if no Land Title Survey has been provided. It would not be appropriate to list the easement under that item; rather, list it in a special note or as suggested above. ■

Send questions on this and other ALTA/ACSM land title survey issues to Gary R. Kent, PLS, <gkent@schneidercorp.com>, Ph: 317.826.7134.
