

- ❖ How title insurance is regulated in New Mexico
- ❖ What are title commitments, how are they prepared, and how to read and understand them (for brokers)
- ❖ Different types of legal descriptions
- ❖ Different types of surveys, with focus on ALTA Survey
- ❖ How to read surveys/commitments
- ❖ Use of commercial endorsements to enhance policy coverage





SEARCH AND EXAMINATION – PREPARATION OF TITLE COMMITMENT



Title Search vs. Title Examination

Search ≠ examination



Checklist/Tools/Steps

- ❖ Title Plant
- ❖ County clerk records
- ❖ Use of computerized database
- ❖ “Run Sheet”



Property Records

- County Clerk
- Property Index
 - Name Index
 - Plat records

GENERAL INDEX OF DEEDS			
DATE	NAME	VOLUME	PAGE
1901	John A. Smith	1	10
1902	John A. Smith	2	15
1903	John A. Smith	3	20
1904	John A. Smith	4	25
1905	John A. Smith	5	30
1906	John A. Smith	6	35
1907	John A. Smith	7	40
1908	John A. Smith	8	45
1909	John A. Smith	9	50
1910	John A. Smith	10	55



Tax Records

- ❖ Treasurer
- ❖ Assessor
- ❖ Tax identification number



Name Records

- ❖ County Clerk
- ❖ Courts
 - ☐ State
 - ☐ Probate
 - ☐ Bankruptcy



Role of Title Examiner/Underwriter

- ❖ Evaluate risk
- ❖ Talents/resources
- ❖ Factors





THE TITLE COMMITMENT

Hidden Defects



Commitment Jacket –NM FORM 6

NOTICE

IMPORTANT—READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY **MUST BE BASED SOLELY IN CONTRACT.**

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND **CREATE NO EXTRACTIONAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.**

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. **THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.**



Commitment Jacket –NM FORM 6

Company's Right to Amend

The Company **may amend this Commitment at any time**. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company is not liable for any other amendment to this Commitment.

Contract Liability Only/Choice of Law/Choice of Forum

- Action must be brought in state or federal court in the State.

Limitations of Liability

- Emphasizes contract-based liability.



Schedule A – Property Information

[Transaction Identification Data, for which the Company assumes no liability as set forth in Condition 9.e.:

Issuing Agent:
Issuing Office:
Issuing Office's ALTA® Registry ID:
Loan ID Number:
Issuing Office File Number:
Property Address:]



Schedule A – Property Information

1. Date
2. Policy(ies) to be issued (Owner/Loan)
3. Insured estate
4. Vested owner
5. Legal description



Schedule B1 – Requirements



Proposed insureds



Consideration



Policy premiums



Documents to convey title and create mortgage



Schedule B2 – Standard Exceptions

1. Rights of parties in possession
2. Easements not shown in the public record
3. Survey matters
4. Mechanic's liens



Schedule B2 – Standard Exceptions

5. Spousal rights
6. Water rights
7. Ad valorem property taxes
8. Gap



Schedule B2 – Specific Exceptions

1. Patent
2. Easements
3. Encroachments
4. Minerals
5. CCRs



Some Examples

14. Declaration of Residential Easements, filed October 9, 1975, recorded in Book Misc. 25, Page 852, as Document No. 35349, records of Sandoval County, New Mexico. Said Easement having been amended by Amendment of Reciprocal Easement by Release filed January 21, 1987, recorded in Book Misc. 205, page 630 as Document No. 35443, records of Sandoval County, New Mexico, and amended by Amendment of Reciprocal Easement by Release filed January 21, 1987, recorded in Book Misc. 206, page 633 as Document No. 35444, records of Sandoval County, New Mexico, and amended by Amendment of Reciprocal Easement by Release filed January 21, 1987, recorded in Book Misc. 205, page 636 as Document No. 35445, records of Sandoval County, New Mexico.
15. Encroachment Agreements, filed November 30, 1983, recorded in Book Misc. 301, page 782 as Document No. 29328, records of Sandoval County, New Mexico, and filed November 30, 1983, recorded in Book Misc. 301, page 783 as Document No. 29335, records of Sandoval County, New Mexico, and filed November 17, 1987, recorded in Book Misc. 212, page 178 as Document No. 11290, records of Sandoval County, New Mexico.
31. Encroachment of fence onto the adjacent premises to the north and to the south to a maximum extent of 4.6 feet, encroachment of fence onto the adjacent premises to the east to a maximum extent of 4.0 feet and the improvements situated on the subject premises violate the minimum setback requirements to a maximum extent of 7.8 feet as shown, set forth and delineated on that certain ALTA/NSPS Land Title Survey prepared by Eric Matthew Robinson, NMLS No. 26868 for Brew & Associates, P.A., dated _____, 2024, last revised _____, 2024.



Section 12, Township 27N Range 32E, WM

	NW 1/4		NE 1/4
	SW 1/4	SE 1/4	



BASICS OF LEGAL DESCRIPTIONS

Types of Legal Descriptions

Metes and Bounds

METES AND BOUNDS

Metes and bounds is a system or method of describing land and property for purposes of ownership and transfer. The system is based upon a series of measurements and bearings taken from a point of beginning to the corners and back to the point of beginning. The system is based upon a series of measurements and bearings taken from a point of beginning to the corners and back to the point of beginning.

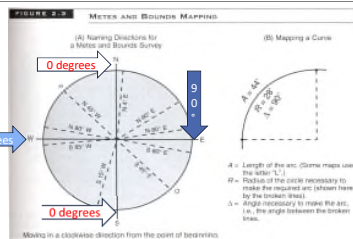
U.S. Public Lands Survey



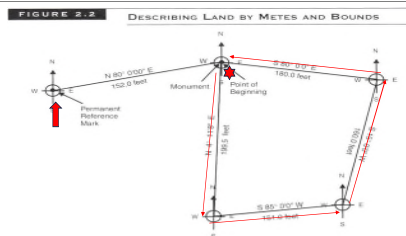
Recorded Plat Map



Metes and Bounds



Metes and Bounds

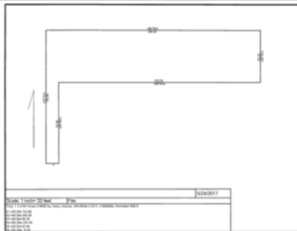


Metes and Bounds

Beginning at a point 442.05 feet South and 252 feet East of the Northwest corner of Government Lot 3 in Section 8, Township 21 North, Range 1 East of the P.M.;
 Thence North 143.88 feet;
 Thence East 252 feet;
 Thence South 150 feet;
 Thence West 235 feet;
 Thence South 17 feet to Point of Beginning.
 Except that portion thereof conveyed to Pierce County for Outside Ferry Landing County Road.
 Together with an easement for ingress, egress and utilities over, under and across the West 235 feet of the following described property:
 Beginning at a point 442.05 feet North and 30 feet East of the Northwest corner of Government Lot 3 in Section 8, Township 21 North, Range 1 East of the P.M.;
 Thence North 30 feet;
 Thence East parallel with the south line of Lot 3, to the meander line;
 Thence southeasterly along said meander line to intersect a line parallel with and 442.05 feet North of the south line of said Lot 3;
 Thence West along said parallel line to the Point of Beginning.
 Situate in the County of Pierce, State of Washington.

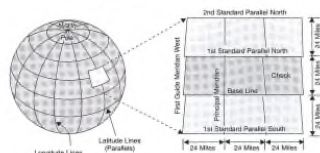


Metes and Bounds

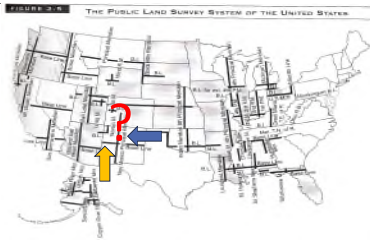


U.S. Public Land Survey

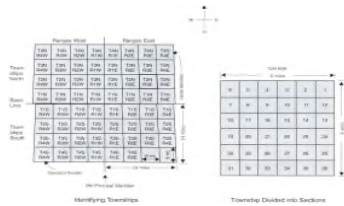
FIGURE 3.4 SELECTED LATITUDE AND LONGITUDE LINES SERVE AS BASE LINES AND MERIDIANS



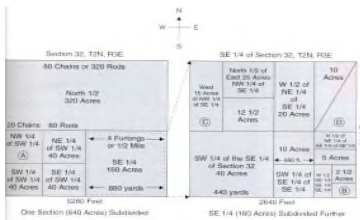
U.S Public Land Survey



U.S Public Land Survey



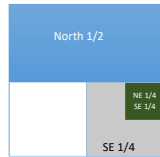
U.S Public Land Survey



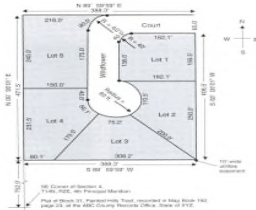
U.S Public Land Survey

Dividing a section

Section 32



Recorded Plat Map





TYPES OF SURVEYS

Why get a survey?

- ❖ Location of property not clearly defined
- ❖ Land not subdivided
- ❖ Encroachments?
- ❖ Lender requirement
- ❖ Anticipated improvements
- ❖ Survey coverage/endorsements



NM Surveying Standards - Boundary Survey

“determination, description, portraying, measuring or monumentation of the boundaries of a tract of land”



Boundary Survey - Requirements

- Obtain copies of relevant documents
- Review plats
- Site visit
- Determine relative location of found monuments
- Set new monuments
- Follow rules and procedures of US Public Lands Manual of Surveying Instructions



Boundary Survey - Requirements

- Don't move, remove or obscure existing monuments
- Updating a prior survey requirements
- Prepare a plat of survey
- Record the plat of survey (not all required to be recorded)



Certification and Seal

Language mandated by NM surveying regulation for a boundary survey, §12.8.2.9 NMAC:

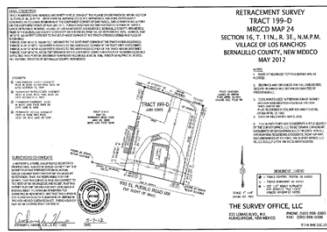
- Certificate followed by date and seal that the surveyor conducted an actual survey on the ground and that the survey meets the minimum standards for surveying in New Mexico



Certification and Seal

12.8.2.18D NMAC. Certifications. Professional surveyors should be prepared to certify to those things required in the execution of their duties and those mandated by law or rule. They should be cautious, however, in certifying only to conditions and facts falling within their areas of competency. Certification language that goes beyond the obligations prescribed by law and the responsibilities assumed by the surveyor in the normal course of boundary surveying should be carefully considered by the surveyor before signing and sealing any document.





Improvement Location Report

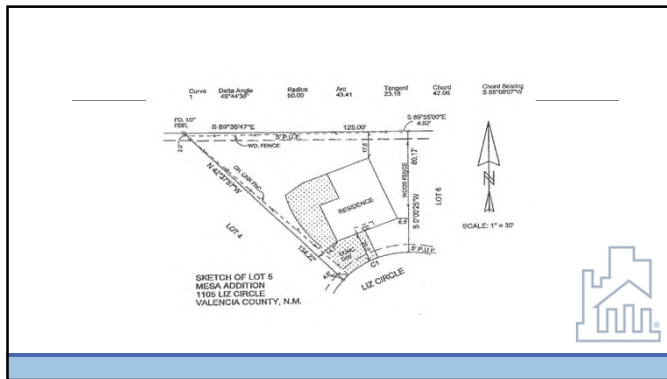
"the preparation of a report which complies with all of the requirements and limitations of an improvement location report as set forth in 12.8.2.10 NMAC, and which is issued to a title, abstract or escrow company or a lending institution for their exclusive use in determining such things as insurability or value of a tract of land"



Improvement Location Report

- Not to be represented by the surveyor as being a property boundary survey
- If the report contains a sketch, the sketch shall contain the following words which are printed as large and as prominently as any other words upon the sketch: "This report is not for use by a property owner for any purpose. This is not a boundary survey and may not be sufficient for the survey exception from an owner's title policy. It may or may not reveal encroachments, overlaps, conflicts in boundary lines, shortages in area, or other matters which would be disclosed by an accurate boundary survey."



[illegible]

Topographic

“the measurement and portrayal of the configuration of the ground and/or the location and description of objects thereon. It can include the plotting and description of property boundary monuments and property lines on a topographic map provided:

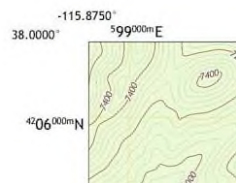
(a) only existing monuments found at the time of the survey are shown, and no boundary monuments are set;

(b) the following words are prominently shown on the topographic map:
THIS IS NOT A BOUNDARY SURVEY, APPARENT PROPERTY CORNERS AND PROPERTY LINES ARE
SHOWN FOR INFORMATION ONLY. BOUNDARY DATA SHOWN IS FROM PREVIOUS SURVEY
REFERENCED HEREON."

[illegible]

Topographic

On topographic surveys with contour lines, the vertical accuracy of 90% of the points tested shall be within one half of the contour interval, unless otherwise stated on the survey.



Easement

“description, portrayal, or monumentation of easements only”

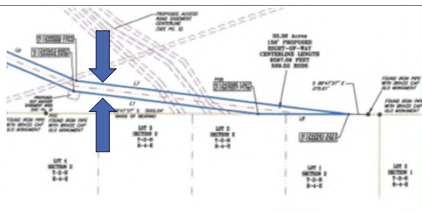


Easement

- Minimum accuracy standards
- Prepare plat if easement doesn't follow boundary line
- Procedures and plat conducted under responsible charge of professional surveyor



Easement



ALTA/NSPS Survey

Starting in 1962: American Land Title Association (ALTA) and American Congress of Surveyors and Mappers (ACSM), now National Society of Professional Surveyors (NSPS), created standards for surveys acceptable to title insurers for a variety of title insurance related purposes



Why get an ALTA/NSPS Survey?



Why get an ALTA/NSPS Survey?

- More usual for a large commercial transaction
- Evaluate risks
- Sufficient for a variety of survey coverages in a title policy
- Tailor survey to specific needs





SURVEY REVIEW AND TITLE COMMITMENTS – HOW THEY INTERRELATE

Title Commitment/Survey Review

- What you need:
 - Commitment
 - Legible copies of all exception documents
 - Survey based on the commitment



Title Commitment/Survey Review

- Confirm accuracy of legal description
 - Basis of bearings
- Compare description against metes and bounds description
- Confirm area
- Confirm that all easements on binder are on survey
- Confirm whether survey shows easements NOT shown on binder



Title Commitment/Survey Review

- Confirm that encroachments of record are shown on survey
- Confirm whether there are any encroachments showing NOT of record
- Confirm all improvements are shown
- Confirm all parking
- Confirm all ingress and egress
- Confirm location of utilities



Title Commitment/Survey Review

- Confirm all setbacks and measurements
- Confirm that adjacent property is identified
- Confirm correct certification language
- Confirm "north" arrow
- Understand survey legend symbols
- Confirm scale
- Confirm vicinity map
- Confirm signature of licensed surveyor



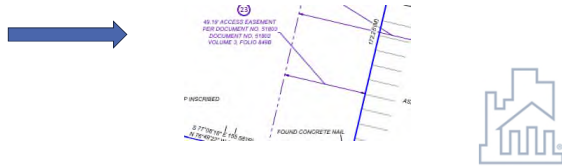
Survey Note and Depiction

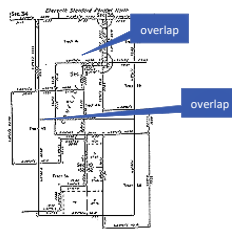
① — THAT CERTAIN (S) THIRTY EIGHT (38) FOOT WIDE RIGHT-OF-WAY AND ACCESS EASEMENT RESERVED ALONG THE EASTERN PORTION OF THE INSURED LAND, (B) UTILITY EASEMENT BEING TWENTY (20) FEET IN WIDTH TRaversing ACROSS THE WESTERN PORTION OF THE INSURED LAND, (C) UTILITY EASEMENT RESERVED ACROSS THE WESTERN 1/4 OF 36 FEET OF THE INSURED LAND AND THE EASTERN FIVE (5) FEET OF THE INSURED LAND AS SHOWN THE PLAT ENTITLED "SUMMARY PLAT TRACT A 80.3 ACRES OF TRACT 9 AND A PORTION OF TRACT 9, EAST SOUTHERN, WITHIN PROJECTED SECTION 36, T. 12 N., R. 10 E., N.M.P.M., CITY OF RIO RANCHO, TOWN OF ALAMOSA STREET, SANDOZ COUNTY, NEW MEXICO" RECORDED JUNE 17, 1998 IN VOLUME 3, FOLIO 1458.6 (APPLICABLE PLATTED ARE SHOWN)



Survey Note and Depiction

13. A 45.18 FOOT ACCESS EASEMENT RESERVED ALONG THE EASTERN LOT LINE OF THE INSURED PREMISES, AS SHOWN ON THE PLAT RECORDED IN VOLUME 3 FOLD 488B, RPO SANJOSE EXTRA PLAT BOOK 6, PAGE 13, RECORDS OF SANDOVAL COUNTY, NEW MEXICO, AFFECTS PLOTTED AS SHOWN.





Physical Encumbrances/Encroachments

