

## Survey VS. Title Insurance

While it is becoming widely known that lenders will now accept a policy of title insurance in lieu of traditional survey requirements, many are now asking, "What is the real difference?" Though surveys and title insurance both fill essentially the same lender requirements, they differ greatly in their approach to these requirements.

### **Coverage**

Lenders have traditionally required surveys in order to ensure that there were no problems with the location of a house or property improvements that would make it difficult for them to foreclose on the property. There are, however, some inherent weaknesses with this approach. Aside from the risk of an error in the survey, the real risk is that the lender, purchaser or their lawyer misinterprets the survey and fails to comprehend a serious problem. For the lender or purchaser to be compensated in the event of a loss, they have to initiate the costly and lengthy process of trying to successfully sue the lawyer or surveyor for compensation.

In contrast, title insurance is available without the need to review a survey. Title insurance protects lenders and purchasers against loss *arising from defects that would have been revealed by a current survey* [emphasis added]. If a purchaser or lender incurs a loss because of something that would have been revealed by a current survey, such as an encroachment, the lender or purchaser simply makes a claim against their title insurance policy. There is no need for litigation or for finding negligence, because the claim is paid on a "no fault" basis.

Equally important is the coverage that title insurance provides for legal fees incurred to defend the validity and enforceability of the mortgage against the title. To a purchaser this means that where a problem can be solved through the intervention of a lawyer, the title insurer will pay the associated legal costs.

### **Cost**

Survey costs vary greatly between regions of Canada and between urban and rural areas, with costs ranging from approximately \$250 to more than \$1,000 plus GST. Surveys for rural, residential, waterfront, island and hobby farm properties tend to be the most expensive.

Title insurance is almost always less expensive than a survey. The one-time premium paid for title insurance for a single-family residence under \$500,000 ranges from \$150 in British Columbia to about \$200 in other provinces. For an additional \$50, both a lender and a purchaser can receive coverage. Title insurance is also available for residential properties over \$500,000, and for commercial properties.

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## Time

While most surveyors try to provide prompt service to their customers, they are limited by the fact they must still physically go to the property, take measurements and then produce a drawing. All of these steps add to the time it takes for a surveyor to produce an up-to-date survey.....

Title insurance is available within hours of the lawyer or notary placing a request, regardless of the location of the property. In fact, title insurance is issued without the need for title insurers to ever review a survey. Coverage is provided "site unseen" with the title insurer accepting the risk of problems that would have been revealed by a current survey.

A survey can only bring a problem to the attention of the lender or purchaser and their lawyer. It does not offer a solution to the problem. The solution, in the case of a purchase, is usually to negotiate some form of abatement in the purchase price to induce the purchaser to accept the risk of loss if the survey problem has to be remedied.....In the case of a new mortgage, the lender will generally decline to issue a mortgage commitment, thereby effectively collapsing the purchase.

Title insurance is also available to protect a lender and purchaser against many *known* survey problems. When notified of a survey problem, the underwriters [at companies such as First Canadian Title] are usually able to issue a policy to the lender without exception for the defect and to the purchaser with limitations of marketability coverage only. With title insurance, the purchase may stay together and close on time for the full contract price, even in the face of survey problems.

## When is a survey beneficial

There are some circumstances in which a purchaser will prefer a survey to title insurance. This is most common when the purchaser intends to build an addition onto the house or make some other improvement such as a fence, and needs to know where the boundaries of the lot are located.

Clearly title insurance takes a very different approach from the conventional methods of survey and legal opinions to resolving concerns about property. Since both products fulfill the same need, the question simply becomes, "Which provides the consumer with the best value?"

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**This fact sheet excerpted and abridged from an article by Chris Quiring,  
Counsel for First Canadian Title Company Limited (Pacific Region), in the September 1999 issue of  
the Real Estate Magazine.**

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