

By Gary Kent, LS

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## Societies Adopt New ALTA/ACSM Standards for Land Title Surveys

On October 24th, 2005, more than two years of effort towards the latest revision of the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys culminated in an affirmative vote of the Board of Directors of the National Society of Professional Surveyors (NSPS). The American Land Title Association (ALTA), the other party to the Standards, had approved the revision on October 5th.

### Beginning the Process

Several considerations go into the decision to start work on a new version of the Standards. A number of years ago, ALTA and NSPS agreed that it was not in the best interest of the surveying, title, or lending communities to promulgate new ALTA/ACSM Standards more frequently than every five years. There seems to be enough confusion, especially among lenders, as to what the current standard is without introducing a new version into the mix every couple of years.

The five-year time frame notwithstanding, work on this latest version actually began shortly after adoption of the 1999 Standards. As Chair of the NSPS committee on the ALTA/ACSM Standards and a frequent presenter on the Standards, I keep an on-going list of issues raised, comments made, and questions asked related to the Standards. When those various sources of input reach a critical mass, they are brought to the NSPS committee and the work on revisions begins in earnest – even

though the final version may not come to fruition for several more years.

### Two Years in the Making

Because the Standards are directed primarily at surveyors (although not exclusively), ALTA prefers that the NSPS committee arrive at a consensus draft prior to scheduling a joint meeting of the two committees. With that in mind, the NSPS committee spent the last two years developing such a draft. Significant progress was made with each subsequent semi-annual meeting of the committee as comments and suggestions were incorporated in an iterative process.

A tentative final draft was developed shortly after the Spring 2005 annual meeting in Las Vegas. After several subsequent iterations a final draft was in place and a joint meeting with the ALTA liaison committee was set.

The joint meeting took place on August 9<sup>th</sup> at the O'Hare Hilton in Chicago where four members from each organization's committee met to agree on the final wording to be incorporated in the new Standards. All participants were familiar with and have had an on-going interest in maintaining a viable set of ALTA/ACSM Standards.

The full-day meeting resulted in a consensus on a new set of standards, except for a couple of minor issues which were addressed shortly after the meeting. The final document was distributed to the persons who attended the joint meeting and to all surveyors on the NSPS committee distribution list, and posted on the ALTA and ACSM websites.

### The Revisions

Every new version of the ALTA/ACSM Standards – which were first promulgated in 1962 and subsequently revised in 1986, 1988, 1992, 1997 and 1999 – has resulted in incremental improvements to the standards. This latest 2005 version is no exception.

The changes are a result of a broad range of input from the title industry and the surveying and legal professions. While a number of relatively minor modifications were made, there are also some substantive changes. Following is an explanation of each significant revision.

*First paragraph* The new wording clarifies the surveyor's responsibility regarding the ALTA/ACSM standards vis-à-vis the individual administrative standards and the normal standard of care of each state. There have been a number of problems related to surveyors who think that the ALTA/ACSM Standards somehow fall outside the reach of their own state's requirements. This has never been the intent and, as I always remind surveyors at my seminars, neither the ALTA nor NSPS licenses surveyors; the individual states do that, and the regulation of the profession therefore occurs on the state level.

*Paragraph 1* There are surveyors who believe, because of the implication of wording in this paragraph, that an ALTA/ACSM Land Title Survey cannot be performed as an original survey on a newly created tract. The revision clarifies that this is not the case.

*Paragraph 2* There are locales in the United States where surveyors are pressured to make revisions to other

surveyors' Land Title Surveys. The new wording in this paragraph clarifies that any revisions are to be made by the surveyor who prepared the initial survey.

*Paragraph 5c* The wording in 5c was somewhat ambiguous. The change clarifies the responsibility of the surveyor regarding pavement widths and rights of way. It also removes the requirement to show the distance to the nearest intersecting street and makes it an option in Table A (see below).

*Paragraph 5g* The Standards have always addressed the precision and accuracy of measurements related to the boundary, but the same has never been true for measurements from those boundary lines to buildings, yet this is a critical measurement. The revision addresses this issue.

*Paragraph 5j* Several situations have arisen recently in which non-traditional access points to real estate have been at issue. This paragraph expands the responsibility of the surveyor to locate points of access other than simply via streets and alleys (for example, from adjoining waters).

*Paragraph 5k* The reference in this paragraph to record documents could have been misconstrued as placing the burden for records research on cemeteries with the surveyor. This was not the intent and has been clarified.

*Paragraph 6* It is appropriate that the record description of the surveyed real estate (or the one provided by the client) be on the face of the plat or map, or at least accompany the plat or map. This was not clear in previous versions of the standards. In addition, the same applies to any new description created by the surveyor.

ALTA expressed a strong interest in seeing information on the plat or map that might explain discrepancies or problems that the surveyor might have encountered in performing the survey. Although the NSPS committee rejected *requiring* such notes, this paragraph now specifically allows surveyors the *option* to place such explanatory notes on the survey.

The paragraph also requires that if the relative positional accuracy of the survey exceeds that allowed (in the new accuracy standards), the surveyor must explain the site conditions that resulted in that outcome.

*Paragraph 8* Due to the changes in the accuracy standards (discussed below),

a new certification was required. In addition, an alternative certificate is necessary if the relative positional accuracy of the survey exceeds that allowed in the accuracy standards (also discussed under Paragraph 6 above).

Other wording (“in my professional opinion as a surveyor registered in the State of \_\_\_\_\_”) was added to alleviate surveyor E&O liability concerns.

## **Table A**

*Introductory paragraph* What had been Table A items 14-16 (items 16-18 in these new standards) existed in the standards only because they were required by HUD when surveyors were performing surveys on HUD projects. In order to clarify this fact, wording has been added to that effect. Stronger wording has been added regarding the need to negotiate the Table A items.

*Item 4* Questions were often raised regarding what area(s) were to be shown on the survey when this item was checked. The new wording clears up the confusion by requiring that the gross area be shown.

*Item 6* Many surveyors, particularly in urban areas, can not apply complex zoning setback requirements to a specific property without an interpretation by the jurisdiction (which often declines to do so). The new wording – agreed upon by ALTA (as were all of the revisions) – requires only that the surveyor list the zoning setback information, not graphically depict the setbacks on the face of the plat or map.

*Item 8* This item now gives better examples of “substantial, visible improvements.”

*Item 10* As with paragraph 5j discussed above, this item expands the surveyor's responsibility regarding points of access to and from waters.

*Item 11* The former versions of the Standards were somewhat ambiguous on the issue of utilities. There has been an attempt to clarify this issue, although this item is an excellent example of what is alluded to in the introductory paragraph to Table A (“the items of Table A must be negotiated between the surveyor and client”).

*Item 14* This item is the former requirement in paragraph 5c (discussed above) to show the distance to the nearest intersecting street.

*Item 15* Both ALTA and NSPS have, for a number of years, agreed

that alternative technologies and tools available to surveyors are sometimes appropriate in performing a Land Title Survey. This new item now recognizes that position by allowing the use of such technologies and tools to locate certain features (excluding boundaries), but only as may be negotiated with the interested parties (client, lender and title company).

*Accuracy Standards* The new accuracy standards brings the ALTA/ACSM standards in line with boundary survey standards adopted several years ago by NSPS. The last remnants of the table that first appeared back in the 1980's has been purged. Additionally, the almost universal misapplication of the 1999 accuracy standard and certification will hopefully be corrected.


To allow for publication and distribution, the 2005 Standards become effective on January 1, 2006. Finally, to assist all parties in their negotiations, the new version specifically states that all prior versions are superseded.

## **Summary**

The efforts and input of many surveyors across the country related to the 2005 ALTA/ACSM standards need to be recognized. The development and approval of these standards was truly a team effort. The many hours of debate and discussion have resulted in a much improved standard.

The collaboration and help of ALTA must also be acknowledged. As those who attended the meeting know, the ALTA members of the joint committee bring a truly cooperative attitude and an interest in developing a standard that works as well for surveyors as it does for the title and legal professions. It bears remembering that the ALTA/ACSM Standards are a joint document – adopted and endorsed by both organizations.

Input and comments on these new standards will surely begin almost immediately; work *now* commences on the 2010 version of the ALTA/ACSM Standards!

Comments, thoughts and suggestions are welcome as always. 

**Editor's Note:** The 2005 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys can be viewed on our website at [www.theamericansurveyor.com/docs/ALTA2005\\_Standards.doc](http://www.theamericansurveyor.com/docs/ALTA2005_Standards.doc).