



RENGER & REYNOLDS, PLLC

WHY A SURVEY IS ADVISABLE?

Below is a list of some questions to consider when determining whether to obtain a new survey prior to purchasing a Property:

1. **Type of Access:** Is there access to the Property? For example, is the driveway located entirely on the Property, or does it cross over a neighbor's property?
 - While a driveway may clearly service the Property being acquired, there are numerous cases in which a portion of the driveway encroaches onto the property of a neighbor. Such a situation can lead to other questions:
 - Has the neighbor consented to the encroachment?
 - Will a subsequent purchaser of the Property agree to acquire the Property with the encroachment?
 - Will a subsequent purchaser of the neighbor's property consent to the encroachment?
2. **Building Setbacks:** Do the location of any improvements on the Property violate any governmental or neighborhood setback lines?
 - Have any violations of setbacks been approved by a county variance or concession by any homeowner's association?
3. **Boundary/Lot lines:** Was the actual size of the lot or parcel a factor in determining the purchase price of the property? What are the actual boundaries of the Property?
 - A survey will depict and calculate the acreage/square footage of the Property being acquired.
 - Additionally, boundaries are not necessarily demarcated properly by fences or landscaping buffers. Fence encroachments abound and a Purchaser can rarely rely on a fence as a proper boundary marker.
4. **Encroachments by neighbors:** Does the neighbor's driveway, boundary fence or outbuilding encroach onto the Property?
 - A survey will indicate if any improvement of a neighbor encroaches onto the Property. After a review of the survey, the purchaser can determine whether he/she desires the seller to address the encroachment prior to closing – while the costs and incentive to remedy the encroachment is borne by the seller.
5. **Encroachments by owner:** Does any improvement on the Property (house, boundary fence or outbuilding) encroach onto the neighbor's property?
 - Likewise, a survey will indicate if any improvement of the seller encroaches onto the Property. After a review of the survey, the purchaser can determine whether he/she desires the seller to address the encroachment prior to closing – while the costs and incentive to remedy the encroachment is borne by the seller.

Note that while one purchaser of a Property may not be concerned about a matter which would have been revealed by a proper survey of the land, a successor purchaser may find an issue with the matter and elect to terminate an otherwise enforceable contract.

Also, it is important to know that reliance on an old survey typically creates no liability between the surveyor and the new owner who relies upon it since the new owner did not retain that surveyor.