

Real Property Reports and Title Insurance

Real Property Reports are legal documents prepared by registered Alberta Land Surveyors. A Real Property Report is a legal graphic representation of a piece of property and the improvements upon it. In preparing a Real Property Report, an Alberta Land Surveyor locates the legal boundaries of a property and then measures the locations of the buildings or other improvements (garages, fences, decks, swimming pools, etc.) relative to the boundaries. The boundaries and improvements are then plotted on a document. The document also identifies easements, utility rights of way, and other legal features that may affect the property. In certifying the Real Property Report, the land surveyor expresses a professional opinion about the location of the improvements.

On the other hand, title insurance doesn't identify problems at all. If there are problems they are merely kept hidden until some later date. At that time, if the insurance policy is still in force, the land owner must deal with an insurance company and make a claim, if the policy is still in force. It is also important to know that two policies are necessary—one for the financial institution and one for the landowner. Some policies have expiry dates so it is buyer beware.

Title insurance was developed in the United States where a different system of title registration is in place. In Alberta we are fortunate. We have the Torrens system of land registration. Unlike the situation in the United States, the Torrens land titles system guarantees the title and processes are in place to rectify problems when they do occur. In the United States Real Property Reports are usually required as a condition of title insurance.

Often major issues are identified through the Real Property Report process. Garages have been built on property lines, garages have been built over gas lines, fences have been located on neighboring property or a neighbor's fence is built on the subject property, and even houses have been improperly located.

Identifying these kinds of issues is critical. A purchaser will want to know if there are problems so they can be rectified prior to the purchase proceeding or they may choose not to purchase. The cost of having a Real Property Report prepared varies according to the amount of work involved. In many cases, it is possible to update an old report by identifying changes. Updates reports are usually prepared at lower cost than a completely new report.

The time to arrange a Real Property Report is as soon as a property is listed for sale. Having a prepared Report is an advantage for a seller and will make a real estate transaction easier and likely faster. If a Real Property Report is ordered near the closing date for a sale, there can be delays. In most cases, Alberta Land Surveyors respond quickly and do their best to meet a client's needs.

Everyone will agree that knowing about problems ahead of time is preferable to getting surprises later. A dream home should be a dream home—not a house of horrors full of legal problems and insurance claims!

(Boundaries, Volume 4, Issue 4, September 2009, Alberta Land Surveyors Association)