

ALTA/ACSM Land Title Survey Corner

Question:

Can you give your thoughts on preparing an ALTA/ACSM Land Title Survey for a mobile home park? Recently I quoted a land title survey to include the "location of all buildings upon the plot." The site includes roughly 160 mobile homes which put the cost of the survey well above what the client had in mind.

One of the attorneys involved in the transaction then suggested altering the standard certification to state "Except individual mobile homes and any sheds, garages and the like which appear to be for the personal use of the mobile home occupants, the map or plat and the survey on which it is based were made in accordance with.....". (followed by the rest of the standard ALTA certification.)

I refused to use the altered ALTA certification and eventually came up with a certification which was acceptable to the client and other involved parties.

After checking with a few other surveyors in my state, it seems as if I am in the minority by not simply modifying the certification as the attorney asked, yet still calling it an ALTA/ACSM Land Title Survey.

Here are my questions.

Is there any justification for not showing the mobile homes and/or sheds on the parcel and still calling the survey an ALTA/ACSM Land Title Survey?

Does altering the ALTA certification, or adding a note on the survey which excludes one or more of the ALTA minimum requirements, prevent that survey from being an ALTA/ACSM Land Title Survey?

Answer:

With regard to the first question, the answer is "yes," there is justification for not showing mobile homes. While there is a provision in some states by which a property owner can convert a mobile home from personal property to real property, mobile homes are generally not considered real property. This is particularly the case in a mobile home park, where the mobile homes are typically not even owned by the owner of the real estate.

As personal property, a mobile home would not qualify as a "building" under the standards (paragraph 5g). A possible argument for showing them, however, would be if Table A, Item 8 were checked ("Substantial, visible improvements..."). In any case, when the survey involves a mobile home park, the surveyor should have a conversation (before providing the quotation!), so from the very beginning, there is a common understanding of what the client/lender expects to see on the survey.

Sheds and garages are a different topic, but they raise essentially the same questions. A shed that is not on a foundation is probably not a huge concern; it can easily be moved (or even removed altogether) if there is a problem with its location. Garages are typically not so easily moved and should probably be shown, unless there is an understanding otherwise (garages in mobile home parks may be considered personal property also).

With regard to your second question, it is the official opinion of NSPS and ALTA that the survey is no longer an ALTA/ACSM Land Title Survey if the certification is altered (this would not include alterations based on state-specific requirements as noted in the introductory paragraph of the standards). However, this position does not prevent the surveyor from finding a logical

compromise with regard to the certification. This topic was explored further in an earlier column (See page 48, Volume 222 of The ACSM Bulletin).

With regard to adding notes that the survey may have otherwise been modified, this would not necessarily prevent you from calling it an ALTA/ACSM Land Title Survey, but I think you have to be very careful with significant or substantive modifications, the results of which might be a misrepresentation.

An any case, being informed, confident and calm in communicating your position is critically important in any conversation about the standards and the certification.