

Stephen B. Brown, Sr.

Vice President Communications & Market Development and Title Attorney

Steve was born in Gilmer, Texas, and graduated from high school in Tullahoma, Tennessee in 1977. Steve attended Wake Forest University where he received a Bachelor of Arts degree, cum laude, with Honors in History in 1981. In 1984, Steve earned a Juris Doctor degree from University of North Carolina School of Law, in Chapel Hill, North Carolina, graduating with Honors, and earning membership in the Order of the Coif. Steve assists in underwriting, identifying and resolving major claims, formulating risk management, formulating and implementing legislative and regulatory policies for the company, and participates as a speaker and writer in employee, agent, paralegal and attorney education regarding legislative and regulatory issues and claims prevention and management on behalf of the Company. Steve is President of the Executive Board of LiensNC. He is an active member of Real Estate Lawyers Association of North Carolina, Inc. and a past advisory member of its Board of Directors. Additionally, he currently serves on the North Carolina Electronic Mortgage Advisory Committee and the North Carolina State eMortgage Survey Sub-Committee.

Get a Survey!

Stephen B. Brown, Vice President – Communication and Market Development

Investors Title Insurance Company

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Many persons who purchase an owners title insurance policy find that their claim is not covered because they chose to save money by not getting a survey. If an owner chooses not to get a current survey, the owner's title policy will have an exception for matters which would have been revealed by an accurate survey, including easements and encroachments. Survey title claims occur frequently, even in platted subdivisions. The fact that the lender's title policy does not contain that exception will not protect your client. Survey matters are not a title problem for the lender unless and until the borrower defaults on the loan and the lender forecloses. Most residential and commercial borrowers are not going to default on their loans because their driveway or garage encroaches on their neighbors' property. Survey problems can usually be dealt with quickly and relatively inexpensively prior to closing. After closing the cost to fix the problem will be significantly higher than the amount saved by not getting a survey.

The survey obtained should be current and accurate. Several commercial endorsements requested by lenders require a current, accurate survey (e.g. Actual Access Endorsement). Often commercial real estate attorneys inquire whether the title company will accept an older survey with an affidavit from the owner that nothing has changed since the survey was performed. If the property has already been built upon and is being used for a commercial property, it is highly unlikely that nothing has changed since the survey was performed particularly if the survey is more than a year old. It is extremely prudent for lenders counsel to require a current, accurate survey from the borrower in a commercial transaction to avoid title claims and problems if the lender is ever forced to foreclose.

The real estate attorney should always insist that a current accurate survey be obtained to protect the buyer and/or lender in the transaction in order to avoid later title issues and to insure full coverage in the title policy. If the lender or purchaser client chooses not to require or obtain a survey, the attorney should get the client to sign a written acknowledgement that the client was so advised for the attorney's protection.

Issues to Consider

1. Encroachments
2. Easements
3. Access
4. Utilities
5. Adverse Possession Issues
6. Mistakes in legal description
7. Use of old surveys