



The Kilby Group

4309 Winder HWY
Flowery Branch, Georgia 30542

J. Dwight Kilby, LS
Dwight@TheKilbyGroup.com

D. Keith Kilby, LS
Keith@TheKilbyGroup.com

Reginald Kilby
Reg@TheKilbyGroup.com

Georgia ~ Tennessee ~ North Carolina

770-965-9700

www.TheKilbyGroup.com

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For Your Protection – Get Your Property Surveyed

Title Insurance *DOES NOT* as a matter of course insure the location of your property lines and/or other “Matters of Survey”

Most Homebuyers’ are blurred by the Mortgage Lenders’ ambiguous indifference to a survey being performed prior to closing. In fact, Lenders are very concerned about problems the survey might reveal. As a condition of the loan, Mortgage Companies require the homebuyer to furnish a Title Insurance Policy to protect the Lender from potential losses regarding any problems resulting from not having provided a current survey of the property. But, unless there’s a foreclosure, they just aren’t concerned with the Homeowners’ likely problem concerning the actual location of property lines. The Homeowner, then is left encumbered with a very different set of concerns and liabilities with regards to ascertaining the true location of their property lines and potential disputes with neighbors.

Most homebuyers do not understand there are two “simultaneously issued” policies issued at the closing, and they do not cover the Lender and Owner equally. While the Lender gets “survey coverage” in his Title Policy, the Owner does not. *Disclosures and protection for survey matters must come from a current survey prepared at the insistence of and on the buyer’s behalf.*

Why Title Companies Are Willing To Give The Lender Survey Coverage Without A Survey

- As stated above, most Lenders do not require a new survey as part of the closing. They eliminate the survey because they know that (with or without a survey) the Lender will receive “survey coverage” in the Lenders’ Title Policy furnished to them at closing.
- Title Companies are willing to give this coverage to Lenders (with or without a survey) because they know that the survey coverage, most likely, will not be called into play. As long as the owner does not receive survey coverage, the owner will be responsible for any survey problems that arise.
- The Lender’s Policy cannot be called upon until after the Lender has actually repossessed the house. Although property line disputes, litigation, and remedies can get very costly, the Owner is usually responsible. Until a problem escalates to the point where his equity is exhausted, the Owner will probably choose to fix or fight a problem rather than walk away and forfeit into foreclosure. Only then, will the Lenders’ Title Insurance Policy to be called upon.
- The risk for the Title Company is miniscule (and the Lender’s risk is even less). The owner is the only one left at risk.

Other Important Facts

- Virtually all-residential building lots are subject to easements, setback lines, underground and/or overhead utility lines and other restrictions that limit where improvements may be positioned on the lot. In addition to assuring the proper location of the residence, fence lines, driveways, etc., a survey is needed to disclose areas of the lot that may be restricted from further improvements, or subject to easements in favor of others parties.
- Owners have a responsibility to know where their property lines are. Neighbors who encroach onto adjoining property can acquire rights and/or ownership of the adjoining property if the encroachment goes uncontested for a prescribed period of time.
- Georgia has a “statute of limitations” law that limits the surveyor’s liability for errors or omissions on surveys older than six years. For this reason, and because survey problems can develop and/or escalate over time, old surveys should not be relied on.
- All survey drawings, by their very nature, are protected by Federal Copyright Laws that prohibit unauthorized copying and distribution.