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## Real Estate Survey

By Eugene Mattioni Esq.



In virtually every transaction involving real estate, a survey of the property will be required. Mortgage Lenders and Title Companies will require the buyer to have a survey of the property prepared by a licensed surveyor. Surveyors are civil engineers and land surveyors registered and licensed in the state in which they practice.

In Pennsylvania, surveying is recognized as a distinct profession apart from engineering. A degree in surveying plus experience and testing is a prerequisite to becoming licensed surveyor. Licensed surveyors usually denote themselves with the letter P.S. (Professional Surveyor). The real estate contract should clearly state the type of survey that should be performed to satisfy the terms of the contract. The most comprehensive surveys are those which satisfy the requirements of the ALTA/ACSM Land Title Survey checklist. An ALTA Surveyor follow specifications established by the

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### Disclaimer

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## Auto Insurance: Full Tort or Limited Tort?

By Eugene Mattioni, Esq., Joseph F. Bouvier, Esq. and Peter J. Yoon, Esq.

In Pennsylvania, all vehicle owners are required by law to purchase and maintain auto insurance. Beginning in 1990, the Pennsylvania Motor Vehicle Financial Responsibility Law ("MVFRL") gave vehicle owners an option of purchasing two different types of auto insurance policies: "Full Tort" or "Limited Tort." Do you recall which tort option you chose? It is not uncommon for vehicle owners to be unsure of which type of coverage they selected or do not understand the difference between the two types of coverage. Most vehicle owners are further unaware that the tort option

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American Land Title Associates (ALTA) and the American Congress of Surveying and Mapping (ACSM).

In any survey you will get the detail and degree of specificity you are willing to pay for or that is required by the mortgage lender and title insurance provider. An ALTA survey can provide standard information applicable to transfer title or it can include a very detailed description of the property boundary lines, description of buildings and improvements, building set back, encroachments, easements such as roads, telephone, electric lines, water, sewer, oil or gas pipelines, on or adjacent to the property. Before conducting the actual survey the surveyor will require the title report, deed and legal description of the property, and any existing map or survey done by others.

The survey will reflect the field conditions as they exist on the date of the survey. A title survey will depict the footprint of the buildings on the property and the property lines. An ALTA Survey can include data about zoning, ground elevations, building and improvements, dimensions, parking areas, utilities and much more. In addition to a standard ALTA survey optional Table A items can be specified. Table A is a supplemental checklist to the standard ALTA survey. Items on the checklist include topographic details, exterior dimensions of the building, substantial visible improvement such as bill boards, signs, parking structures, swimming pools etc., curb cuts, driveways, lanes etc., location of utilities, zoning classifications and any other requested Table A details. The real estate contract should specify an ALTA/ACMS survey and the degree of detail required in the survey of the property. Table A items should also be specified in the contract. The ALTA Surveyor will certify that his work has been performed to a certain degree of accuracy in accordance with minimum standard Detail Requirements for ALTA/ACSM Land Title Surveys and Table "A" items specified. The ALTA Surveyor will also place his seal imprint on the survey drawing.

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A credible survey is an important item in any real estate transaction. It is a detail sometimes overlooked but nonetheless required to give a purchaser confidence to know what real estate has in fact been purchased. A survey for transfer of title may not be as detailed as a survey of property in which it is anticipated that significant building and improvements are scheduled to be built. The parties to any transaction should specify their survey needs in the real estate contract in order to avoid ambiguity and uncertainty.



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they choose applies not only to them, but to all resident relatives of their household, including their minor children, and this tort option applies even if an injury is sustained while a passenger in someone else's vehicle.

Under Full Tort or Limited Tort coverage, an injured person retains the right to seek compensation for financial damages, such as wage losses, that are incurred as a result of a person's injury. The difference between the two types of coverage largely centers upon a person's right to seek compensation in the event of non-economic loss (i.e., pain and suffering). If you choose Limited Tort coverage, you are in most instances giving up your right to receive compensation for pain and suffering resulting from an accident, unless you have suffered a "serious injury," which is defined as "[p]ersonal injury resulting in death, serious impairment of body function or permanent serious disfigurement." In many cases, an injured person's right to seek compensation will be limited because of the person's inability to prove that the injury meets this threshold level. Although the definition of "serious injury" is ultimately the province of a judge, the initial determination is made by an insurance company, whose representative may not agree with your opinion that the injury is a "serious" one. Courts have frequently ruled that a "serious injury" does not include most "soft tissue" injuries, such as back and neck sprains, strains and pains; severe headaches; or whiplash injuries that get better over time. Often, even permanent soft tissue injuries are not found to be "serious" enough to overcome the tort threshold. In some cases, courts have even ruled against individuals who have chosen the Limited Tort option, despite injuries including broken bones, fractures or head injuries. Judges did not consider these injuries as "serious" enough to overcome the tort threshold since the injuries eventually healed, no longer caused pain, or were resolved.

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**Auto Insurance: Full Tort or Limited Tort?**

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On the other hand, a Full Tort policy does not have these limitations. You, your family, and other resident relatives of your household will have the right to seek compensation for any injury suffered as a result of an accident, whether the claim is small, medium, or large. The premium for Full Tort coverage will cost more than Limited Tort coverage, so each person must analyze whether the cost savings from choosing the Limited Tort option is worth the reduced coverage. The extra expense for Full Tort coverage can sometimes be offset by other means: choosing a higher deductible on collision and comprehensive coverage, combining insurance coverage for your home and vehicle, or other potential rate discounts for having a clean driving record or having certain safety features on your car. In addition, some insurance companies do not charge a significant amount more for Full Tort coverage than Limited Tort coverage, so if you are comparing rates of different carriers you should always ask each carrier for a comparison of the premium for choosing "Full Tort" versus "Limited Tort" coverage. The important thing is to be aware of your rights and to understand what you are doing when you select "Full Tort" or "Limited Tort" coverage.



**Developers Embrace Pennsylvania Permit Extension Act**

By Michael Mattioni, Esq. and Dawn Tancredi, Esq., LEED GA

The Pennsylvania Permit Extension Act (the "Act") automatically extends the expiration date of certain permits, such as building, zoning, water, sewer or road permits, issued under more than thirty statutes including the Pennsylvania Municipalities Planning Code ("MPC"), the Clean Streams Law, the First Class City Home Rule Act (applicable to Philadelphia), the Pennsylvania Sewage Facilities Act, the Pennsylvania Construction Code, the Storm Water Management Act, and certain permits issued by the Pennsylvania Department of Transportation until July 1, 2013. The law specifically applies to approvals, agreements, permits, authorizations and decisions for development and construction projects (collectively "Approvals").

With limited exception, the law applies to Approvals that were in effect on January 1, 2009 or after. The expiration date of an Approval is automatically extended, regardless of expiration date, except if the approval was issued by the City of Philadelphia. The Act does not limit the authority of a government agency to suspend or revoke an Approval for noncompliance with a written condition of Approval, to enforce conditions of approvals granted before January 1, 2009, or to enforce conditions that are required to be performed before final plan Approval under the Municipalities Planning Code. The Act tolls the expiration date of the Approval, extending the expiration date for the length of the extension period. This means that if an approval had a six month time period, this six month time period gets tacked on to the end of the extension period, which means the approval lasts six months beyond July 2, 2013.

The rules in Philadelphia are "different". The extension only applies if the owner or permit holder of a permit issued by the City of Philadelphia submits a completed permit application to the Department of Licenses and Inspections indicating the intent to exercise the right to extend the permit. The application must include the address of the permit in question and the permit number. A copy of the permit should be attached, if available. A fee, which is equal to fifty percent of the original application fee, not to exceed \$5,000, must be paid.



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The Department of Licenses and Inspections will issue a new permit referencing the original permit and date it was issued. The new permit document will include language indicating that the original permit will not expire until at least July 2, 2013. In addition to permits, Board approvals may be extended, such as approvals from the zoning board, or the Historical Commission.

The Act is significant. Many developers and lenders invested large sums in acquiring and gaining approvals for projects to only later find the projects stalled due to the recession. The Act allows such projects to remain viable until the economy recovers saving considerable sums and time in obtaining new Approvals, due to the expiration of the original Approvals. The Approval process is full of uncertainty and costs and the Act provides relief from such uncertainty, and additional costs.

The Act also provides additional benefit to lenders. In those cases where a lender has repossessed a property, considerable value is often lost when Approvals expire. By providing for extension of Approvals, the Act aids lenders by retaining value of property for which Approvals have been obtained, and would otherwise expire. Thus, a lender that is now the owner of what appears to be a failed project receives an added benefit of being able to market the property as approved for development.

This article explores some basic issues that should be considered by anyone that may be effected by the Permit Extension Act. The Act has many different applications and anyone with an Approval that appears to have expired should discuss whether the Act covers the Approval. Every Approval is different, so care should be taken and each case should be reviewed with appropriate professionals to determine whether the Act applies to a specific Approval.



## Firm News and Updates

**Stephen J. Galati, Esquire**, has been elected to serve on the Board of Directors of the Chilean and American Chamber of Commerce of Greater Philadelphia (CACCGP) which was established to foster increased and improved commercial and trade relations between the Republic of Chile and the Greater Philadelphia region. Mr. Galati has also been re-elected to the Board of Directors of the International Refrigerated Transportation Association (IRTA) for a three-year term.

**Regina Parker, Esquire**, has been elected to serve as a member of the Pennsylvania Bar Association Women in the Profession Committee for the 2010-2011.

**Dawn M. Tancredi, Esquire, LEED GA**, has been appointed president of the St. Joseph's Law Alumni Association for a two-year term and will also represent the law alumni on the university's National Alumni Board.

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