

## Survey says: Buyers should get one

Several years ago, if a person bought a home in Priest Lake, the lender required that a surveyor perform a mortgage loan inspection, ensuring that there were no encroachments on the property or that nothing on the property encroached on a neighboring property.

For example, there are situations in which a person has based his property line on a tree line along the side of a yard. In many instances, such an assumption would have been accurate inasmuch as homeowners often plant vegetation along their property lines for privacy or to delineate the boundary.

However, often the tree line is the result of a fence around a pasture having existed years before. The pastureland was cleared and kept free of trees, but trees were allowed to grow along the fence lines. Then, 50 years later, all of the neighbors considered it the property line.

Additionally, most buyers assume that their houses were constructed within the building envelope and that the site had been approved by some governmental agency. Such is not

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always the case. Mistakes have been made in the past, and they are not necessarily grandfathered.

Back to the mortgage loan inspections: In the past, mortgage loan inspection, often mistakenly referred to as mortgage loan surveys, were required to close. For several years, this requirement has been eliminated. In order to receive a mortgage loan survey, the buyer must request one. And some assume that since it is not mandatory, it must not be important. That is a bad assumption.

The reason that they are no longer a requisite of the loan is that the lenders have been able to get the title companies to cover them (the lenders) on boundary issues, although the owner is not covered. If title to the property were clouded due to a boundary is-

sue, the owner would not have relief through the title insurance.

That is a significant accomplishment by the lenders, and they cannot force buyers to purchase a mortgage loan inspection. That option is the discretion of the buyer. Unfortunately, many buyers are not aware of the peril that they could be facing by the lack of the inspection.

In Priest Lake, fences, driveways, swimming pools, gardens— even houses — are found to encroach as results of these surveys. After having the encroachment explained to them, the sellers' standard reply is "It's been that way as long as we lived here."

Let the buyers beware, that logic is not shared by the courts. There are no "squatter's rights" or "grandfather's clauses" on these issues. Request the mortgage loan inspection, and sleep well.

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