

## POSITION STATEMENT

### MORTGAGE INSPECTION REPORTS

#### **Background**

For the past year, the Board has been reviewing ways to alleviate the public misunderstanding and subsequent misuse of Mortgage Inspection Reports. The problem originates with home owners receiving copies of these reports at closing and then relying upon them to build improvements (even though there is disclaiming language on the drawing itself). The signature and seal on the report, along with distances to the nearest 0.01 foot shown from the boundary lines to the house, mislead the home owners into thinking they can rely on the information shown thereon.

OSLS conducted several meetings of its members and others, many of whom prepare these reports as a large part of their business. A lengthy set of proposed minimum standards for mortgage inspections was drafted and submitted to the Board for its review and approval. There were also suggestions that more public education be done and that loan closers be responsible for presenting options to home buyers as to whether the home buyer would prefer a mortgage inspection or some kind of real survey on the property prior to closing.

Upon reviewing OSLS' recommendations, the Board recognized that the proposed minimum standards for mortgage inspections did not address the problem of owners relying on these reports for the building of improvements. They might somewhat increase the accuracy of these reports, but they will still not be accurate enough to rely on, and therefore the problem will still exist. These proposed minimum standards could also increase the cost to the homebuyers which could have the unintended consequence of fewer and fewer clients requiring these reports for closing.

The Board sought input from the title insurance industry who, along with mortgage lenders, are the primary users of mortgage inspection reports. The Board representatives who met with the title company representatives presented several options to solve the problem; including providing written reports in lieu of drawings and having the title companies not giving home buyers copies of the mortgage inspection reports.

The title professionals we met with did not like the idea of written reports instead of drawings. They communicated to us that their agents are required to make representations in their title policies based on what is shown on the drawings. They are concerned that some of items they must address might not be included in a written report. As far as having agents not giving home buyers copies of these reports, the Oklahoma real estate contracts we reviewed include provisions where buyers are entitled to documents, like Mortgage Inspection Reports, that evidence title or factors that might affect title. So, it appears the title companies cannot lawfully withhold copies of mortgage inspections from homebuyers.

The title professionals we met with were asked if it was absolutely necessary that distances from the major improvements to the property lines be shown. They seemed to be satisfied that was not necessary, as long as the drawing clearly showed any encroachments of the house or other major improvements over the property or easement, or platted building setback lines. This was the opinion by the state's largest title insurance company and not an official endorsement by the Oklahoma Land Title Association.

The existing language in the mortgage inspection report found in Board Rule 245:15-13-2 (e) (shown below) makes it clear that land surveyors have never legally been allowed to show dimensions on the report that are not true representations of existing conditions.

#### **Position Statement**

Effective immediately land surveyors must take care to only show measurements on a mortgage inspection report which are true representations of the conditions that were found. Anyone showing measurements on a mortgage inspection report that are not true representations of the conditions that were found at the time of the inspection will be in violation of the Minimum Standards for the Practice of Land Surveying.

**Minimum Standards for the Practice of Land Surveying**  
**O.A.C. 245:15-13-2 (e)**

MORTGAGE INSPECTION REPORT

'This Mortgage Inspection Report was prepared for ...(individual or firm).... It is not a land or boundary survey plat, and it is not to be relied upon for the establishment of fence, building or other future improvement lines. The accompanying sketch is a true representation of the conditions that were found at the time of the inspection, and the linear and angular values shown on the sketch, if any, are based on record or deed information and have not been verified unless noted.'

Any further statements shall be made only after proper research, investigation and boundary analysis is conducted per 245:15-13-2(a) through (d).