

REAL PROPERTY REPORTS

Purpose: This bulletin explains Real Property Reports and their importance in real estate transactions.

This bulletin applies to all real estate professionals.

The Real Property Report (RPRs) is a legal document prepared by an Alberta Land Surveyor that illustrates property boundaries and improvements (structures) relative to the boundaries. RPRs are important to buyers and sellers when buying or selling an exclusive right to land.

An RPR contains extensive information about the property, including:

- legal description and municipal address of the property
- date of title search and date RPR was done
- Certificate of Title number and registered owner(s)
- location and description of all relevant property improvements with dimensions, directions and distances from the property boundaries
- location of rights-of-ways and/or easements registered on the title
- location and dimensions of any visible encroachments that relates to the property
- designation of adjacent properties, roads, lanes
- Certified Land Surveyor's duly signed certification and opinion on any concerns
- copyright of the RPR to the land survey company
- evidence of municipal compliance (Certificate of Compliance)
- illustrations of any easements that affect the property

Current RPRs vs. existing RPRs

Current RPRs accurately illustrate property improvements and their location within the property boundaries. Each RPR has a date. A RPR is no longer current if any changes occur to the property after the date on the RPR. Lack of a current RPR may have a negative affect on title registration and/or mortgage funding.

Sellers with existing RPRs may sign a Statutory Declaration or Affidavit stating the existing RPR is accurate and the property is in the same state as the date of the original RPR. If there are changes, sellers may contact the surveyor to determine if the surveyor can update the existing RPR. If there are changes, only an updated RPR with evidence of municipal compliance can confirm that the property complies with municipal regulations.

Municipal compliance stamps

Municipal compliance stamps confirm that property improvements comply with their Bylaws and Regulations. It does not mean the building's use complies with their Land Use Bylaws, easements, covenants, legislation, or other requirements affecting land or buildings. Some municipalities refer to the stamp as a Certificate of Compliance.

Non-compliant properties

A RPR may reveal a property issue when you submit a RPR for a municipal compliance stamp. Typically, the seller is responsible to resolve the issue. Common non-compliant issues include:

Encroachment

If a structure encroaches on adjoining property, the seller and adjoining owner may enter into an encroachment agreement. This requires the owner of the other property to agree to allow the encroachment to remain. The parties register the agreement on their property titles. This allows the structure to remain, but the agreement may require the seller to remove it if the municipality notifies the seller. If there is no agreement, the seller may have to remove the structure at the seller's cost.

Easement

An easement grants a third party the right to enter onto another person's property for a specific purpose. A utility right-of-way is an easement granted to a public utility allowing it to enter onto property to repair or replace its services. The property title and RPR shows the easement. This also applies to encroachments upon easements and utility rights-of-way.

Relaxation

If a structure is too close to the property boundary or over an easement or utility right-of-way, the municipality may grant a relaxation to allow it to remain. If the municipality does not grant the relaxation, the seller may have to move or remove the structure. As part of the sale, the buyer or lender may require a holdback of part of the purchase price or mortgage proceeds until the seller has a relaxation permit or someone remedies the problem.

If you cannot resolve non-compliant issues, resolve the issues before the sale closes or you discover other sale impediments, title insurance may be an option. Title insurance may enable the sale to close on time, and assumes the liability and cost of correction as set out in the policy. As set out in the title insurance policy, it assumes the liability and cost for of correction for non-compliant issues. Different title insurance policies are available to the seller, buyer or lender. Title insurance does not take the place of a RPR.

Buyers and RPRs

Buyers want a current PRP because it contains important information regarding the property they are purchasing. Most standard residential purchase contracts require the seller to provide the buyer with a current RPR that reflects the current property improvements with evidence of municipal compliance, or non-compliance.

Benefits to buyers of a current RPR include:

- location of the property boundaries and improvements are known
- issues with the property or adjacent properties are known
- known RPR issues are typically the sellers to resolve before a sale closes
- buyer can determine if property can have further developments or improvements
- buyer may need RPR when they resell the property
- buyer/borrower typically needs an RPR for their financing
- lenders get information on property improvements and municipal bylaw compliance
- buyers and sellers may resolve problems prior to registration of the mortgage

Preferably, the RPR is available to buyers before they write a purchase contract. If a RPR is not available, real estate professionals can discuss the various possibilities with their clients and get their direction. The buyer, or their lawyer, must have a reasonable opportunity to review the RPR before the property title transfers and the release of financing.

Sellers and RPRs

Real estate professionals should advise sellers, if they do not have a current RPR, to obtain one as soon as possible. Most standard residential seller representation agreements require the seller to warrant certain information about property. Most standard residential purchase contracts require the seller to warrant to the buyer certain information about the property.

A current RPR with evidence of municipal compliance enables a seller to make the following warranties:

- the land and buildings comply with existing municipal land use bylaws
- the location of improvements are not on any easement or utility right-of-way and do not encroach on adjacent lands except if an encroachment agreement is in place
- the location of improvements complies with all municipal bylaws, regulations and relaxations prior to the sale completing or they are “non-conforming buildings”

Other benefits to the seller of having a current RPR with compliance includes the following:

- meets the requirement of some seller representation agreements and purchase contracts
- location of the property boundaries and improvements are known
- measurements and distances for the property and improvements are known
- any issues with the property or adjacent properties are known
- seller's real estate professional can advise seller of any property issues
- the seller may address compliance issues early in selling process before a sale

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Information Bulletins

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