

**The Newsletter
of the
Faculty of
Party Wall Surveyors
August 2007**

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EDITORIAL

“What’s in a name?” sayeth the bard in Romeo and Juliet, “that which we call a rose. By any other name would smell as sweet”. The wise king Solomon said, “a good name is better than precious ointment”. So what does your name say of you, what does it mean and do you live up to your name?

OK, so those in glass houses, and lead by example etc, so here goes! My first name is Alexander and means ‘helper and defender of men’. To this I would quickly say that is how I would want to be remembered – someone who helped all and defended just and honest causes.

Enough of this back patting, but what is this to do with party wall matters and I think the answer is obvious? Surveyors are appointed to resolve disputes and not to cause them, as some surveyors seem to want to do. Time and again I have to come to the help of owners who are being given a ‘raw deal’ by their appointed surveyors, not Faculty members I hasten to add, but beware if any member does not live up to the Faculty’s good name.

Where others saw major problems Alexander the Great saw challenges. He gained victory in winning the Phoenician island of Tyre by facing the challenge full head on. Alexander knew that he could not defeat the island’s navy so he spent seven months in building a giant causeway 2000 feet long and 200 feet wide from the mainland to the island and thereby marched his army into victory.

What is the moral? – See the problem and be a helper to sort it out. Some surveyors cannot even complete an award in seven months let alone build a bridge! Yes I am proud of my name and seek to act as a party wall surveyor by it. Now run thither and check thy name and see its application and use in being a party wall surveyor. P.S. There is nothing wrong in being called Jonah!

Alex M Frame. MSc, MRICS, FFPWS, FCIQB, FASI, MCMI.

..... Coming home to roost

Those of you that have attended our seminars will know how much I emphasise getting the paperwork in order. Well here is such an example about a seemingly watertight case going wrong because the paperwork was taken for granted.

This involves a county court case in London (thus unreported) for which one of the surveyors is quite eminent and is also well known as a third surveyor.

The work involved an extension to the rear of a property for which there was a double driveway between that property and its neighbour. The building owner needed to have access to the adjoining owner's land and the surveyor served a fourteen-day notice to enter the land quoting section 8(4). The solicitor for the adjoining owner denied access on behalf of their client and so the matter went to court.

I would have imagined that the experienced party wall surveyor felt quite comfortable with his request for access knowing that he would have section 8 of the Party Wall etc. Act 1996 behind him.

The judge however thought differently. He was asked by the adjoining owner to set aside that part of the award, which purports to allow access, on the basis that the surveyor was acting outside of his jurisdiction in making the award.

The judge upheld the appeal and would not allow access by the building owner onto the adjoining owner's land. Now, before you throw your hands up in horror as I did, it was pointed out to me to note exactly what the judge said in forming his decision.

First it should be noted that the building owner represented himself and the adjoining owner was represented by counsel, which probably brought a disadvantage to the building owner, but of course not necessarily so in all cases.

The problem in the building owner losing the case was that he simply relied upon the surveyor telling him that he had a right of access under section 8 of the Act, but alas his reason was not conveyed properly to the judge. He gave no good reason in his submission as to why access was required.

The judge had repeatedly said that he had not been given good and full reasons as to why access should be granted. In his summing up he said *'I emphasise that I heard no argument that the respondent (B.O.) requires access to the appellants (A.O.) land.....'*

When we read very carefully what the judge said in his decision we find that he was a bit harsh but technically right in his decision, and he went at length to say that he *'heard no good argument that access was required in pursuance of the Act'*. As stated in section 8. Whereas the counsel for the adjoining owner gave good reasons as to why access should be denied.

The moral of this case is quite clear and is as I have said at the beginning, and that is *'get your paperwork in order'*. It is perfectly true to say that access is of right under section 8 and something that I certainly teach. However if you are going to claim your right then you must give your reasons *why* and not just rely upon *'because the Act says so'* This just magnifies another example the reason access for preparing a schedule of condition would be denied because it is not in pursuance of the Act and could not be proven so.

I do tell you all to prepare your awards with care to never assume and take nought for granted. This eminent surveyor (not a Faculty member) lost out because he had always done it that way for many years and just assumed that all would be well. Remember if you ASSUME it will just make an ASS out of U and ME!

There is a caveat however and that is to remember that we are surveyors and not lawyers, have a good knowledge of the laws pertaining to and around the Act but leave the finer arguments to those qualified to do so.

Alex Frame

President's Pen



Although I had a private education up to the age of 15 and grammar school after that, being brought up in the east end of London by working class parents, I believe, it was the latter that gave me a good standing in life.

That is to say I do not judge people by their appearance or the way they speak but more by what they actually say or do.

This has stood me in good stead over the years as I neither look up or down on people, treat them all as equals and believe everybody has something to contribute not matter what or how small.

I have just served, acting as the adjoining owner's surveyor, an award that has been 9 months in the preparation and the size of a telephone directory to boot, all of which took too long to prepare and had compounded costs that could have been avoided.

I won't name the building owner's surveyor, suffice to say that he is from a large London practice.

The award is for something quite simple but the building owner's surveyor insisted, for example, on three people attending the site for the preparation of a schedule of condition. He attended, his quantity surveyor and her assistant.

He strutted around in a pinstripe suit as if he were conducting an orchestra but to the untrained eye was a very important and knowledgeable person.

On querying some of the contents of his draft award he had no answers and insisted on going back to his office and responding in due course.

When the draft duly arrived, the postman nearly had a hernia and to top it all, it was postage underpaid!

In the end we agreed the award but only after endless drafts and re-drafts, purely because of the inability of the other side to stand back and look at what was required and not try to be overtly clever.

His lack of knowledge and his self-importance caused the exhaustive process to be so protracted.

I didn't like him due to his indulgence and lack of respect for his clients and their costs.

The moral of this diatribe being, when preparing an award what are we trying to prove? Nothing. So let's keep pushing the Faculty's principles of best practice. Eventually, we will get them on our side and if not then let them fall by the wayside.

Charles Dawson MSc FASI MRICS FCIOB FFPWS President

Subscriptions: Unfortunately along with other increases in life the Faculty needs to raise its subscription charges for members. There have been no increases since the Faculty's inception, but from the 1st January 2008 the new scale will be as follows:

Fellow £175: Member £120: Associate £ 75: Affiliate £ 60



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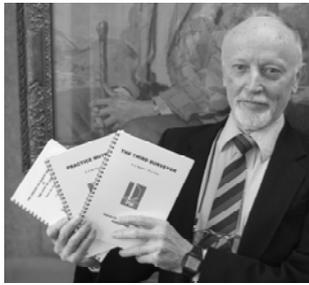
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Book Reviews in previous Newsletters are by Ken Whittick. He is pictured here showing copies of the books he has written:

“The Origin of Party Wall Law in the City of London” and “The Third Surveyor” co-written with R E Cove at a cost of £15.00 each and the “Practice Notes” at £20.00.

Promote your Faculty

Dear Member

We continue to hold seminars across the country to promote the awareness of the Act and of course the work that the Faculty is doing. Our last seminar was for 'Third Surveyors' and was held at the RIBA headquarters. The seminar was well received and many delegates requested further seminars which of course we are arranging.

We continually get enquiries everyday from the general public and surveyors needing help, and we are pleased to say that we spend much time in helping where we can. Whenever possible we make referrals to you as members.

Apart from the 'grey' areas within the Act there are many surveyors who have misunderstandings about the Act and to this end there will be a new book shortly to be published by the Faculty entitled Misunderstandings and Guidance.

The author is Alex Frame who has many years of experience in dealing with the Act and its forerunner in the London Building Act. Further details will be given in the next Newsletter, but we would like every member to have a copy on their bookshelf, so watch this space.

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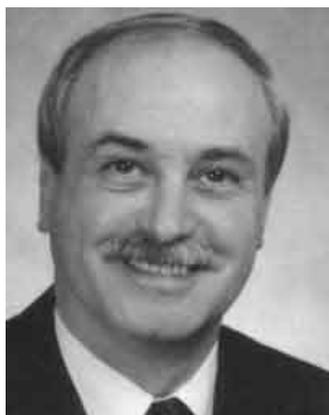
New Membership

The following Surveyors have been elected as members of the Faculty:

Jerry Thornton
Patrick Porterfield
James Lyon
Alan Deacon
Ian Grimes
Peter Modrekelidze
Trevor Hopkins
Anthony Marti
Peregrine Mears
Matthew Wheeler
Richard Bowen
Ali Kia Jahansouz
Anthony Grall
Joseph Small
Jeremy Delvarr
Martin Harris
Eric Roberts
Ms Severina Dalgado

Harji Vekaria
Brian Parrott
Bakhtawer Beg
David Hackett
Mark Scarborough-Taylor
Jeremy Gainsford
David Durrant
Miss Victoria Bruce
Matt Quirke
Andrew KarolyClive Morley
Tom McAlindon
Nicholas Sibley
Maurice Ndirika
Warren Adams
Claude Wallace
Doug Kingsley
Geoffrey Chapman
Ken Hastings
Lee Cantrill

The ABC of Party Walls



The ABC of Party Walls

F is for Foundation

This first occurs in section 1(6) where right is given to place foundations on the adjoining owner's land BUT note the three words '*as are necessary*'. If it cannot be proven necessary to place foundations thus, then there is no right to do so. The section in the previous Act (London Building Acts part VI) did not have such words.

Section 7(4) makes mention of 'special foundations', which in accordance with section 20, is defined as '*an assemblage of beams or rods is employed for the purpose of distributing any load*'. This in modern parlance means reinforced concrete, and under this section no right is given to place such foundations on the adjoining owners land.

F is for Footing

This is mentioned in section 2(2)(g) and it must not be confused with or assumed that it is the same as foundation. A footing is a brick corbelling at the base of a wall to spread the load from the wall, superseded to day with concrete foundations.

F is for Fourteen Days

This is one of the periods of times specifically given in the Act whereby adherence is important. Fourteen days is the time period for a Notice to run after which some action must be taken (section 1(4), section 5 and section 6(7)). Fourteen days is also the period whereby an award may be appealed, otherwise it is legally binding, assuming it is a valid award section 10(17).

F is for Furniture or Fittings

This is mentioned in section 8(1) and it is stated that these can be removed from the adjoining owner's property if it is necessary and in pursuance of the Act.

F is for Fences

This is mentioned in section 8(2) and gives the right to break open any fence to gain access, if you accompanied by a policeman.

F is for Fees

Surprise surprise, but these are not mentioned in the Act. Fees are referred to as Costs.

Alex M Frame. MSc, MRICS, FFPWS, FCI0B, FASI, MCMI.

..... CPD Seminars

A CPD Seminar is being held on 13 December between 1.30 p.m. and 5.00 p.m. for RIBA members at Cambridge.

A CPD seminar has been conducted for Ashford Borough Council to assist Building Control and Planning Officers. More similar seminars are to be planned.

Further two day seminars are also planned - watch this space.

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.... Ken Whittick retires

As a younger man, I was invited by the Architects and Surveyors Institute to attend an interview for membership. This I duly did, turned out in my best business shirt to face a stern, rather direct and somewhat austere chairman by the name of Mr. Whittick. I left after an awesome grilling convinced I knew nothing about the profession I had been working in for the last twenty years. Subsequently, I eventually received a letter inviting me to join the Institute, my membership was signed in part by the chairman of the interview board.

Some years later on upgrading to Fellow, yet again on interview, I was grilled by none other than the fearsome chairman, Ken Whittick. Having succeeded I assumed that I would not have to go through that again and thought no more about him.

Later in my life I was invited to join a very young faculty called the Faculty of Party Wall Surveyors. So off I go for my professional interview and yes you have guessed it, Ken was again in the chair. I got in although I felt I had just scraped through my end of term exam in front of the headmaster.

On joining the board of the Faculty of Party Wall Surveyors, Ken Whittick was President. It was with some trepidation that I attended the first board meeting, expecting a very serious and sombre time.

How wrong I was! Ken welcomed me and showed a side that I had not seen. He has been generous with his help and support and his unyielding approach to interview, I was to find out it is because he cares passionately about standards and the integrity of the professional.

We have since become good friends and an added bonus has been that our pastimes also cross over with skiing and boats amongst some of our common interests, so it is with some sadness that it fell to me, as the current President, to present Ken with a silver platter in recognition of his inaugural presidency and his standing down as an active member of the board.

In his time Ken has written many books and, I believe, his next is to be a kiss and tell about the behind the scenes activity at meetings! We shall see.

I would also like to put on record that I am honoured to have known Ken, not only as a good professional but as a true friend. We wish Ken well in his retirement.

Charles Dawson

.... attention all Members

You will of course be aware of the large postal increases that have come about lately. The Faculty has a very high postal bill and it needs to save where possible. To this end, communication wherever we can, will be by e-mail to members which will also include the Newsletter.

It is therefore important that we have your correct e-mail address and would ask that you contact head office to make any corrections or changes. Email—nicky@fpws.org.uk

We wish you to know that the Faculty is using its funds to the best of its ability and speaking of funds, the annual subscriptions are due in January. In all previous years the office has had to spend considerable time in chasing members, even up to as late as May.

Please, please, pay your subscriptions, *which are not really that high by other standards*, on time for which various methods of payment are being looked at, apart from receiving your cheque. You could of course set up a standing order yourselves. The Faculty will still continue to make referrals to you, to deal with party wall matters.

Thank you in anticipation for your co-operation.

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..... Our Inaugural Dinner

The inaugural dinner of the Faculty of Party Wall Surveyors was held on the evening of Tuesday 22nd May 2007 in the Lutyens Room of the Royal Institute of British Architects (RIBA), 66 Portland Place, London W1B 1AD. The Faculty has forged a sound working relationship with RIBA and it, therefore, seemed appropriate to use their premises for the dinner.

The Lutyens Rooms is located on the second floor of 66 Portland Place and proved to be a perfect venue in every sense of the word. Earlier in the day the RIBA had provided accommodation for the Annual General Meeting of the Faculty and simply crossing the road for the dinner seemed entirely appropriate.

The Lutyens Room displays a number of depictions of this most illustrious architect's work and proved to be the right size for the numbers of members and guests attending. Approximately forty members, wives partners and guests were present and were served a delightful meal by extremely courteous waiting staff.

After introductory cocktails, everyone selected their own places and quickly established a relaxed ambience which pervaded throughout the whole evening. A simple Grace was said by Mr. James Jackson, a Director of the Faculty who also proposed the Loyal Toast and the Toast to the Guests of the Faculty (it seemed most unusual that members of the Faculty, usually quite voluble persons, decided to become tongue tied when request to assist! Those whom James Jackson attempted to 'press gang' into service insisted that they were there only to have a good time).

Mr. J. J. Heath-Caldwell, a director of Local Surveyors Direct, a marketing organisation working closely with the Faculty responded on behalf of the Guests and Mr. Charles Dawson, President of the Faculty, spoke of the friendship that is often forged when party wall surveyors meet and serve a common cause.

The highlight of the evening was the Guest Speaker, Mr. John Sparry; a somewhat eccentric R raconteur, Historian and Jazz Musician. He has effectively turned his back on the technological comforts of the twenty first (and indeed the twentieth) century. He lives simply in his Grandmother's house in the Black Country without any of the trappings of contemporary living. His only acquiescence to modern day creature comforts is to have the use of a telephone. Living without a television, his principal contact with the outside works is the radio. John avidly listens to and regularly appears on Radio Four programmes and his subject for his address was 'Those Old Radio Times – A chuckle from Marconi to Mrs Dale'. He presented a series of interesting, unusual and witty anecdotes concerning radio programmes and personalities from the early days of Marconi right through to modern times. (Shortly after our dinner, John Sparry achieved considerable fame by appearing in an article in the Sunday Express).

The evening concluded at approximately 10.30 p.m. with everyone considering the event to have been a success and insisting that the function should be incorporated into the Faculty calendar as a regular event.

JAMES JACKSON

Director



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Note our new address and email:

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FACULTY PUBLICATIONS

The Faculty is also taking orders for the Faculty of Party Wall Surveyors Practice Notes Book. This book is a handy A5 size that makes it easy to take anywhere. It is a useful reference to the Act and those contemplating working in this field will find this pocket-sized book to be of considerable help. The author is Mr. K G Whittick a party wall Surveyor for over 40 years.

It contains a brief history of the Act and then goes on to give breakdown of what the Act means, with diagrams to help. It also covers Draft Awards, Schedule Layout for a Schedule of Condition and Draft Letters.

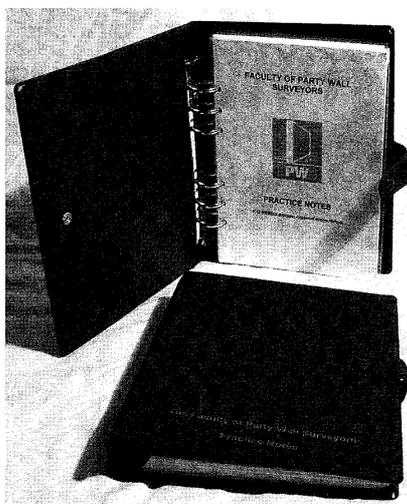
The book contains the Party Wall etc. Act 1996 reproduced under the terms of Crown Copyright guidance issued by HMSO.

The cost of these Practice Notes is £20 inclusive of postage and packing and that all new and existing members will be obliged to keep a copy. Subscriptions for new member will be £130.00 to cover this cost and ensure new members have a copy in their first year.

To order any of these:-
Phone **01424 883300** or write to:

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Faculty Courses

Seminars are arranged at various levels of education all around the country and can be just for one hour, one day or two day courses. Two day courses will give the delegate the automatic right to apply for full membership should he/she successfully complete the course.

Seminars are also held especially for Third Surveyors and will bring Fellowship status after interview providing a Member can demonstrate they have been practising in party wall matters for at least 5 years.

A two-day course 'Certificate in Party Wall Studies' run by the Faculty . Contact nicky@fpws.org.uk or 01424 883300 :

16/17th October at RIBA Office, London.

and also by the Association of Building Engineers (ABE) in conjunction with the Faculty at the following locations:

24/25th January 2008 and **3/4th April 2008**, in Northampton at their Head Office.

Please contact Holly Charlton direct at the ABE for booking details: 01604 404121 or e-mail holly.charlton@abe.org.uk



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