

NEWSLETTER

**The Newsletter
of the
Faculty of
Party Wall Surveyors
January 2008**

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..... anecdotes

“Oh by the way ! !”

(more anecdotes from a (not so) long suffering Party Wall Surveyor)

“Rabbit eats Man” ! ! !

Not long ago I was subjected to the dubious pleasure of attempting to resolve a difficult Party Wall dispute arising out of a Planning decision in which the Building Owner had been granted permission to carry out some quite substantial alterations to his neighbours' roof.

Needless to say, the neighbours were less than comfortable with the proposal and thought, mistakenly at first, that invoking the Party Wall etc. Act 1996 would be a means of blocking the scheme. Having been told that this would not be the case they then consulted the Building Owner who readily agreed to implement the requirements of the Act should it be found necessary and agreed to meet the Party Wall Surveyor who had provided advice thus far.

I, therefore, presented myself at the home of the Building Owner. It was a large, ramshackle semi-detached house in a remote rural setting close to the Shropshire Marches. The Building Owner appeared to have become set in the early 1970's. He was barefoot, wearing scruffy flaired jeans and a caftan and had more hair than a buffalos winter fleece. The house was a tip and two young children, equally unkempt, quizzed me in quite some considerable detail about my purpose for being there, my profession, my income, my marital status and at one point made certain allusions as to my sexuality. The bohemian parent made no attempt to remonstrate with them.

Eventually, and after the children were removed by their father, I was sat down in a kitchen area and noted that I shared the room with a number of the children's pets including at least three chickens, a goose, guinea pigs and a large black rabbit.

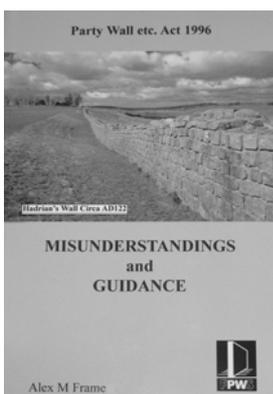
The Building Owner and I discussed the content of the works within this miniature farmyard during which I felt my trousers were receiving regular tugs around my ankles. “Ignore him, it's only the rabbit investigating your presence” I was told, and the tugging continued.

Suddenly I felt a sharp pain in my ankle and leapt up to see blood running down my leg. The rabbit had chewed a large hole in my trouser leg and then commenced devouring me. “You will be all right now that he has tasted you” was the only casual response from the Building Owner.

(P.S. The cost of a new pair of trousers was added onto my fee)

James K Jackson FFPWS MRICS HonFGIS

..... IT'S OUT AT LAST!



A new book published by the Faculty and written by Alex Frame is now on sale, probably given away at £29.50p for all it contains.

The book entitled 'Misunderstandings and Guidance' covers virtually all the sections of the Act and has helpful conclusions at the end of each section.

The book also contains model licences for scaffold and crane, an es-crow account, court procedure forms and model awards as well as the Act itself. Hurry while stocks last as they say as this is a 'must have' by your side.

President's Pen



There are many things in the world of today that make me angry and want to spit - Iran, Afghanistan, Third World debt, NHS, Policing, Schools...I could go on. However, there is one thing that is becoming even more depressing and that is the professional politician.

We are now past the annual political party conference season and all the usual diatribe of more money, better services, overseas aid was dished out on a spin doctor's web of deceit for the consumption of fawning conference delegates and the party faithful.

When will they realise that we, the general public, don't take any notice of them any longer and quite frankly are passed caring, hence the poor turnout for elections. How sad I am. Once a political animal, keen to debate the issues of the day with a sense of right and wrong, justice and honour, who now can't be bothered.

I can hear you say 'Where's this silly old fool taking me, what's he rambling on about'....well, I'll get to the point. And the point is, 'There is no point'. That is to say 'There is no point unless you really care'. If we, as respected members of our profession were to conduct ourselves like our country's leaders, where would we be?

I am constantly surprised and gladdened when a client, another professional or college asks me a question and I can answer, without reference, off the top of my head, a true and straightforward reply. No spin, no ifs and buts, just sound professional advice, which they accept as my honest opinion and best advice.

If we can uphold these values and I know we do, what a different world we might have if our leaders followed suit.

It's not always easy telling somebody what they don't want to know and how often they come back rephrasing the question hoping that you will change your response. Providing we maintain our standards then, like my father before me, I can look any man straight in the eye and know, whilst not beyond criticism, I have nothing to fear.

Charles Dawson MSc FASI MRICS FCIOB FFPWS President

SUBSCRIPTIONS

Unfortunately, along with other increases in life the Faculty has raised its subscription charges. There have been no increases since the Faculty's inception but from the 1st January 2008 the following charges will apply:

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

We would be grateful if you would settle your invoice quickly to avoid costly administration time spent chasing outstanding amounts. Your co-operation is greatly appreciated.

The ABC of Party Walls



G is for Guttering

The word guttering does not appear in the Act but is mentioned here because guttering commonly causes problems in party wall matters. We often find guttering that is overhanging the boundary and can inhibit the erection of the Building Owner's extension.

However this should be carefully looked at because the guttering could well be an easement and therefore not moveable without agreement between the owners. Surveyors have no right to request that guttering be moved under Section 2(2)(g) unless it has recently been so positioned against the Adjoining Owner's wishes and it is therefore simply seen as common trespass.

H is for Husband

This word husband does not appear in the Act, but is to be understood as being an Owner as defined in section 20. This is an important point because whilst it is correct to name all the owners in an Award, which could mean joint owners, or multiple owners. For example two brothers would be seen as being joint owners because they are independent persons. Joined together for the purposes of property ownership.

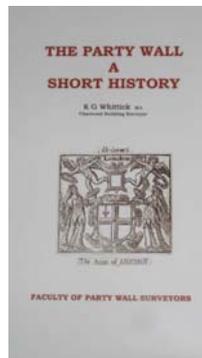
Whereas under English Law, husband and wife are seen as being one body joined in all respects under marriage and are therefore co-owners in our case. There is indeed case law on the matter Crosby v Alhambra Company Ltd [1907] 1Ch 295. The judge made this very point in that both husband and wife do not have to be named in a Notice or an Award because they are seen as co-owners.

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



For background knowledge to the Act you need to read the book 'The Party Wall a Short History' written by Ken Whittick and published by the Faculty, and priced at £24.00.

The author of the book takes you back almost 1000 years, as this is within his memory, and brings you up to date. It traces the history of the present Act and is a fascinating read for those with insomnia!



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Faculty Ties and for a nice present to yourselves, these ties come in Burgundy or Navy Blue and are priced at £15.00.

.....all are inclusive of p&p

.... update

I was honoured and very pleased to have been invited as a guest of the Vice President elect, Rhys Taylor, to be his guest at the Association of Building Engineer's Annual Dinner and Annual General Meeting.

The list of speakers was impressive and portrayed a very professional, forward thinking organisation. Their high profile in the construction industry lends them to being at the cutting edge of hands-on activities in the changing years to come.

Our close association over the past few years has led to a sound liaison in respect of the exchange of ideas and promoting best practice.

Many ABE members are Faculty members too and given they are also closely associated with Building Control puts them at the forefront of general public enquiries into party wall matters.

**Charles Dawson MSc FASI MRICS FCIQB FFPWS
President**

New Membership

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

Edward Riley, London
David Clare, Wirral
Alun Dwyer, Wirral
Kevin Wagg, Middlesex
John Nash, Maidstone
Gareth Gwynne, London
Peter Earnshaw, St Albans
Michele Onofrio, St Albans
Chris Pescod, London
Nigel Gunner, Eastleigh
David Haynes, Bristol

Richard Busby, Middlesbrough
Nicholas Cooke, Billericay
Paul Bannon, Chichester
John Sharples, Blackburn
Stephen Matthews, Trowbridge
Barry Cross, Solihull
Darren Williams, Swansea
Daniel Willett, Colchester
Chris Norman, Colchester
Darren Williams, Swansea
Barry Cross, Solihull

..... Skills to be a professional

Skills required to be a Party Wall Surveyor

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Before you all think this is a passage of some well intended wise wisdom, full of legal semantics and clever application of the Act, it isn't - keep reading.

It is reassuring to learn that there are some clients out there who value other qualities than knowledge and fee rates. One of my clients is a large developer with whom I have worked for a little while in the south of England. A different region within the same group needed to use a party wall surveyor and unbeknown to me my client contact had recommended me and to my surprise an instruction arrived out of the blue in this different region.

I rang them, thanked them and started to introduce myself but was cut short to be told that they knew all about me, right down to my height. Understandably surprised, I asked them what that had got to do with it. They said that impressed with my CV though they were, being 6'1 I was 'much more useful at looking over domestic garden fences!'. The other party wall surveyor they were talking to was five foot five....

Stuart W. Slater BSc (Hons) MRICS MFPWS MaPS

..... Editorial

Patience is a virtue we are told, so how many of you can remember back in 1974 when we had what was affectionately known as the 'Rumble in the Jungle'.

For those that do not know what I am talking about this was an event that occurred in a boxing match in the country of Zaire, now called Democratic Republic of the Congo, between the heavy weight champion holder George Foreman and a swift footed boxer called Mohammad Ali.

Most of Foreman's fights had been won by a knockout and many within the first three rounds. It was obvious that Mohammad Ali was at a distinct disadvantage in physical strength so a tactic to beat Foreman was employed called patience.

Ali had been a previous world champion but had been suspended from the sport for over three years as he refused to be drafted into the army for national service. This was then one of his comeback fights. Ali was famous for his speed and Foreman for his power, which is why Foreman never needed to last long in any fight.

The tactic then was for Ali to wear Foreman down and take him into a long fight where he had not gone before- and patiently wait until he could land a killer punch. To cut this long storey short the tactic worked and Ali was victorious.

What then has this to do with party wall matters? Simple really, I am sure like myself you have met with opposite surveyors who are tough and relentless in their quest and pursuit of having everything their own way.

Be patient and wait your time – let them have the things that really do not matter and stick with those that do, for if you keep rigidly to the Act you will not fail and will not be able to be unfairly challenged.

Select your third surveyor with care as he is your referee and keep to the timings as laid down in the Act like each round of a fight.....Seconds Out!

Alex M Frame. MSc, MRICS, FFPWS, FCI0B, FASI, MCM1.

LEGAL NEWS

It has been possible, and has been for some time, to have direct access to a barrister without the need of having to go through a solicitor. This was however only for the purpose of receiving advice on a matter and any formal instructing had to go through a solicitor.

It is now possible to go direct and to give instructions to act on your behalf. This system is known as Bar Direct, but is only open to those barristers who are in the scheme. The Faculty has one such barrister who is expert in party wall matters and can be approached direct by surveyors or appointing owners.

There are of course certain rules that must be understood. Firstly the barrister is not acting as a replacement for the solicitor and cannot litigate on your behalf. The usual format is that a client takes his 'problem' to a solicitor who if necessary will seek the advice of a barrister and then carries the advice back to the client.

The solicitor will undertake all the preparation of documents such as evidence, expert reports and written statements etc, and these are presented to the barrister for advice. Assuming therefore that the client can present the necessary information then direct access to the barrister is possible

The barrister can then represent the client in court. If a client or 'appointing owner' in the case of party wall matters is not able to produce or prepare the paperwork, the party wall surveyor could do this.

The purpose of all this can be seen to be obvious in that it saves time and usually reduces the legal costs dramatically. If any member wishes to be availed of these services please contact the Faculty in the first instance and guidance will be given.

On meeting with the barrister he will tell you of what he can do and what he cannot do to assist you. He will be able to tell you the fee that he will charge in dealing with your particular case, all of which will be confirmed in writing. So please feel free to use these services that have been set up by the Faculty.

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



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..... attention all Members

Along with your annual subscription invoice, you should receive your new Membership Card. Please sign this and keep it safely on your person.

..... CPD Seminars

CPD half day seminar for Rother District Council 14th January 2008 to assist Building Control and Planning Officers.

CPD half day seminar for RIBA members in Reading on 6th February 2008.

Please contact Nicky to book a place on **01424 883300** or alternatively nicky@fpws.org.uk

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

ABE: 24/25th January and 3/4th April 5/6 November, in Northampton at their Head Office, **3/4 September** in Leeds.

Please contact Holly Charlton direct at the ABE for booking details: 01604 404121 or

e-mail holly.charlton@abe.org.uk

A **two day course** has been arranged by the Faculty on **20/21 February 2008** in **London at the offices of the Construction Industry Council**. Please contact Nicky to book a place on **01424 883300** or alternatively nicky@fpws.org.uk



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