

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

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EDITORIAL

The latest information on the rogue surveyor that we have previously mentioned, is that with Faculty legal help, a court battle has been won on behalf of an Owner.

At least insofar that the rogue backed off at the court doors and withdrew his spurious claim. The court of course awarded costs against the rogue surveyor.

We continue to fight against this despicable surveyor and should any of our members have to deal with him, please contact the Faculty for good help and advice.

However, I am still receiving telephone calls from the general public in distress about party wall matters. Like the lady who pleaded with me to try and stop her neighbour's extension from being built. 'I am not sure that I can do that' I said, 'but what exactly is the problem'?

'Well' she exclaimed, 'if they build the extension I will not be able to talk to my neighbour at No. 37.' 'Oh, Why is that' I enquired? "Because I live at No. 33 and my neighbour who is building the extension lives at No. 35 and she is just doing it for spite you see. I will not be able to talk to my neighbour across the gardens because the extension will be in the way".

The good lady was most tearful to learn that her reason to stop the works would not be good enough. 'Can I get an injunction then' she asked in a broken pitiful voice. 'Erm!! I don't think so, but may I suggest you move to No. 39' I said with a big tongue in a big cheek.

'That's a very good idea, yes brilliant, I never thought of that' and she left the line happier than when she first came on. You see there is a knack in helping some people!!

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

Oh, by the way Third Surveyors

Some time ago, after receiving appointments from our respective Appointing Owners, I mentioned to my fellow Party Wall Surveyor that our first duty was to select a third Surveyor. "What on earth do we want to do that for?" he asked. "We are not going to fall out are we?". We did, however, with his bad humour present all the time, concur in a suitable selection. Six months later and with no sign of any Party Wall documentation from this, the Building Owners Surveyor, I considered that I had a very good reason for referring matters to the Third Surveyor.

His excuse for non performance was that "his Client" was not yet in a position to proceed with the works! Another matter arose, almost on my doorstep, for a change.

A middle aged Lady, living alone received what purported to be a Party Wall Notice. There had always been difficulties with the neighbours who served this Notice and, also, being relatively unaware of the requirements of the Party Wall etc. Act 1996 she consulted the Faculty who suggested that I might be able to assist.

I duly presented myself at the home of this very presentable Lady and was ushered into an immaculate and very tastefully furnished property. After discussions about the Party Wall Notice (served by an "Expert" and full of mistakes !!) our conversation led to the ownership of the respective properties. I was quite taken aback when the Lady informed me in a matter of fact manner, by then with her hand upon my knee, that she was, indeed, no Lady and that she had purchased her house, cash, with the proceeds of her ill gotten gains from running a Brothel near to Euston Station. I sat through a further hour of hilarious tales of bawdy behaviour akin to the merriment of Moll Flanders, becoming acutely aware that, whatever my hourly rate may be, it would never match the income to be gained from running a house of ill repute. I suggested that she might be Kidderminster's answer to "Madam Cyn", and, guess what, they knew each other well.

I have yet to present my fee for services rendered !! Don't be put off by appearances.

I was asked by an elderly gentleman to respond to a Party Wall Notice which had been served upon him. The works appeared to be straight forward and the elderly gentleman informed me that he was minded to confirm his acceptance of the Notice. In addition, he had received a letter confirming the majority of matters that would normally be incorporated into a Party Wall Award. All seemed well and as this elderly fellow appeared quite frail and somewhat unkempt with a house in need of quite an amount of care I suspected that he was managing to eke out an existence on a State Pension alone. So I settled upon a nominal fee for helping out and felt quite guilty at charging what must have appeared to be an exorbitant fee.

I duly dealt with the Notice and presented my account. Imagine the shock it gave me to receive a very prompt settlement of my fee from an account with Coutts Private Bank. (for us lesser mortals Coutts require a minimum of half a million in realisable assets to be available at any time, before they will consider an account).

And yet more nonsense !!

I have today been informed by a large and, supposedly, well respected General Practice Surveying firm in Birmingham that, for a Party Wall Notice to be valid it must be served on the RICS Standard Party Wall Notice Form !!

No wonder that I have no hair left.

Not long ago:

A relatively poor Hindu family lived next door to a comparatively wealthy Sikh family somewhere in the Black Country. The relationship was somewhat cool but tolerable. That is, until the Hindu family intended to remove the fence between their properties, level the sloping ground between their houses and construct a boundary / retaining wall sufficient in height only to retain the ensuing embankment.

A Party Wall Notice was served upon the Sikh family and they duly dissented from it. To my amazement, both parties accepted the appointment of one Agreed Party Wall Surveyor (who shall remain nameless). The Sikh family were insistent upon some form of fencing being erected along the line of junction above the top of the retaining wall to prevent them from falling over the edge of it – a drop of less than eighteen inches.

After some considerable to-ing and fro-ing, the Party Wall Surveyor managed to create an agreement between the parties as to the specification, location and height of the protective fencing and the subsequent Award was duly served.

Several weeks later the Party Wall Surveyor (I am sure you have identified him by now) received a telephone call on a wet and squally afternoon from the Sikh family plaintively seeking his assistance in having the fence removed. It was so close to their entrance door that it was proving impossible to gain proper access into their house and newly delivered furniture was sitting on their drive in the awful autumn weather !!

Jim Jackson MFPWS

President's Pen



I find it is becoming increasingly difficult to get worked up about matters of what once I deemed of the utmost importance. Now I'm beginning to consider them to be trivial. People not on time, the phone constantly engaged, the cheque's in the post syndrome.

I think you get the gist. These would have annoyed me no end in the past but not so much now. Perhaps being older or more philosophical, they don't seem to matter so much.

My grumpy old man approach to life is a passing phase and I reflect back on things, not through rose-tinted glasses but to some extent the harsh reality in which they occurred.

We didn't have enough money, we couldn't afford a holiday, let alone a new car and the mortgage payments did get missed on occasion in our house. I admit we think we are now, quite frankly comfortably off and make no bones about it, even though I still work very hard.

Don't misunderstand me, I do not condone the throw away consumer society we have invented and nor do I embrace the futile waste of natural resources as an ever demanding sacrifice to economic growth. This seems to have created a society at the very least impolite and at the worst, suicidal, in its pursuance of avarice.

But what I do embrace is technology.

My working life is now so much easier and the trick is to keep the level of production in balance with the ease of access to information.

Too often in our office, because a document can be downloaded, cut and pasted and sent out as a new document representing the requirements of a different client, we wrongly assume we have met, professionally, the instructions.

Mistakes often happen where something is missed and the information, spelling or address is incorrect and put down in the end to a computer error.

The computer didn't make a mistake, the operator did.

Our role as party wall surveyors is vital in the accuracy of the served award. If it is inaccurate and subsequently challenged, from notice to served award, it would be found to be invalid, if tested in court.

Many of you, me included, will have fallen into the trap and because so few awards are ever tested, we get away with it.

So perhaps take a step back when preparing your next draft award and by writing one from scratch, just to see how difficult it can be, which will give you an insight into how much we take for granted and how easily a mistake can be included in the document.

Whilst we should all enjoy the benefit of technology, let's not let it take from us our integrity in the pursuit of an easy life.

Charles Dawson MSc FASI MRICS FCIQB FFPWS President



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Book Reviews in last month's Newsletter 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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James K Jackson

MRICS MFPWS Hon. FGIS

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New Membership

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

Scott Harris - East Anglia
Gary Fells - South East
David Smith - East Midlands
Keith Firn - East Anglia
Gavin Stewart - North East
Paul Boshier - East Anglia
John Rice - West Midlands
Phillip Beck - Wales
Sarah Spooner - East Anglia
Mark Sheppard - South
Vincent Marlow - South West
Harry Legister - London

Michael Johnson - London
Michael Harvey - South
Steven Hand - West Midlands
Thor Gray-Moloney - East Anglia
Jason Carr - North East
John Laviniere - London
Nick Edelsten - East Anglia
Ian Cross - South
Keith Sargent - South
Ashley Stevens - West Midlands
Jeremy Whitaker - East Anglia

Questions and answers

- Q1** Without giving your age away, how long have you been dealing with party wall matters and how did you start?
- A1** Since 1976 ish. By accident. Slung in at deep end with the good fortune to come across Keith MacDonald on my first award.
- Q2** Do you enjoy your chosen career (explain why either way)?
- A2** Is anything enjoyable after 30 years? By and large I do but less so than a few years ago. I come across more a*se****s!!!!
- Q3** Where do you keep your copy of the Act, what condition is it in and would you let a colleague borrow it?
- A3** I use the Anstey's/Vegoda book 'An introduction to....' In the 'Need to Know' series. The Act is recited therein and the book is spiral bound – very useful. Condition – dog-eared. Lendable? No.
- Q4** Do you prefer Building Owner or Adjoining Owner appointments and why and what is your favourite type of property to deal with?
- A4** No preference. I do, however, prefer working with surveyors who know what they are doing and are Gentleman/Ladies.
- Q5** You are preparing a schedule of condition and you get propositioned by the Building Owner's extraordinarily attractive late teenage daughter. What is your course of action/brush off line?
- A5** I've never been propositioned. If it ever happened, the brush-off would have to be 'my place or yours'!
- Q6** What, in your view, is the single most irritating part of the current legislation and what would you like to say about it to 2 Jags, if you met him alone in the cloakroom at an evening function, after the aperitifs had been served?
- A6** I would have many unrelated matters to discuss with 2 Jags. If I restricted the conversation to the Act I think probably I would ask why there is no reference in Section 2 to works affecting horizontal party structures.
- Q7** Should the Act be subject to periodic review and if so, how frequently and who should be consulted?
- A7** Quinquennial review until such time, if ever, that everyone is satisfied with it, by which time it will be the size of the London phone directory!
- Q8** Have you ever availed yourself of Section 8(2) of the Act, if so did the policeman have any idea why he was there, hold your coat whilst you sledge-hammered the door, or beat the door down for you, if you haven't, would you?
- A8** Yes. Two constables accompanied me to a mans house in Belgravia some years ago, I had the Building Owner's contactors on hand to break down the door and a considerable audience. We rang the door bell and the bas***d let us in!
- Q9** Which well know person would you most like to be appointed by to deal with a proposed 2-storey cellar/ swimming pool excavation next door and why?
- A9** Pamela Anderson – but only when they extend the Act to cover Hollywood. No explanation required!
- Q10** Would you try to convince your neighbours they should consent to the works?
- A10** Depends entirely on the triviality or otherwise of the works – but probably not!
- Q11** How would you most like to be remembered when eventually you hang up your copy of the Act and how do you think you will be?
- A11** A) A competent gentleman.
B) A silly old fa*t!
- Q12** What is your most memorable unexpected event, which has occurred during a party wall inspection or preparation of a schedule?
- A12** It is a great sadness to me – none!
- Q13** Looks or intelligence and why?
- A13** Both preferably. I do appreciate fine aesthetics but after that, communication on some level helps.
- Q14** Do you prefer quiet when working or having a background noise ie. Radio etc?
- A14** On the basis that I never get 'quiet' I have no preference.

David Maycox FFPWS FRICS

..... attention all Members

You will of course be aware of the large postal increases that have come about lately and yet more are on the way.

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.info**

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.

Extraordinary meetings



Word of warning to directors and potential members who would like to become so!

I was in Mauritius this month and by serendipity, so was our Chairman, Alex Frame.

We held an Extraordinary Directors Meeting in an excellent Indian restaurant, whereby we put forward a motion, which I proposed, Alex seconded and it was unanimously passed to the effect that:

"In circumstance outside the UK at any such E.D.M.'s all unreasonable expenses and costs of the members present should be met by Faculty's funds".

We then went on to wine and dine sumptuously with chauffeured limo's back to our various hotels. Very nice it was too!

However, the Faculty's Secretary vetoed our account so we have now had to split the bill. Very painful in the cold light of day, I can tell you!

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The ABC of Party Walls



The ABC of Party Walls

E is for Expenses – Section 11

The Act says that expenses of work shall be paid by the Building Owner except where expressly different under this section.

Any dispute regarding expenses is to be settled by the surveyors under Section 10.

E is for Easements – Section 9

Easements cannot be overruled by this Act. Surveyors need to be careful with this one and determine whether something is an easement or not as it could very well affect the proposed works.

E is for Ex-Parte – Section 10 (6) (7)

There are two reasons given in the Act as to when a surveyor may act ex-parte, but let it be understood that the surveyor MAY and not SHALL act in this way if he so wishes.

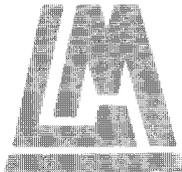
Firstly the other surveyor must have *refused* to act effectively, and no period of time is given.

Secondly the other surveyor must have *neglected* to act effectively for a ten-day period after a request has been made of him.

The surveyor should make sure which of the two sub sections is applicable as the award could be challenged if the wrong section is used.

Should a surveyor need to act ex-parte he should give the reason in the award, so that both Owners are aware as to why it was necessary.

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



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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.

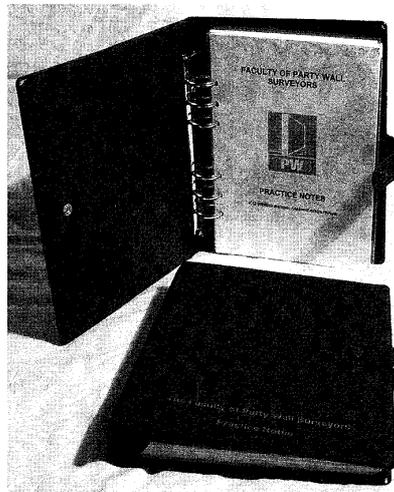
The book contains the Party Wall etc. Act 1996 reproduced under the terms of Crown Copyright guidance issued by HMSO.

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:

**The Faculty of
Party Wall Surveyors**
19 Church Street
Godalming
Surrey
GU7 1EL

or email to:
enq@fpws.info
www.fpws.info



Faculty Courses

The Faculty is running a two-day course 'Certificate in Party Wall Studies' on 21/22 February 2007. It is being held at the offices of RIBA, 66 Portland Place, London W1. The cost is £250 per person for the two days and candidates will have to book their own overnight accommodation, if required.

Please contact Nicky Castell on 01424 883300

or by e-mail nicky@fpws.info for an application form.

A two-day course 'Certificate in Party Wall Studies' is also being run by the Association of Building Engineers (ABE) in conjunction with the Faculty at the following locations:

27/28 February 2007 in London (venue to be confirmed)

02/03 April 2007 in Birmingham (venue to be confirmed)

13/14 June 2007 in Preston (venue to be confirmed)

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

A one-day course is being run by CPD Conferences Ltd in conjunction with the Faculty at the following locations:

28 February 2007 in Bristol

7 March 2007 in Warwick

Please contact CPD Conferences' offices for booking details on 023 8051 6433 or by e-mail enquiries@cpdconferences.co.uk



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