The Duties of a Party Wall Surveyor.

The Party Wall etc. Act 1996

An overview of the duties of a Party Wall Surveyor

In the early 1990s, Parliament became increasingly concerned about neighbourly boundary disputes and felt the formal mechanism of the Party Wall etc. Act (the Act) would assist in preventing them.

The Act gives a Building Owner or developer absolute rights to carry out works on his land affecting a party wall or party structure. A Building Owner/developer has rights, including cutting into a party structure, cut projections off from the party structure, underpinning it, and injecting it into it.

Also, the Building Owner has rights to undertake excavations, such as, for a new independent building, within three or six metres of a structure on adjoining land, depending upon the exact details of the works.

If a Building Owner/developer exercises any of the above rights, he has specific responsibilities towards all Adjoining Owners affected by the works.

Initially, the Building Owner must serve Party Wall notices in good time setting out his works, with surveyors needing to be appointed if there is dissent (a dispute between the Building Owner/developer and the Adjoining Owner/s).

The Act demands that surveyors for both sides must act impartially and that the parties can agree to appoint an Agreed Surveyor to act impartially on behalf of both owners.

The Building Owner/developer must not cause unnecessary inconvenience to the Adjoining Owner/s because of how he is carrying out the works or the time he is carrying it out. The two surveyors act to ensure both parties are protected. The Act covers "reasonableness" and the requirement for compensation to be paid in certain circumstances.

Acting for Building Owners

When acting for Building Owners, my input usually entails:

• Ascertaining adjoining ownerships by undertaking Land Registry searches, liaising with solicitors and cold calling upon adjoining properties.

• Preparing and serving the necessary Party Wall notices upon Adjoining Owners.

• Preparing Schedules of Condition on Adjoining Owners' premises/land relating to the party wall or excavation works.

• Liaising with Building Owners, particularly their architects and structural engineers, to produce all necessary drawings, both for the serving of the Party Wall notices and for completion of the Party Wall Awards.

• Drafting Party Wall Awards and agreeing their precise terms/contents with the Adjoining Owners' Surveyors.

• Agreeing supplementary Party Wall Awards were necessary.

• Confirming to the Building Owner what making good of defects is required, if any, to adjoining properties/land as a result of the works under the Act.
Acting for Adjoining Owners

When acting for Adjoining Owners, my input usually entails:

• Examining Party Wall notices submitted by the Building Owner or his/her surveyor to verify their legal validity.

• Liaising with the Building Owner's Surveyor, visiting the adjoining property and agreeing the Schedule of Condition.

• Having in mind the Act and negotiating the terms/contents of any Party Wall Award.

• Monitoring the works from time to time during the building contract, all as set out in the Party Wall Award.

• Checking the Schedule of Condition after all works under the Act are completed and agreeing the defects to be remedied.

• Liaising with the Building Owner's Surveyor to ensure that the Building Owner expedites all matters under the Act.

Appointment of Surveyors.

The Act's procedures cannot be frustrated by one party refusing or failing to appoint a surveyor.

Under section 10 (2) of the Act, all appointments and selections made under shall be in writing and shall not be rescinded by either party to the dispute.

Under section 10 (4) (a) (b) of the Act, if either party to the dispute refuses or neglects to appoint a surveyor, the other party may make the appointment on their behalf.

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Steve Barker FRICS C.Build E. FCAEBE PPBEng

Steve was the founding Chairman of the North West Pyramus and Thisbe Club. (Party Wall Surveyors)and has been dealing with the Act since it was enacted in July 1997.

Steve is a Fellow of the Royal Institution of Chartered Surveyors and a fellow of the Chartered Association of Building Engineers, and a past national president of the Association. He has over 50 years of experience in the construction industry as well as holding prominent positions in Professional Institutions And Associations:

National President of the Association of Building Engineers 1999-2000, twice Chairman of The Royal Institution of Chartered Surveyors, North West Building Surveying Division and is a Past Chairman of The Royal Institution of Chartered Surveyors, Merseyside and Cheshire Association.

The Pyramus & Thisbe Club is a learning society of people interested in party wall matters, with a current membership of over 1200