



THE PARTY WALL etc ACT 1996

General Introduction

The Act relates to certain defined categories of building work and requires those intending to carry out such work, Building Owners to give Notice to Adjoining Owners. The Act lays down procedures, which must follow the service of notice, the nature of which will be determined by the adjoining owners decision to consent or dissent. The intention of the Act is to protect the interests of both parties i.e. to prevent unreasonable delays being caused to work proposed by Building Owners whilst also protecting the rights of adjoining owners whose property could be affected by the works.

The term “owner” is defined in the Act, and principally includes freeholders, leaseholders with an interest exceeding a term of one year and those with a contract to purchase or agreement for lease with a term greater than one year.

The procedure is usually triggered by service of notice, and if an owner commences such work without serving notice, adjoining owners would be able to insist on a halt until the position is regularised.

Procedures

Without going into greater detail, the work covered by this legislation, falls in the following broad categories:

- a. Work affecting Party Walls, **Party Structure Notice**
- b. Construction of new Party Walls or Boundary Walls, **Line of Junction Notice**
- c. Excavations within 3 metres of an Adjoining Owners structure which will be deeper than the latter’s foundations, **3 Metre Notice**
- d. Excavation within 6 metres of an Adjoining Owners, which will cut through a plane drawn down at 45 degrees towards the Building Owners new building from the point formed by the intersection of the base of the Adjoining Owners foundation with the outer face of his external wall, **6 Metre Notice**

Building Owners have the right to carry out works in the above categories but must give Adjoining Owners notice of their intention to do so. The required period of notice is two months for Party Structure Notices, and one month for the other types of Notice.

In the case of Line of Junction notices, a Building Owner must obtain consent to a proposal to build a new Party Wall, but may proceed with construction of a new Boundary Wall (situated on his own land) after the notice period has run unless the Adjoining Owner raises related matters that need to be settled.

With reference to the other types of Notice, Adjoining Owners may either consent or dissent upon receipt of notice. The right to dissent does not mean that an Adjoining Owner can prevent the proposed work from being carried out, but that they wish the full procedure of the Act to be followed as explained below.

Moor House Farm
Lower Road
Denham
Uxbridge
UB9 5EN
t 01895 834961
e info@aa-plus.uk
w aa-plus.uk

Whether or not the Adjoining Owner dissents, the Building Owner cannot commence work until the period of notice has expired without the written consent of the Adjoining Owner. Where there is dissent, the work must also await the publication of an Award (a formal written agreement), which can take longer than the prescribed notice period.

Where an Adjoining Owner dissents from a notice, both parties must appoint surveyors or agree upon the appointment of a single surveyor to settle the matter by written Award.

Where an owner fails to appoint a surveyor, the other party may make the appointment on his behalf. The appointment of a party wall surveyor is a statutory appointment and the relationship thereafter is appointing owner/surveyor rather than client/surveyor. Appointing owners may not subsequently dismiss their surveyor.

The content of the Award is decided by the surveyors, who are obliged to act in an impartial manner for the benefit of "the wall". However, clearly surveyors will be looking to ensure that the Award caters for their appointing owners' reasonable interests. Once published, Owners may appeal an Award within 14 days if they consider the surveyors have exceeded their authority under the Act. Subject to the right of appeal, the Award will be binding upon both Owners.

Immediately following their appointments, the two surveyors will select a Third Surveyor, usually an eminent Party Wall specialist, who will be asked to settle any matter upon which they are unable to agree. Reference to the Third Surveyor is very rarely required.

A Party Wall Award will usually cover the following:

1. Details of the work, which the Building Owner has the right to execute
2. Qualifications relating to the manner and timing of execution of the work
3. Conditions to protect the interests of the Adjoining Owner in terms of safeguarding their building, safety, cleanliness, rectification of damage, security etc.
4. Rights of inspection and access
5. Liability for fees
6. A Schedule of Condition of the Adjoining Owners property

Professional fees associated with Party Wall work are almost always borne by the Building Owner. However, under some circumstances, where the Adjoining Owner benefits from the proposed work or where he requires the Building Owner to include additional work for his benefit, the Adjoining Owner will be obliged to contribute towards the costs.

This guide is issued for general information purposes.

Ends