

# **BOUNDARY REPORT**

**Bedfordshire**

**FOR**



**Mrs T**

**Prepared by:**

**INDEPENDENT CHARTERED SURVEYORS**

**Marketing by:**

**[www.1stAssociated.co.uk](http://www.1stAssociated.co.uk)**

**0800 298 5424**

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## **INTRODUCTION AND INSTRUCTION**

We have been instructed by Mrs T to provide:

1. Advice upon the location of the right hand boundary between numbers X and Y, Bedfordshire
2. To recommend a way forward to enable good neighbour relations to be resumed if at all possible.

We have carried out a visual inspection of the property. The weather was dry and sunny at the time of our inspection.

Please note that all directions are given as if you face the property from the front, whether you can physically see them from the front of the property or not.

The instructions have been carried out under our standard Terms and Conditions which are available upon our website and which were forwarded to you prior to our confirmation of instruction.

## **PROBLEM SYNOPSIS**

The ownership of the right hand boundary needs to be identified, as the present owners of the adjoining properties at numbers X and Y have different opinions regarding the height of the boundary Y preferring a higher hedge and number X a lower hedge).

## **INDEPENDENT CHARTERED SURVEYORS**

We confirm that we are Independent Chartered Surveyors and Members of the Independent Surveyors Association (ISA). We can prepare reports acting as an advocate, where we represent instructing parties' cases and we can provide reports on an independent basis where we effectively work for both parties. We have in this instance been asked to prepare an independent boundary report.

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## **Time Line**

The following offers a précis of ownership and communication between the parties at Y, Mr and Mrs T and X, Mr and Mrs S

1980's	Mr and Mrs S X.
1996	Owner of Y Mr B, dies
1996 to 2006	Mrs C, owner of number Z, purchases Y.
2006	Mrs C completes the development of Y.
Summer 2008	Discussions between Mr S and Mr T regarding the height of the hedge. and also Mr T repositioned fence to the correct position (verbal – no written correspondence)
Summer 2008	Discussions between Mr S and Mrs T regarding the development area, resulting in repositioning of fence (verbal, no written communication).
Summer 2009	Legal correspondence started between Solicitors acting for Mr and Mrs T and Solicitors acting for Mr and Mrs S.

The Time Line is based upon information verbally received from Mrs T and confirmed as being an accurate record so far as she is aware.

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## **EXECUTIVE SUMMARY**

Executive summaries are always dangerous, as they try and encapsulate relatively complex problems in a few precise and succinct words. Having said that, here is our executive summary and recommendations.

Based upon the evidence and information set out within this report and the assumptions made, we would comment as follows:

We feel there is no clear documented evidence indicating the ownership and exact location of the boundary to an accuracy which is acceptable to determine this boundary dispute therefore, other evidence would need to be taken into consideration to determine the boundary position.

### **Sworn Affidavits**

We feel that ultimately if this case went to Court as there is very limited documentation, sworn Affidavits giving evidence of use and ownership would be the key evidence such as an Affidavit from, cousin of Mr B (former owner of Y).

- a) We have been shown a letter from cousin confirming ownership of the hedge to number Y.
- b) We have been shown a letter from Mrs C, identifying ownership of the hedge to Mr and Mrs S of X.

In both cases these would normally be required to be admitted as sworn Affidavits but unfortunately the untimely death of Mrs C may hamper this process. Other than this we see both documents being as equally valid. Further information we would recommend is sought from the Developers that carried out the work to Y.

In summary this act allows ownership by unchallenged open use of land after a period of time (which we believe to be ten years). Legal clarification would need to be sought as to the appropriateness of this legislation to this case.

### **Establishing who planted the Hedge**

An Arboriculturalist may be able to establish the date the hedge was planted and also if surrounding hedges are of a similar age which could aid ownership.

### **Alternative Dispute Resolution**

We would propose that we act with a single joint expert appointed by both parties to carry out further investigation to establish the ownership of the boundary. This has the benefit of any levels of cost which are normally less than those associated with legal action and may enable a better neighbourly relationship than if Court action was taken.

**ACTION REQUIRED:** We recommend that this Report is made available to all parties that have been named within it to confirm that it is an accurate record and that we meet with all parties to discuss further.

## **SITE DEMOGRAPHICS**

We would also comment that the boundary is shown “stepped” in some plans and “curved” in other plans. This is a relatively common problem which we come across where drawings have been translated from Deeds and “squared up” and re drafted.

### **Photographic Record**

(photographs taken from Y)

The boundary between number X - Mr and Mrs S and Y - Mr and Mrs T.



Front Wooden Post Fence  
(posts to the side of number  
Y)



Boundary formed by  
building and the original  
building and the fenced new  
outbuilding area posts to  
number Y side

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Conifer Hedge and Fence



Middle and end part of the  
fence.

## **ASSUMPTIONS MADE**

We would remind you that all directions are given as you face the property whether you can physically see the area from the front or not.

We have made the following assumptions:

- A** That there are no Deeds available.
- B** That there is no physical evidence in the hedge (such as posts) to establish the boundary line.

# SUMMARY UPON REFLECTION

The Summary Upon Reflection is a second summary so to speak, which is carried out when we are doing the second or third draft a few days after the initial survey when we have had time to reflect upon our thoughts on the property. We would add the following in this instance:

## **Further Investigation which we would recommend**

Any records relating to the installation of the fence or the hedge would be of great benefit, as would any Deeds.

This report has been carried out as per our terms and conditions, which you have been sent a copy of please advise us immediately if you have not.

If you would like any further advice on any of the issues discussed or indeed any that have not been discussed! Please do not hesitate to contact us on 0800 298 5424.

# APPENDICES

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## **Limitations of drawings in relation boundary disputes**

Boundary drawings come in several formats, each have limitations. A brief outline of these is set out in the following pages.

### **Ordnance Survey Maps (known as OS maps)**

#### **How accurate are OS maps?**

Ordnance survey maps and their designated OS maps. These are typically prepared in the county series at 1 to 1,250 urban scale and there is usually a variation of plus or minus 1 metre in every 60 metres in length and typically because of this difference it cannot show any elements that are closer than 1 metre together. What an OS map does show is a boundary line. Where this is a solid line it identifies an element that is higher than 0.3 of a metre, so typically the OS map will show a wall or a fence or some demarcation element, such as a hedge with a solid line. It also has a dotted line, which represents elements lower than 0.3 of a metre, this is such things as a perimeter of a path or road. Sometimes it is also used as a demarcation of change of surfaces, such as grassed area to solid area, i.e. concrete.

What this all means is that where an OS map is used to try and identify a boundary it may be out by plus or minus 1 metre and it may not be possible to identify what element should be there, was there or is there, i.e. it could have started off as a fence and been replaced by a hedge, which is often much wider, and this hedge could initially have been put on one side of the fence and then the fence rotted over the years and been removed.

It also must be commented upon the general vagueness of OS maps, as they don't map many of the features we would expect and sometimes they map features but not accurately, i.e. trees.

## **Land Registry Title Plans**

### How accurate are Land Registry Title Plans?

Land Registry Title Plans are sometimes used to try and identify boundaries. However, the basis of these plans, in most cases, are Ordnance Survey maps and we have already discussed the limitations of these. The Land Registry itself uses the term “general boundaries” in Section 60 (i) and (ii) of the Land Registry Act 2002 and we again have the issue with the line thickness and this in itself can be approximately one metre wide when scaled and therefore of limited use.

## **Dimensions on Land Registry Title Deeds**

In some cases we have come across there are dimensions on the Title Deeds. This, assuming they are dimensions from something that is immovable (or generally not moveable), such as another property, allows a reasonably accurate measure, depending on angles, etc, and the number of dimensions.

### How accurate are builders plans?

These generally come in three forms.

- There are the plans that are used to obtain Planning Permission, that can be reasonably accurate but subject to change and generally aren't the drawings that the builders work from.
- The Building Regulation Application drawings. These are as the building is designed in detail and are produced to past Building Regulations, so sometimes can be ambiguous. They generally are dimensioned and from are usually what the builder works from on many smaller jobs.

- Detailed plans. These are often prepared to clarify details on larger jobs, over and above those required to pass Planning Permission and Building Regulations and are drawn specifically to aid the building project and as such can be very accurate. However, alterations and amendments happen during the project, sometimes intentionally (for example an architect's or supervising officer's instruction to change a detail) and sometimes accidental, where a building is, for example, set out incorrectly.

### “As built plans” or measured surveys

The most accurate drawings of all are “as built plans”. These are where a building plan is drawn to identify the location of how a property has been built and is often termed a measured survey and it is surprising how many times it is built differently to how it was drawn. Another name for this type of drawing is a measured survey. However, in our experience these are rarely carried out (as rare as a chocolate teapot), as the company developing the property is rarely the long term owner and therefore does not have a vested interest in carrying out this work.

### Dimensioned drawings

This means that there are accurate records available, which are the accurate records in relation to a boundary, and the dimension drawings show the boundaries to be several metres out. However, let us put the case for the adjoining neighbours (Party B). They feel that both parties bought the properties as seen, with the fence in its “wrong” position or its “right” position and indeed have lived with the boundary in that position for many years. They are also arguing that their garage has been put in the correct position, as per the plans, and there were original inaccuracies in the land available, which has meant the need for the developer to reduce the size of the gardens (we should add not their garden, but just the adjoining neighbour's garden).

# **LIMITATIONS**

## **Specific Defects Report**

### **1. Conditions of Engagement**

Please note: references to the masculine include, where appropriate, the feminine.

Subject to express agreement to the contrary (which in this particular case has been none) and any agreed amendments/additions (of which in this particular case there have been none), the terms on which the Surveyor will undertake the Specific Defects Report are set out below.

Based upon a visual inspection as defined below the Surveyor will advise the Client by means of a written report as to his opinion of the visible condition and state of repair of the specific problem or problems only.

### **2. The Inspection**

#### **a) Accessibility and Voids**

The Surveyor will base this report on a visual inspection and accordingly its scope is limited. It does not include an inspection of those areas, which are covered, unexposed or inaccessible. Our visual inspection will relate to the specific defects shown to us only.

#### **b) Floors**

We have not opened up the floor structure.

#### **c) Roofs**

The Surveyor will not inspect the roofs in this instance.

#### **d) Boundaries, Grounds and Outbuildings**

We have walked the boundary which is the subject of the dispute, although not carried out any measurements.

#### **e) Services**

No services inspected.



f) Areas not inspected

The Surveyor will have only inspected those areas identified within the report. His report will be based upon possible or probable defects based upon what he has seen together with his knowledge of that type of structure. If you feel that any further areas need inspection then please advise us immediately.

g) Specific Defects Report

As this is a report upon a Specific Defect we do not offer any comment or guidance upon reactive maintenance and/or planned or routine maintenance items.

h) Whilst we have used reasonable skill and care in preparing this report, it should be appreciated that the Chartered Surveyors cannot offer any guarantee that the property will be free from future defects or that existing defects will not suffer from further deterioration;

### **3. Deleterious and Hazardous materials**

- a) Unless otherwise expressly stated in the Report, the Surveyor will assume that no deleterious or hazardous materials or techniques have been used in the construction of the property. However the Surveyor will advise in the report if in his view there is a likelihood that high alumina cement (HAC) concrete has been used in the construction and that in such cases specific enquiries should be made or tests carried out by a specialist.

### **4. Contamination**

The Surveyor will not comment upon the existence of contamination as this can only be established by appropriate specialists. Where, from his local knowledge or the inspection he considers that contamination might be a problem he should advise as to the importance of obtaining a report from an appropriate specialist.

### **5. Consents, Approvals and Searches**

- a) The Surveyor will assume that the property is not subject to any unusual or especially onerous restrictions or covenants which apply to the structure or affect the reasonable enjoyment of the property.
- b) The Surveyor will assume that all bye-laws, Building Regulations and other consents required have been obtained. In the case of new buildings and alterations and extensions, which require statutory consents or approval the Surveyor will not verify whether, such consents have been obtained. Any enquiries should be made by the Client or his legal advisers.

Drawings and specifications will not be inspected by the Surveyor. It is the Clients responsibility to forward any drawings and specifications that he has or knows the whereabouts of to us to include information in our report. If these are not

forthcoming we will make our best assumptions based upon the information available.

- c) The Surveyor will assume that the property is unaffected by any matters which would be revealed by a Local Search and replies to the usual enquiries or by a Statutory Notice and that neither the property nor its condition its use or intended use is or will be unlawful.

## **6. Fees and Expenses**

The Client will pay the Surveyor the agreed fee for the Report and any expressly agreed disbursements in addition.

## **7. Restrictions on Disclosures**

- a) This report is for the sole use of the Client in connection with the property and is limited to the current brief. No responsibility is accepted by the Chartered Surveyors if used outside these terms.
- b) Should any disputes arise they will be dealt with and settled under English law;
- c) This report does not fall under the Third Parties Rights Act.

## **8. Safe Working Practices**

The Surveyor will follow the guidance given in Surveying Safely issued by the Royal Institution of Chartered Surveyors (RICS).