

# Property and Land Boundaries

## A Checklist for Purchasers

Recommended Pre-Contract Enquiries Checklist



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# Society of Chartered Surveyors Ireland – Boundary Issues Checklist For Property Purchasers – Pre-Contract Enquiries



## Introduction

Property ownership and rights of use are basic attributes of land and buildings. It can be surprising the amount of issues that can arise in terms of easements, including rights of ways and wayleaves, and also incorrect deed maps or mis-placed boundary fences, to name but a few.

Any uncertainty of the extent of ownership or rights of access may have substantial drawbacks in terms of the property value and general enjoyment of that property. Certainty at pre-contract stage is highly recommended to ensure that any issues will not arise when the conveyance stage is complete.

As the pressures of development increase in today's society, particularly in urban areas, boundaries and other incorporeal rights gain greater importance, both economically and socially.

Householders extend their houses and build conservatories often up to their boundaries, and developers are no

different in wanting to maximise the use of their equally valuable and scarce land.

Boundary issues that arise between adjoining properties are frequently difficult to resolve. They can lead to costly litigation with uncertain outcomes. Difficulties in resolving such issues are often compounded by inconsistencies between the deed map, the land registry map and the position of the physical boundary, whether it be a wall, post and wire fence or hedge, on the ground. If the ownership of either property changes, or if a lease assignment is granted before a boundary issue is resolved, additional legal issues such as issues of entitlement may arise and it becomes considerably more difficult to resolve. Such instances frequently go to litigation.

It is therefore advisable to identify and resolve any such boundary inconsistencies before acquiring an interest in a property.

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Published by the Society of Chartered Surveyors Ireland

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Published June 2014.

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# What are the queries that I should raise as pre-contract enquiries with a solicitor before I purchase?

Enquiries	Comments
<p><b>1.</b> Are the physical boundaries of the property on the ground consistent with the boundaries as shown on the deed map?</p>	
<p><b>2.</b> Does the deed map or deed description clearly and unambiguously define the legal boundaries and determine the ownership of the physical boundaries?</p>	
<p><b>3.</b> If the title is registered in the Land Registry do the physical boundaries of the property generally agree with the boundaries as shown on the Land Registry map?</p> <p><i>Note: While the boundaries on the Land Registry map are non-conclusive, any significant or obvious difference in alignment or shape should be queried as it may give rise to a contentious interpretation by the adjoining property owner.</i></p>	
<p><b>4a.</b> If the title of the subject property is unregistered in the Land Registry, has the registered status of the adjoining property titles been checked?</p>	
<p><b>4b.</b> If an adjoining property title is registered, are there any inconsistencies in boundary alignments that may potentially cause difficulties in the future?</p>	
<p><b>5a.</b> Has any physical boundary or portion of a physical boundary been rebuilt, reinstated or significantly repaired since the preparation of the deed map?</p>	
<p><b>5b.</b> If so, how does this affect the ownership status of this portion of boundary?</p>	

Enquiries	Comments
<p><b>6.</b> Are there any fixtures or buildings, placed or constructed by the respective property owners or their predecessors in title, on or supported by any portion of the physical boundaries?</p>	
<p><b>7.</b> Are there any structures such as, roof or balcony projections, eaves, gutters or drainpipes, which are part of a structure on a neighbouring property, overhanging the boundary?</p>	
<p><b>8.</b> Are there any structures such as, roof or balcony projections, eaves, gutters or drainpipes, which are part of a structure on the subject property, overhanging the boundary?</p>	
<p><b>9.</b> Are there any watermain valves, hydrants, manholes, AJs, or other such service fittings or access points to services, on the boundary such that they are partly located in each property?</p>	
<p><b>10.</b> Are there any agreements, formal or informal, in place with any adjoining property owner, that affect the ownership or rights concerning the physical boundary?</p>	
<p><b>11.</b> Is there any boundary, or part of boundary to the property, undefined by a physical feature or by reference to a physical feature?</p>	
<p><b>12.</b> Are there any services, overhead, on the ground or below ground level, in the charge of a public utility organisation, or other third party, on the property ?</p> <p><i>Note: Particular care should be taken to check if services such as electricity sub-stations or mini-pillars, located on or near the physical boundary, are included within the legal boundary.</i></p>	
<p><b>13.</b> Are there any additional title interests, including superior interests or subordinate interests, in the property, such that the boundary of the additional interest is located within the boundary of the subject property?</p>	



Enquiries		Comments
14a.	<p>Are there any easements, including wayleaves or rights of way, on the property?</p> <p><i>Note: A wayleave to a service located outside the boundaries of a property, may extend inside the boundaries.</i></p>	
14b.	<p>If so, what is the extent of such easement/s within the property boundaries?</p>	
15.	<p>Are there any gates, doors or any such access/ exit point, located on the boundary, apparently in use or not in use, that lead directly to private property or to property that is not subject to a public right of way?</p>	
16.	<p>Are there any outstanding issues concerning the boundaries, contentious or non-contentious, between the current owner/vendor of the subject property and any of the adjoining property owners?</p>	

## Summary

By making the above enquires at pre contract stage, the potential purchaser can now make more informed decisions regarding the property. It can be surprising the amount of issues that can

arise in terms of easements, including rights of way and wayleaves, and also misplaced boundaries or incorrect deed maps, to name but a few.



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