



THE BOUNDARY CHALLENGE

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The Facts

Definition:

An imaginary two-dimensional line separating two or more properties. It does not exist in any physical form.

- Boundary disputes Protocol (first stop, best practice guide)
- Detailed boundary survey (RICS Chartered Land Surveyor)
- Left or right or rear has no basis in law
- Land registry title plans do not establish legal boundaries unless rarely a “determined boundary” has been agreed.
- The thickness of a line on a 1:1250 Ordnance Survey map may represent one metre on the ground

The Facts

- Section 60, Land Registration Act 2002 (LRA 2002) only describes 2 “general boundaries”.
- T-marks on a plan does not raise a presumption of ownership.
- Where there is a hedge or bank & ditch then the boundary is deemed as the opposite edge of the ditch or bank from the hedge.
- Land abutting a highway or natural non-tidal river, is presumed to extend to the centre of the road or river.
- The primary face side of a fence panel does not allow the presumption that the owner is the opposing side.

Fence or wall height in general should not be more than one metre adjacent to a road, path or pavement and two metres elsewhere. Check there are no covenants.

The Facts

- No automatic “right to light”
- If a fence is falling down the owner is under no legal requirement to repair or replace it They could be liable if it causes damage or injury.
- If, in England, Wales and Northern Ireland, a boundary is in dispute and it has been in place for more than 12 years then the law of “Adverse Possession”, commonly known as “squatters rights” may apply. This gives ownership to the occupier if the owner has not objected.