



## **THE PARTY WALL ACT(1996)**

### **THE ACT:**

The Party Wall Act provides the means to protect property owners from their properties being negatively affected by structural development on neighbouring sites. It also provides a means by which development can proceed where the owner of a neighbouring property is obstructive. The procedures allow for the fair and equitable assessment of damage caused by development adjoining a property, providing reasonable protection for both building owner and neighbour.

Set out below are some responsibilities and definitions of terms involved in cases where the Party Wall Act is relevant.

### **TYPES OF BOUNDARY:**

#### **NEW BOUNDARY PARTY WALL:**

- Is built on a boundary line
- Costs may be shared between neighbours as it is beneficial to both
- Agreement between neighbours is required prior to works
- **One month's notice is required**

#### **NEW BOUNDARY WALL (NOT PARTY):**

- Is built entirely on the owner's own land
- May have a foundation extending below neighbour's land
- Any resultant damage must be made good
- Special foundations (e.g. Reinforced or piled) can lead to later costs claims by neighbours if they wish to build against the boundary – a written agreement is therefore required for special foundations
- **Two months' notice is required**

### **PARTY STRUCTURE:**

- is any structural alteration to a party wall
- this can include changes to height, loadings, buttressing or enclosure
- **Two month's notice is required**

### **THREE METRE NOTICE:**

- Where any excavation is to be made within three metres of a neighbouring building and where the depth of excavation will go below the base of the neighbours foundation.
- **One month's notice is required**

### **SIX METRE NOTICE**

- Where any excavation is to be made within six metres of a neighbouring building and where the depth of excavation will go below the base of the neighbours foundation by an amount which is greater than the distance from the neighbours foundation.
- The requirement applies irrespective of the presence of any intervening structure or excavation.
- **One month's notice is required**

### **RESPONSIBILITIES:**

Surveyors and their clients both have responsibilities under the terms of the Act.

#### **CLIENT:**

- Must notify the relevant neighbouring owners about the planned works, their nature and their extent. (This can be undertaken by a surveyor)
- Must issue Party Wall Notice to adjoining property owners within the appropriate notice period (for details see below). If neighbours agree to the works in writing within 14 days without reservation, the procedure is complete. If neighbour does not agree or does not reply within 14 days, there is deemed to be a dispute
- Must appoint a party wall surveyor. The neighbour may agree to share a single party wall surveyor or appoint their own at the building owner's expense (however in certain circumstances the neighbour may be responsible for paying all or part of their own surveyor fees)
- Must ensure that all works are carried out according to agreements reached

#### **SURVEYOR:**

- Must issue party wall notice on behalf of client (if the client has not done so already)
- Must undertake a condition survey of neighbouring properties, and has a legally enforceable right of access to these properties
- Must negotiate agreements with neighbours' surveyors including details of construction, methods and access, as appropriate
- Must prepare agreement (Award – see definition below) setting out relevant details of works and protection
- Must conduct a second condition survey after works are complete, agree any remedial works that may be needed and then check that they are carried out and completed satisfactorily
- A second surveyor will be appointed by the neighbour, unless a single surveyor is agreed by both parties

- A third surveyor will be appointed to adjudicate between the first two in event of a dispute (this happens most commonly over fees).
- A building owner cannot act as his own Party Wall Surveyor.

It is important to understand that, once appointed, the surveyors act on behalf of the Party Wall Act and not as advocates or representatives of the person(s) who appointed them.

### **DEFINITIONS:**

Below are definitions of the most common terms used relating to the Party Wall Act.

### **PARTY WALL NOTICE:**

- Is a written document notifying neighbouring property owners of planned works which may affect their property
- Must be issued to all those who have ownership rights in the neighbouring property and to them as named individuals unless it has not been possible to identify them after reasonable enquiries.
- Must be issued to neighbouring property owners and include specific details of the works, their nature and their extent
- Must be given before work is intended to begin (notice periods given below)
- If not issued correctly, the notice is actionable under civil law and may result in damages being sought in the courts
- Must be responded to within 14 days of serving or is considered to be under dispute

### **COUNTER NOTICE:**

- Is a written document in response to a Party Wall Notice making requirements on behalf of the neighbour regarding their property
- Must be issued within 28 days of the issue of the Party Wall Notice
- Can require the construction of features (chimneys, flues, recesses etc.) for the neighbour's convenience
- Can require certain characteristics for special foundations
- Must be responded to within 14 days of serving or is considered to be under dispute

### **AWARD:**

- Is the agreement setting out the details of the works and any required details of construction methods, work times and access
- Includes the cost of making the award
- Is served on the building owner and the neighbour by the surveyors
- Is binding on property owners

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