

Knowing your limits

Insights - 12/06/2015

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Without doubt, one of the most contentious areas of property ownership is in relation to boundaries. The legal status of the boundaries of a property appear to take on an importance all of their own (and perhaps understandably so).

From the Jersey perspective, this may in part stem back to previous centuries when Jersey's main source of income was agriculture and the Island was heavily planted with potatoes, tomatoes and other crops and with every spare piece of land available being utilised.

There is a saying that an Englishman's home is his castle and, in local terms, that is an even greater truism. The boundaries of a property (be they natural or man-made) are considered by the property owners to be an integral part of their domain and are therefore protected and guarded jealously.

This position and approach has to be tempered with the fact that people have to live next door to each other and any disputes on boundaries can certainly affect and possibly sour, beyond repair in some cases, neighbourly relationships.

That is why such importance is placed upon the legal status and integrity of property boundaries by law firms acting on behalf of prospective purchasers. It should be remembered that if your legal advisers are raising boundary concerns with you, it is because they simply wish to ensure that your decision to purchase a property (possibly in spite of those stated concerns) is an informed one.

It is perfectly natural for a purchaser to get caught up in the excitement of a new purchase and (at that time) to consider boundary issues as irrelevant to their enjoyment of the property. However, and in the most severe of cases, such a decision made in haste can be regretted for a much longer period.

The significance of unclear boundaries and the effect of neighbourly disputes in that regard have been recently highlighted in the widely reported judgement given by the Bailiff in the case of Fogarty v. St Martin's Cottage Limited.

Any proposed purchaser should expect to be able to enjoy and occupy his property peaceably and without concern and clear and concise legal boundaries are a critical part of that process.

We are all encouraged to 'love thy neighbour' but the message must be to make sure that we are doing so from the confines of the clear and legally established boundaries of our property!

Gaudin & Co emphasises very early on, to both vendors and purchasers how important site visits from conveyancers are and determining contentious boundaries to allow for a smooth transaction process.

We work closely with the Property Law team at Ogier, and keep in regular contact with them, because there is nothing worse than a boundary dispute being identified a few days prior to a proposed court transaction.

About Ogier

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