

Guidance on knowing your boundaries in Jersey property law

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It might not be the first thing that comes to mind when house-hunting, but it's important when purchasing your property to fully understand what your boundaries are to avoid any disputes with your future neighbours. Boundaries aren't always obvious, and Jersey Law deals with them and other matters in its own individual way.

| Boundaries and Offsets or "Relief"

The boundaries of a property are described in its title contract and usually consist of walls, boundary stones and other physical enclosures such as a bank or a hedge, or, more recently, by GPRS co-ordinates.

If a wall or other enclosure is stated to be party owned (which means you jointly own it with your neighbour), then the boundary line runs down the middle of that wall or enclosure. However if properties are divided by means of a demarcation line rather than a physical fence or wall, and there is no provision enabling anyone to build a wall or fence over or up to that line, then an offset or "relief" (which is a distance of 18 Jersey inches (16.5 imperial inches) on the far side of the boundary enclosure) must be allowed.

The original purpose of a relief was probably to provide a strip for access purposes between neighbouring properties. In modern conveyances it has become the norm to provide for an express right of access over a neighbouring property with or without workmen, ladders, scaffolding and tools, usually after having provided your neighbour with notice, unless in the case of urgency.

If ownership of a wall or other enclosure is claimed, it will (unless the contract states otherwise) be owned with the benefit of a relief. If it is stated that the wall is owned without a relief, no land is owned on the other side of the wall or other enclosure.

In the absence of a relief or express access right there is no implied right of access to go on to a

neighbouring property to undertake building, repair or maintenance works save where an old Jersey right called "tour d'echelle" (ladder rights) can be used.

Party ownership

Each owner may make reasonable use of a party owned wall and the cost of maintaining and repairing it is shared between them. There is a Common Law right of action which may be brought against a neighbour who will not participate in such repairs, compelling them to participate and contribute their half share of the costs of the repairs.

Unless there is express provision to the contrary in the title contract a party may not use more than their half width of the party owned wall and even then they may not do so if such use undermines or over burdens the wall. In such a case there will be no right to go on to the neighbour's property to build or repair unless a specific right of access for maintenance purposes is created by means of a contract passed before the Royal Court.

A party owned wall may not be demolished or substantially altered without the consent and participation of the neighbour.

A window (or other opening) cannot be established in a party owned wall unless there is a clear express right to such effect in the title contract.

Encroachments

Jersey Common Law dictates that whoever owns the soil owns everything above and beneath it. Accordingly, if part of a building overhangs a neighbouring property or if something (i.e. part of foundations or drains) has been established beneath the neighbour's property it is an unlawful encroachment unless provision has been made for it in the title contract.

Rights

If one needs to acquire or vary rights, boundaries or restrictions such rights will have to be granted or the consent recorded by means of a contract passed before the Royal Court.

For advice on this or any other Jersey property matter, contact [our team](#) today or call +441534 514056 or visit our [website](#)

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