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Geomatics Client Guides

A clear impartial guide to...

Boundary Disputes

Property Registration
Boundary Dispute Resolution
Boundary Identification and Demarcation



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property
professionalism
worldwide

A clear, impartial Geomatics guide to...

Boundary disputes

Property Registration
Boundary Identification and
Demarcation Boundary
Dispute resolution

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Property Boundaries in Ireland

The Property Registration Authority of Ireland (PRAI) is the 'registering authority' in relation to property registration in Ireland. The Property Register is conclusive evidence of title to property and any right, privilege, appurtenance or burden appearing thereon. The register consists of textual and spatial information (folios and maps). In each county the land is divided into folios, one for each individual ownership or title. Each folio is numbered sequentially within the county division. The title shown on the folio is guaranteed by the State which is bound to indemnify any person who suffers loss through a mistake made by the Land Registry. It is important to note that the Registry map identifies properties not boundaries and provides 'that the description of the land on the Registry map shall not be conclusive as to the boundaries or extent of the land'. Therefore, the precise line of the property boundary is undetermined. This is the 'General Boundary Rule' [restated in the Registration of Deeds and Title Act 2006] which means that the title to registered property is 'qualified' in that the State Guarantee does not extend to boundaries.

So what happens, for instance, if a neighbour complains a new wall is overlapping their land, or their new extension takes up part of a pathway between your houses? A minor disagreement can quickly become a full-scale dispute involving solicitors' letters and threats of court action. Even more damaging are the costs involved. Ultimately, the cost of protecting your right to that land in court could be very expensive, so it pays to think hard before rushing into legal action.

Boundary Dispute - What should you do?

Get a specialist to look at all aspects of the problem and advise on whether or not you have a case.

Chartered Surveyors specialising in boundaries are professional advisors with relevant knowledge of both property issues and the law. They will look at the problem, prepare any technical data that may help solve the dispute at an early stage and, if necessary, provide a court with the appropriate advice and information needed to make a judgement. They will also advise on alternative dispute resolution procedures, which would avoid the need to go to court.

Accurately identifying the boundary between two properties often requires specialist knowledge.

The red line drawn around a property on the Land Registry map (the Special Registration Map (SRM)) only shows the general physical boundary. It does not identify whether the legal property boundary runs along the centre of a hedge or along one side of it. Ordnance Survey Ireland (OSI) maps are equally unreliable in this regard as these show topographical features rather than marking exact property boundaries. So a line surrounding the property on the SRM is not necessarily the legal property boundary.

A Chartered Geomatics Surveyor or a Chartered Surveyor specialising in boundary disputes will not only survey the land, check deeds and the plans attached to them, but will refer to historical documents and aerial photographs.

A boundary can change over time for many reasons: a diverted water course, or a wooden fence that moves slightly every time it is replaced. The reason for such changes is rarely recorded and can lead to disputes, especially if the owner has lost the right to move the boundary line back to its original position.

Dealing with Disputes

The key to resolving a dispute speedily and successfully is to seek expert advice as soon as possible.

In the first instance, this advice can be from either a Chartered Geomatics Surveyor or a Chartered Surveyor specialising in boundary disputes. Before you ask an expert to work on your behalf, check the following:

- Do they specialise in boundary work?
- Do they have experience of mapping and land surveys?
- Are they skilled at interpreting accurately and identifying boundary features from aerial photographs?
- Are they familiar with the latest civil procedure rules and experienced in preparing reports for court?
- Do they have experience as an expert witness in court and, if so, how many court appearances have they made in the last year?

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Boundary Disputes

If you can settle the matter before going to court, or if the court defines a boundary line and writes an order, the Chartered Geomatics Surveyors will mark out your boundary line. They may supervise any fencing or building contractors to make sure there are no further arguments. Ensure they prepare a new plan, to the required specification, showing the agreed boundary line for submission to the Land Registry as a 'determined' boundary. This is where an application is made to the PRAI for a 'conclusive boundary' (PRAI Practice Note 40, SI Rule 150) to be recorded.

Further Information

SCSI Dispute Resolution Service provides access to a specialist panel of expert Chartered Surveyors with experience of resolving disputes relating to land, property and construction. This includes expert determination of the boundary and advice on neighbourly boundary disputes. Therefore, you do have an alternative to formal litigation. The advantage of this is that it is a quicker method of dispute resolution; it is private between the parties and is typically significantly lower in cost than court based litigation.

Contact the SCSI Dispute Resolution Officer - email: info@scsi.ie

Find a Chartered Surveyor

We hope this guide is useful to you. If you'd like to know more about property registration, boundaries or boundary dispute resolution, or how the SCSI can help, please contact us.

Contact details: Geomatics Surveyor Professional Group – email: info@scsi.ie . Find a surveyor: http://www.scsi.ie/surveyors/surveyors_search

Geomatics Guidance Note also available: Boundaries:Procedures for Boundary Identification, Demarcation and Dispute Resolutions in Ireland. SCSI Practice Standards Note (2nd edition)

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Dating back to 1895, the Society of Chartered Surveyors Ireland is the independent professional body for Chartered Surveyors working and practicing in Ireland.

Working in partnership with RICS, the pre-eminent Chartered professional body for the construction, land and property sectors around the world, the Society and RICS act in the public interest: setting and maintaining the highest standards of competence and integrity among the profession; and providing impartial, authoritative advice on key issues for business, society and governments worldwide.

Advancing standards in construction, land and property, the Chartered Surveyor professional qualification is the world's leading qualification when it comes to professional standards. In a world where more and more people, governments, banks and commercial organisations demand greater certainty of professional standards and ethics, attaining the Chartered Surveyor qualification is the recognised mark of property professionalism.

Members of the profession are typically employed in the construction, land and property markets through private practice, in central and local government, in state agencies, in academic institutions, in business organisations and in non-governmental organisations.

Members' services are diverse and can include offering strategic advice on the economics, valuation, law, technology, finance and management in all aspects of the construction, land and property industry.

All aspects of the profession, from education through to qualification and the continuing maintenance of the highest professional standards are regulated and overseen through the partnership of the Society of Chartered Surveyors Ireland and RICS, in the public interest.

This valuable partnership with RICS enables access to a worldwide network of research, experience and advice.

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