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Owners need to know their boundaries

May 29, 2009 04:30 AM

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SPECIAL TO THE STAR

There is a lot of confusion between owners who live next door to each other and their rights relating to the boundary lines between their properties.

If you own land in Ontario, it is registered in either the Registry System or the Land Titles System. Most land in southern Ontario is still in the Registry System. A clue is if your legal plan number has the letter "M" in front of it, then you are in the Land Titles System.

As well, if your home is in a subdivision that was built after 1971, all the homes within the subdivision are in the Land Titles System.

The main difference between these two is that in Land Titles, the original boundary lines that were set on title cannot be altered.

In the Registry System, there is the concept of "adverse possession," so that if a fence was constructed six inches over a property line and remained there longer than 10 years, the owner could claim ownership over this additional six inches. However, if the property was registered in Land Titles, the owner could request the fence to be relocated back to the property line.

This is why it is important for anybody who is looking to buy a home that is registered in the Registry System to receive and review an up-to-date plan of survey by a registered Ontario Land Surveyor before deciding whether to purchase. The survey will indicate whether all fences are on the legal boundary lines.

Who is responsible to pay for the fence that sits on the boundary line? The main principle under the Ontario Line Fences Act is that adjacent owners should co-operate to share the costs on a 50/50 basis. However, if one of the owners wants to build a more elaborate looking fence, he or she will usually be solely responsible for these additional costs, as the 50/50 rule applies to the cost of a simple chain link fence that meets the municipal bylaw requirements.

What about trees that are on the property line? The Forestry Act of Ontario indicates that trees on the property line are jointly owned by the adjacent property owners and both have obligations to maintain the trees. If a tree is on one owner's land and the branches are hanging over another owner's land, then the other owner can trim the branches back to the property line. As a courtesy, you should inform your neighbour.

By understanding your rights as an owner regarding your boundary lines, you can hopefully resolve any dispute that you may have with your neighbour.

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