

The Boughton Estates Limited - Manorial and Mineral Rights Registration Exercise - Frequently Asked Questions

Please Note:- These FAQs are intended only for information and do not constitute legal advice, nor are they intended to cover all aspects of The Boughton Estates Limited (“the Company”) or its registration exercises. If you are in any doubt as to any course of action or any correspondence you have received then please consult your own solicitor. The contents of these FAQs does not bind the Company in any way or to any course of action or otherwise but do represent a true statement of the Company’s position as at 1 March 2013

If you have received notice of an application from Land Registry, you will probably have a lot of questions and we set out below a list of Frequently Asked Questions, with our responses. In essence, the law relating to “manorial rights” is changing, the Land Registry has asked for owners of manorial rights to formally register their rights. Up until now, this was not a legal requirement, but now it is, so the Estate has little choice but to react to the change in the law. The rights the Estate has currently exist; we are required to now formally register them. Your property deeds may very well already record them.

Q:- Who are The Boughton Estates Limited?

A:- The Boughton Estates Limited (“the Company”) is a private company which owns some of the English assets and interests of the Duke of Buccleuch and his family. The Company has the benefit of many manorial rights and interests and owns land, foreshore, minerals, sporting rights, fishing rights and other assets, across the country. Reference to the Company in these FAQs also includes its predecessors in title.

Q:- Why is the Company registering manorial and mineral rights?

A:- The Land Registration Act 2002 changed the law relating to manorial rights and interests so that their current protected status will be lost after October 2013 unless owners seek to register or otherwise protect them at Land Registry. Manorial rights and interests include (amongst others) mineral rights, sporting rights and market rights. The Company owns a large number of manorial titles and is simply reacting to this change in the law in order to protect its assets.

At the same time, the Company is identifying interests which it retained on previous sales of land to third parties (such retained rights can also include mineral rights and sporting rights) and rights reserved to the Company through Inclosure Acts and Awards.

Q:- What does the registration process entail?

A:- The Company has engaged professional researchers to investigate and report upon all of its manorial interests, on a manor by manor basis. This involves the researchers visiting local records offices and obtaining information from the National Archives as well as the Company’s own extensive records. Several weeks of research are devoted to each report.

When reports are concluded, any interests identified are professionally mapped and then the report and plans are sent to the Company’s solicitors for review and for ownership to be confirmed. After review by the solicitors, an application is made to Land Registry for the registration and protection of the identified interests.

Q:- Why have I received a Notice from Land Registry?

A:- The Company’s applications to Land Registry will often affect surface land titles owned by third parties, whether the application relates to manorial rights or to reserved rights. Where your own title is registered at Land Registry, they may decide that they need to make you aware of the Company’s

application because it may affect your title. There are two types of initial Notice you could have received, depending on the type of application the Company has made:-

If you have received a Form B25 Notice

This relates to an application by the Company's solicitors to substantively register the mines and minerals beneath your property. These interests may have arisen because they were reserved to the Company on the sale of surface land or on the private enfranchisement of land (ie an agreement between the Lord of the Manor and a copyhold tenant for the tenant to buy the Lord of the Manor's freehold title) or on the "inclosure" of the land (ie common land belonging to the Lord of the Manor was taken and allocated to other landowners, but mines and minerals and sporting rights were often reserved to the Lord of the Manor).

You have received this Notice because Land Registry wishes to advise you that the Company is claiming ownership of rights and it may not already be apparent from your title register that these rights do not belong to you. Having received a Form B25 Notice, if you are in any doubt as to any action you need to take you ought to consult your own solicitor.

If you have received a Form B133 Notice

This relates to an application by the Company to enter a Unilateral Notice on the title to your property. This is the permitted way in which owners of certain manorial rights and interests can protect them from the change in the law (see section 117 of the Land Registration Act 2002). If the Company's research shows that your property was formerly copyhold of the manor in question, then the Company may apply for a Unilateral Notice to protect the rights reserved to the Lord of the Manor when your land was "enfranchised" (ie upgraded from copyhold of the manor to absolute freehold), most likely under the terms of the Law of Property Act 1922, or perhaps by reference to one of the Copyhold Act 1841 to 1894. You have received this Notice because Land Registry is obliged to inform you that they have added the Unilateral Notice to your title register.

Having received a Form B133 Notice, if you are in any doubt as to any action you need to take you ought to consult your own solicitor.

Q:- Is the registration exercise a prelude to minerals extraction under my property?

A:- Whilst the Company owns the minerals beneath large areas of land, there are many other constraints on extracting minerals, such as the need for planning permission and environmental issues. The Company is not prepared to say extraction will *never* be considered, but we can reiterate that the reason for the registration exercise is simply as a reaction to a change in the law, not as a prelude to mineral extraction. In any event, the Company is only registering or otherwise protecting assets it already owns, and so the position as to the potential for mineral extraction will not change because the Company could seek to exploit its assets now without having had to register or protect them.

If you are in any doubt as to the effect of the Company's registration exercise on your property you ought to consult your own solicitor.

Q:- Will the changes to my title make my house or land worth less money or harder to sell?

A:- An exclusion of mines and minerals and / or sporting rights from a title to land is not uncommon and solicitors are used to seeing such exceptions when buying and selling land and houses for clients. References to manorial rights are perhaps less common, but due to the change in the law referred to above, a large number of estates and other manorial owners are actively undertaking similar exercises to that of the Company and so such references will become far more familiar to conveyancing solicitors.

If you are in any doubt as to the effect of the Company's registration exercise on your property you ought to consult your own solicitor.

Q:- I am a client of Bond Dickinson LLP. Why wasn't I warned about this previously?

A:- We have a duty of confidentiality to all of our clients, and so we are not able to tell one client about the actions of another. The applications almost invariably affect several hundred separate properties and the information provided to us on which the applications to Land Registry are made rarely allows us to identify specific properties. Accordingly, we are not able to know whether or not other clients' land titles are affected. If you are our client and you have received a Notice, please call or write to your main contact with the firm, and we will aim to provide whatever information and guidance we can, within the confines of our professional Code of Conduct.

Bond Dickinson LLP

Solicitors to Boughton Estates Limited