

DO RIGHTS OVER PROPERTY CONTINUE WHEN THE PROPERTY CHANGES HANDS?

Rights over property owned by others are very common and can include,

- Rights of access for example, over driveways or footpaths.
- Rights to link into drainage systems.
- Rights to use services passing over or under other land, e.g. electricity.
- Rights to enter adjoining land to repair your own property or service installations.
- Rights to a supply of water over a particular prescribed route.
- Right to have eaves or downpipes overhanging adjoining land.

There are many other rights and these can be created bespoke for any individual property or situation.

Rights can be, and usually are, created expressly in a written deed but can also be acquired in other ways on which the law is quite detailed, but broadly these might involve habitual use over a number of years or necessity.

The short answer to the title question is yes, these rights will normally continue when the property changes hands. They are registrable interests in land which will appear on the Land Registry record of both the property benefiting and the property being burdened.

As always there is a small 'but' in certain cases,

- Rights may be limited in time within the original wording.
- Rights may be extinguished by a later deed between the person entitled to the right and the owner of the 'burdened' or 'servient' land.
- Rights may be abandoned by the person entitled but clear evidence will be needed to prove this. Simply failing to use the right even for a long period may not be enough.
- If the property benefited and the property burdened come into the same ownership the rights will automatically be extinguished and if the properties are later separated again new easements will have to be created.
- Rights may be varied expressly or by implication.

The law in this area can be complex, not least because property rights (easements) are particular to each situation and there is no 'one size fits all'. For help in sorting out the effect or continued existence of easements, consult your own solicitor or feel free to contact us. Alison, Phil or Dee will be happy to help you at Alison Fielden & Co, The Gatehouse, Dollar Street, Cirencester, GL7 2AN. Email: alison@alisonfielden.co.uk Phone: 01285 653261.