

Real estate and land dispute resolution in Finland

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SUMMARY

According to Finnish law it is possible for the cadastral surveyor in connection with cadastral surveying process such as parcelling, reallocation or expropriation to take final legal decisions on issues such as land disputes, border disputes or other property disputes. The cadastral surveyor has this statutory mandate. It is prescribed in 184 section Real Estate Formation Act as follows:

“If before the beginning of the cadastral procedure a dispute is pending in a court of law whose settlement may influence the result of the cadastral procedure, the cadastral procedure may not be completed before the dispute is settled. If such a dispute arises after the beginning of the cadastral procedure, it shall be settled during the cadastral procedure.”

Thus the cadastral surveyor who is either a state official or a municipal official has in certain cases the same mandate as a district court to solve disputes.

There is also an option of mediation before the cadastral procedure or district court proceedings between private landowners regarding a land dispute but this option is not put in practice very often. This is because the mediation is handled by solicitors and this can prove to be expensive for citizens. Solicitors and most lawyers also lack experience and expertise regarding real estate formation, other cadastral surveying and also land or building valuation.

Under the pending cadastral surveying process the cadastral surveyor is obliged to try to assist the parties to reach an agreement if a dispute arises. The land surveyor also has a mandate to confirm the agreement if it obviously is not unfair or unreasonable or totally illegal. If a dispute is not settled and the differences cannot be worked out it is up to the land surveyor and two laymen to take the decisions. After this the parties may appeal the decision the cadastral surveyor has taken if they do not agree with the decision. There are in total eight land courts in Finland which only handle appeals concerning the Cadastral Surveys or property valuation cases in connection with the expropriations. In addition the land courts deal with land register issues which prove to be in dispute.

For expropriation cases the applicant which is usually the state or a municipality but also sometimes a private company such as a nature gas supplier has to have an expropriation permit or license which in simple cases is granted by National Land Survey of Finland (NLS). When it concerns building a new highway or a new railroad the expropriation permit is admitted after an exact plan and planning process by ministry of transport and communication. In some cases it is The Finnish Transport Agency that confirms a road plan for public road. Very important cases such as high-voltage power lines, nature reserves, harbours or airports are handled by the Cabinet of Ministers. In these cases NLS is responsible organising the cadastral survey for mapping and assessing the properties to be expropriated.

The Cadastral Land Surveyor and the two laymen have the mandate to value the properties and damages to properties and real estates in connection with a cadastral survey for expropriation. Properties have to be valued primarily to their market values. This concerns mainly farming land, plots and the land for zoning near urban areas. The information for valuation is usually obtained from the purchase price register which is maintained by NLS. So called public purchase witnesses who are a kind of notaries but who only attest documents and deeds are obliged to send information about real estate transactions for the purchase price register. This is why the purchase price data in the register is very nearly up-to-date. There is a long tradition for cadastral land surveyors who handle expropriation cases to use the data in the purchase price register. As a result of expropriation surveys, the transfer of possession and ownership transfers are completed in accordance with decisions taken during the process by the cadastral surveyor and assisting two laymen.

For example the road administration officials who represent the state of Finland are able to make agreements regarding property ownership prior to expropriation. In larger infrastructure projects in urban areas it also happens in practice that the entrepreneur obtains most of the properties by contracts before the cadastral procedure is initiated.