



The Current System of Danish Licensed Chartered Surveyors and the Requirements Hereto

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In Denmark, there are relatively strict requirements for licensed chartered surveyors (“landinspektører”) and their companies – the chartered surveying company (“landinspektørfirmaer”). That is, a license is required as well as liability insurance in order to carry out cadastral work, and the licensed chartered surveyor has to follow a professional code of conduct as well as competence requirements. The background for these requirements is that in cadastral cases, building construction positioning, and condominium cases, the licensed surveyors are responsible for declaring and guaranteeing compliances with various rules and rights. In response to this issue’s theme of authorization of cadastral surveyors, this paper will describe the current system of Danish licensed chartered surveyors and the requirements hereto.

Exclusive Right and Regulations

The licensed chartered surveyor in private chartered surveying companies holds an exclusive right to carry out cadastral work (Chartered Surveyors Act sec. 4 and Cadastral Act sec. 13). Cadastral work includes boundary demarcation and determination, calculating property areas, registration in the cadaster of boundaries and private rights of way, preparation of cadastral documents, and the procuring of documentation for compliance with legislation (ibid sec.13).

While the cadastral work is carried out by licensed chartered surveyors, their work is checked and registered by the cadastral authority. The cadastral authority of Denmark is currently placed under a single government agency, the Danish Geodata Agency.

The chartered surveying companies are regulated by law. They must have the sole purpose of performing activities of licensed chartered surveyors and it must be clear from the name of the company that is a chartered surveying company (Chartered Surveyors Act sec. 4a). Place names such as the name of a municipality or city may not be included in the company’s name, since the name should not give the impression that a specific chartered surveying company holds a monopoly in a certain geographical area (Directive on chartered surveying companies sec. 4).

In addition, only certain forms of company structure are accepted as legal and there are restrictions on ownership to ensure that the majority of ownership is in the hands of licensed chartered surveyors working in the company in question. Furthermore, all of a company's local branches must be managed by a specific licensed chartered surveyor that is not in charge of another branch at the same time (Chartered Surveyors Act sec. 4b).

The Licensed Chartered Surveyor

It takes at least eight years to become a licensed chartered surveyor in Denmark. Obtaining a license requires a specific three-year bachelor's degree, a specific two-year master's education (ibid. sec 1, subsec. 2, 3), and a subsequent three years of participation in cadastral work while employed in a chartered surveying company (ibid. Sec. 1, subsec.4).

The mentioned specific bachelor's and master's education can only be obtained at Aalborg University (campuses in both Aalborg and Copenhagen). The education includes a range of subjects related to property legislation, physical planning, surveying, geoinformatics, and cadastral work.

The three years' experience does not have to be 100% participation in cadastral work; it is sufficient that the candidate has spent at least half of her/his working hours on this type of work (Buhl 2013, p. 14). Up to one of the three years can be replaced with relevant other experience; this could for example be employment in the Faroese cadastral system or working with approving cadastral cases in a municipality. A further one year (a total of two years) can be replaced by cadastral work at the cadastral authority (ibid. p. 15)

In addition to the education and participation in cadastral work, it is a requirement – both to obtain and to retain the license – that the candidate is of legal age, not under guardianship, not under co-guardianship, not subject to an administration order, and not bankrupt or entered into bankruptcy proceedings (Chartered Surveyors Act sec. 1, subsec. 2).

Finally, the license can be refused if the candidate has been convicted of an offense under the Danish Penal Code sec. 78, or if the candidate in her/his position or profession has demonstrated conduct that gives reason to assume that the candidate will not perform her/his role in an appropriate manner (Chartered Surveyors Act sec. 1, subsec. 8.)

To clarify, whereas the Danish word for licensed chartered surveyor (“landinspektør”) is a protected title, the Danish word for surveyor (“landmåler”) is different, and not protected. The Danish surveyors (“landmålere”) come from different educational backgrounds, and many have learned surveying by being taught through practical training in a company. There is also a surveyor education available at two technical schools (in Horsens and Copenhagen). This education has a duration of two years including internship. Only licensed chartered surveyors are permitted to perform cadastral work.

Competence

A licensed chartered surveyor is not permitted to perform cadastral work if she/he has an interest in the involved property or has interests in the case in a way that might provoke doubts about impartiality. The same applies if others in the company have such interests (ibid. sec. 5).

The competency rules aim at family and financial relations, but also at situations of boundary determination, where the surveyor or others in the company have previously made a decision about the same boundary. Complaints about the surveyor's competence are addressed to the cadastral authority.

Ethical Rules and the Chartered Surveying Committee

The licensed surveyor's ethical rules for code of conduct ("god landinspektørskik") are regulated by law (ibid. sec. 7), where it is stated that both the licensed surveyor and the chartered surveyor companies "must behave in a manner consistent with good chartered surveying practice. In this respect, they must discharge their business with diligence and precision, and with due attention to the interests of the clients. Cases must be pursued with the requisite speed." Breaches of the ethical rules can be punished with reprimands or fines, and in particularly serious or recurring cases the license can be revoked (ibid. sec. 10).

A council in the form of the Chartered Surveying Committee handles complaints concerning breaches of the ethical rules. The committee consists of three people. The chairman is a high court judge, and the two other members are a chartered surveyor employed by the cadastral authority and a licensed chartered surveyor that is also owner of/partner in a chartered surveying company (ibid. sec. 9).

Liability and Insurance

A licensed chartered surveyor in a chartered surveying company is personally liable together with the company for claims arising from their professional work (ibid. sec. 4a, subsec. 3). In order to carry out cadastral work and other works for which the licensed chartered surveyor holds an exclusive right, the licensed chartered surveyor and the chartered surveying company must have liability insurance (ibid. sec. 4c). The cadastral authority continuously checks that this is in order.

The licensed chartered surveyor and the chartered surveyor companies' professional responsibility defines which behavior may be liable if their clients or others suffer a loss due to the conduct of the surveyor/company. This surveyor liability ("landinspektøransvaret") is defined by compensation practice in case law. The relationship is thoroughly documented in research stating that liability can arise from neglect in connection with:

- The licensed chartered surveyor's duty to provide and obtain information (including both seeking information on the matter, providing information to official authorities, and advising, guiding and informing the client).
- Responsibility for faulty instruments.
- Responsibility for errors (measurements errors, writing errors, lack of proper knowledge of regulations, etc.).
- Responsibility for choosing the right method (the right accuracy for the task – not too high/costly and not too low).
- Responsibility for unnecessary delays and slowness (Martensen 1981, p. 25–64).

The Cadastral Process

If a landowner wants a property subdivided or otherwise cadastrally altered, it is necessary to request a licensed chartered surveyor in a chartered surveying company to perform the task. The licensed chartered surveyor starts by doing preliminary investigations to ensure that the client's wishes are feasible. Information is obtained from the land registry (ownership, mortgage and easements), the cadaster (survey documents, cadastral map and register), planning register (regulation plans for local areas and municipalities, conservation plans, etc.). Most cadastral cases then include a phase of fieldwork. Here, existing property boundaries are found, examined and determined. Next, new boundaries are positioned and marked. And a survey follows.

Subsequently, the licensed chartered surveyor prepares relevant documentation, including survey documents, maps and text that schematically describes the cadastral changes. These documents are created in a GIS system (“MIA”), which on the basis of the same information from the licensed chartered surveyor can generate both the documents and create data to update the cadaster. The documents are used by her/him for communication when applying to various authorities for relevant approvals in relation to buildings, the environment, nature, roads, etc. The licensed chartered surveyor also obtains relevant approvals from affected landowners regarding the position of the boundary, right of access, sales, etc. In addition, there may be areas in connection with a sale that need to be free from mortgages, in which case the licensed chartered surveyor or a lawyer facilitates the process between the landowners and the mortgagees. She/he further ensures that the rules according to the land registry are followed and, among other things, that registered easements are distributed so that they remain registered on the correct property if the cadastral property boundaries are altered.

There can be authorities that are unwilling to grant permission for a specific cadastral change and there can be landowners, mortgagees or others that are unwilling to sign the necessary documents. In these situations, the licensed chartered surveyor helps and advises the client.

If it is possible to get all the documents in place, the licensed chartered surveyor sends the case to the cadastral authority for registration. The cadastral authority checks that the surveyor has submitted all the necessary documentation and carries out a quality assurance of the data to update the cadaster. The cadastral authority may demand rectification of deficiencies or further information.

A cadastral alteration cannot be registered in the cadaster unless it can also be registered in the land registry. Therefore, when the cadastral authority is ready to register the case, a notification is sent to the land registry. Here it is ensured that the necessary documentation for the land registry is also in place. If this is so, the cadastral case is registered in both the cadaster and the land registry. When approved the licensed chartered surveyor is notified and further passes this message on to the client, typically together with survey documents, map documents and an invoice.

The licensed chartered surveyor and their employees have by law the right to place boundary marks and the right at any time to access a property in order to perform the necessary cadastral work (Cadastral Act sec. 44). New property boundaries are placed according to the client’s wishes and what is possible according to legislation and regulation. Further if there are other landowners involved, they also have to agree, since it is a requirement for registering new property boundaries that all concerned landowners sign a document stating that they approve of the position of these new boundaries. This document can be replaced by a court ruling or expropriation decision.

The Background to the Chartered Surveyor’s License and Responsibilities

Chartered surveying flourished as a profession in Denmark in connection with the land reforms that were carried out in the latter half of the 1700s. In 1768 the king began issuing authorizations to the chartered surveyors; later the authorization was altered to a license.

In the early years they were government officials, but from as early as 1773 permissions were granted for private authorized chartered surveyors to be commissioned to carry out cadastral work. The initial work on the current cadaster began in 1806, and the surveyors played an important role. The cadaster’s original purpose was not property registration but

to form the basis for fair taxation. The role of the surveyor was therefore connected to surveying as well as taxation of the soil quality of agricultural land. In the early 1900s property taxation was changed to be based on the market price instead, and the surveyor's work gradually changed with it.

From initially being revenue officials, the responsibility changed over time, but it took nearly 200 years before licensed chartered surveyors were fully given the responsibility they have today. It was not until 1949 that they were given the right to make decisions in disputes about property boundaries. More importantly, a reform of the cadastral process was carried out in 1963. Here the licensed surveyor was given a more central and trust-demanding role, as thereafter it was the licensed surveyor who had the task of simultaneously obtaining all relevant information, permits, and declarations from public authorities and private entities. Previously, both the municipalities and the cadastral authority had more responsibility and sometimes had to obtain some of the permits themselves. This delayed the cadastral process. The introduction of this more central and responsible role led to higher demands on the licensed chartered surveyor's knowledge of regulatory legislation and then further to higher demands on the regulation of licensed chartered surveyors. Hence together with the reform of the cadastral process in 1963 also came the first Chartered Surveyors Act increasing or introducing the rules described in this paper (about competence, The Chartered Surveying Committee, etc). At that time the required length of participation in cadastral work in order to acquire a license was changed from two to three years.

As a comment on the introduction of the Norwegian authorization, it can therefore be stated that in Denmark it took nearly 200 years from the time an authorization was introduced until such trust was built that surveyors could perform property determinations and take full responsibility for cadastral cases.

Literature

Lars Buhl, 2013, *Landinspektørloven med kommentarer*, Kort- og Matrikelstyrelsen

Finn Martensen, 1981, *Landinspektøransvaret*, Den danske Landinspektørforenings forlagsvirksomhed

Legislation

Chartered Surveyors Act = lov om landinspektørvirksomhed

Cadastral Act = lov om udstykning og anden registrering i matriklen m.v.

Directive on chartered surveying companies = bekendtgørelse om landinspektørselskaber