

December 2009
January 2010

ASTBERRYS

Newsletter

We are property specialists for:

- Lettings
- Short Let Apartments
- Sales
- Block Management

We operate in:

- South Kensington
- Gloucester Road
- Earls Court
- Knightsbridge

WHO ARE WE?

We are letting and managing agents for individual flats and blocks of flats in Kensington and Chelsea. We will also let to you our own properties and excellent short term apartments. We carry out all building works, refurbishment and maintenance of flats and blocks. We offer in-house legal advice on all aspects of the letting business and property law. We also carry out valuations and property sales.

We are members of the Association of Residential Letting Agents and we are authorised as appointed representative by the FSA to conduct insurance mediation activities. One of our directors is a barrister. We have a clear and transparent fee structure. We only bill for work we do, for example we do not charge second year letting commission on properties, which we do not manage. We offer a straightforward pricing menu for maintenance and building services.

Our regular Newsletter covers areas of interest concerning the management and legal aspects of property, the sales and letting markets.



Campden Hill Gardens, W8

Managed by Astberrys

Individual property and freehold block management, in-house maintenance, refurbishment and cleaning services with a clear pricing structure, expertise in service charges, ground rent collection and building administration, in house legal services.



Redcliffe Square, SW10

Lower ground floor flat with garden. 101 m². Located on the Western side of the Square this family flat presents well and comprises; 2 bedrooms, 2 bathrooms, drawing room, dining area, kitchen, garden, internal courtyard.

Asking price: £845,000

THE TENANT'S DEPOSIT ON A RENTED FLAT - A CAUTIONARY TALE

How is a Landlord meant to deal with his tenant's deposit and what happens if he does not?

If you let your property then you will want to ensure that the tenant pays the rent and looks after your property. If he does not then the deposit, usually six weeks rent, provides you with some security but only if you and/or the letting agent you use understand and follow the statutory scheme. **Otherwise the taking of a deposit can become a very expensive liability**, as we shall see.

A key point to bear in mind is that if the rent on your property exceeds £25,000 p.a. then at present you or your letting agent can keep any deposit handed over by the tenant on whatever terms you all agree. However there are legislative plans to raise this limit in the near future to £100,000 so all landlords would be well advised to understand the rules relating to deposits now.

There are three approved schemes in existence which administer deposits. You or your letting agent must use one of them. Neither you nor the agent can keep the deposit outside the terms of one of these schemes. The Deposit Protection Service is a custodial scheme and is largely used by private landlords and some agents. Once a landlord or agent registers he has to pay over the tenant's deposit to the scheme. At the end of the tenancy the deposit is released. This scheme is free to landlords and agents and is funded by the interest received on the deposits held. The other two schemes are insurance based schemes. Under these schemes the deposit is not handed over. It is kept by the landlord or agent and the scheme insures the tenant against fraud or loss. The scheme charges the landlord or agent a fee [which can be quite high in the case of an individual landlord with only one property] to cover this service. The largest scheme is the Tenancy Deposit Scheme ["TDS"] with around 50% of market share. It is open to private landlords but is only open to letting agents who are members of approved bodies such as the Association of Residential Letting Agents [ARLA]. Astberrys is an ARLA member and a member of the TDS scheme. The third scheme, Mydeposits, is open to landlords and all agents.

Once you or the agent take the deposit from the tenant, prescribed notices must be given to the tenant which explain what has happened to the deposit and what to do in the event of a dispute about unpaid rent, damage or cleaning charges at the end of the lease.

What happens if you or the agent fail to hold the deposit according to one of the approved schemes or fail to provide the tenant with the correct information? The consequences are very severe for you.

First you will have great difficulty evicting a tenant, no matter how bad he is or how much rent he owes. No notices seeking possession of your property and no possession proceedings can be started unless all the requirements of one of the approved schemes have been observed.

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Penywern Rd, SW5

Let At £500 pw

Elegant 2 bed/2 bath raised ground floor flat. Luxury fittings. Approx. 80m². Terrace leading to a private landscaped and walled garden. Earls Court underground 2 minutes.

Secondly the tenant, no matter how bad a tenant he is, can sue you for a sum equal to three times the value of the deposit. The court has no discretion. It must, and in practice does, award this sum to the tenant by way of a penalty for the landlord's failure. Cases are being reported of landlords being ordered to pay thousands of pounds. It is not a defence to say "I left it all to the letting agent". You, as landlord, are responsible and the county court judgement will be against you. It will be small consolation that you may be able to sue your agent for negligence; not least because this will mean more expense, uncertainty and upset. The safe course is to make sure everything is carried out properly in the first place.

It is surprising how many private landlords and letting agents are still either keeping deposits themselves and/or not giving tenants the proper and full prescribed information. As you can see the penalties for this unlawful behaviour are severe. Always ask your letting agent what he is doing with your tenant's deposit and what scheme is being used. You should see copies of all documentation, even if you have given the agent authority to sign on your behalf. **Be warned, if you are not signing anything and/or not seeing copies of what has been signed then it may be that the rules are not being followed.**

You, not the agent, may have to pay the price for this.

At Astberrys, as ARLA members, we ensure whether you are a landlord or tenant that the deposit is properly held and administered. You are safe with us.



Our specialist property law team deals with
...leasehold enfranchisement...service charges...
residential and commercial tenancies

We are delighted to accept instructions from Astberrys
and their clients and will be pleased to advise in relation
to all areas of property and landlord and tenant law.

*Clients of Astberrys, who wish to keep up
with recent property law developments
are welcome at*

The *Property Law* Website
www.propertylawuk.net

*'The online property law
updating service'*

MARKET UPDATE - WHERE WILL WE GO IN 2010 ?

The housing market in Kensington and Chelsea in 2009 surprised many people. Until the end of about the first quarter prices continued downwards following the pattern established in 2008. However over the following months they started to climb. Prices are now, in some cases not that far off those achieved at the height of the market in the autumn of 2007. This trend will not continue into 2010 in our view. It is the result of a scarcity of quality property and very low interest rates. It has been reported that the volume of new instructions to sell properties in London fell in November 2009 to about its lowest level for 18 months. **The current volume of transactions is therefore abnormally low.** However to some extent there are already signs of a change underway. Some sellers, especially those marketing the more average two bedroom flats, are having to reduce their asking prices to attract interest. On the other hand for the moment houses and large flats in garden squares in the Royal Borough remain sought after because of their current scarcity value.

What to expect for 2010? We predict a general easing of prices starting around the second quarter of the year and continuing into 2011. The long term ratio of house prices to earnings applies to Kensington and Chelsea as much as to the rest of the country. This ratio is too high at present and must revert. Do not believe that foreign buyers and a weak pound will propel prices upwards in the Royal Borough. Many foreigners have already purchased and this positive factor, in as much as it is not already historic, will be more than offset by the reduction in banker bonuses and in some cases exodus. These negative factors will especially impact on properties around the £2M mark. In addition as some of the “financial elite” prepare to leave London over the coming months and put their homes on the market the present imbalance in supply and demand will start to even out. It is worth noting that approximately half of the total demand for prime central London properties comes from those working in the financial and business service industries. In addition the impact of tight lending criteria should not be underestimated. This will limit the amount of money potential purchasers will be able to borrow. Nothing suggests that 2010 will be the year in which there will be a return to “cheap money”, quite the contrary; and in addition interest rates are likely to rise after the second quarter. Many mortgage brokers are already predicting increases in the cost of borrowing for new customers. Although some lenders have relaxed their criteria, and surprisingly there are still a few mortgage products available at 90% of loan-to-value [There were over 500 in November 2007], all it will take is a few months of house price falls for these products to be withdrawn.

Finally the housing market is like any other and will react to major economic and political events. 2010 will see the beginning of the end of governmental stimulus, possible falls in the stock market and even a hung parliament. **Only a very brave commentator would predict a glorious housing market for Kensington and Chelsea in 2010. We are far more cautious - prices will ease in some cases substantially.**

To talk about your property needs, whether you are selling or looking for the right time or right investment property to buy in 2010, talk to Astberrys. We can help you.



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