

February/March
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.



Nevern Place, SW5

Let at £460 pw

1 bedroom flat with separate study and a magnificent reception room with solid wooden floors, high ceilings, ornate fire place and library area.

We have a continued demand for good quality flats in the SW5/SW7/W8 areas for our excellent applicants. If you have a similar property to let please contact us.



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

TO BE OR NOT TO BE A FREEHOLDER ? - A QUESTION WITH AN UNEXPECTED ANSWER

It is a commonly held belief that it is always better to purchase a leasehold flat with a share of the freehold and that a property with such a share is worth more than a simple leasehold. On close scrutiny you may want to think again.

What is a “share of the freehold”? In almost all cases it means the transfer of shares in a company from the seller of your new flat to you, as incoming purchaser. Unless owned by one individual, typically a freehold of a building converted into flats will be owned by a company with a name connected to the building, for example “26 Picton Square Freehold Residents Company Ltd”. Each owner of a flat in the building will have one share in the company which cannot continue to be held after sale of the flat. The share must be transferred to the new owner.

So far so good. You not only have a new flat with its existing lease you also have a share in a company owning the freehold. However this is where the trouble typically starts. Most people do not, when they purchase a flat contemplate being involved in attending the meetings of a private limited company. However this is exactly what you will have to do. Any important decision concerning your building will have to be taken at a meeting of the shareholders, who are also the other flat owners, according to the rules of the company and according to the relevant parts of company legislation. This is not an area for most laymen. In addition the company will need directors, a company secretary and accountants. Who is to hold these posts? You may think you should be company secretary or that your own accountants would do a better and cheaper job than the present ones. The owner of the flat below - your neighbour and co shareholder may have different ideas!

However far worse can follow. What if you cannot agree on issues effecting the upkeep and good management of your building? You may want to have the outside of the building painted. The man in the flat above disagrees. Never mind, you have looked at the lease and it says the outside of the building must be painted every 7 years. It has not been. You have a legal right to insist that every flat owner/shareholder in the freehold company pays his proportion of the painting bill. But how are you going to enforce this right? The lease may have all manner of complex service charge provisions which need to be followed before money can be demanded from each flat owner. Even if they have been followed, before major works can take place to a building special statutory notices have to be prepared and served on each flat owner together with estimates. Who is going to undertake all this work?

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Finally even if you have single handedly passed through these hoops, what if the man in the flat above still will not pay? You will have to call a shareholders' meeting and propose that the company sue him - you cannot sue him, only the freehold company can take this step. Even if you have served all the correct Company Act notices on everybody informing them of a meeting and its purpose, will you succeed? Your other shareholders/flat owners may take the view that they do not want to be involved in litigation with someone who lives in the building and whom they have to face in the hall each morning. Nevertheless at least in this example the other shareholders/flat owners might have an interest in enforcing the lease - otherwise they might have to pay for necessary works to the building without the contribution of the person whom they do not want to sue. But what if the issue is noise? The man upstairs has laid a hardwood floor in breach of the lease and/or plays loud music late at night. **You are the only person disturbed. How are you going to persuade a majority of the other shareholders/flat owners to take action which is solely for your benefit?** And finally think very carefully before purchasing a short lease with a share of the freehold. **What will happen if you want to extend your lease and the others do not agree or want more money than you are prepared to pay?**

Contrary to perceived wisdom you are often much better off purchasing a leasehold interest of say 125 years in a well managed block with a good freeholder and expert managing agents. The "share of freehold" is all too often the cause of litigation, bad feelings and misery with people you have to see almost every day! At the very least, before you purchase a "share of freehold" make sure that a reputable firm of managing agents have been appointed. They can act as a buffer between you and the other shareholders/flat owners.

At Astberrys we are careful to ensure that when we manage blocks of flats for any freeholder, which include "share of freehold" companies we politely but firmly follow the terms of the lease and all relevant legislation. We have in house legal expertise. One of our directors is a barrister. We will act as company secretary. We use accountants who specialise in the preparation of service charge accounts. We have our own maintenance and building team. If you are fed up with the present management or lack of management of your "share of freehold" company or you are a freeholder looking for new managing agents then please come and talk to us. **We can help you put your block in order and make sure it runs smoothly. Our fees vary but generally we charge a fixed fee of £250 plus VAT per flat plus a charge of 10% plus VAT of the cost of all major works which we organise and supervise.**

To talk about block management contact us on 0207 370 0123, or at business@astberrys.co.uk



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'*



West Cromwell Rd, SW5

Very bright raised lower ground floor two bedroom flat. Separate kitchen. Approx 55m². Access to communal, private, landscaped and walled garden. Five minutes from Underground and Holland Park.

Asking price: £420,000

For the month of March we are offering a promotional reduced commission rate of 8% for our letting service.

We also never charge renewal commission.

We have excellent applicants currently in search of good quality flats in W8, SW5 and SW10.

Please contact us if you have a property to let.



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