

Spring 2012

ASTBERRYS

Newsletter

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 an appointed representative by the FSA to conduct insurance mediation activities.

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

WATER DAMAGE IN YOUR BUILDING. WHO PAYS? THE FLAT CAUSING THE LEAK OR THE BUILDING INSURANCE? WHAT ABOUT THE EXCESS, MUST THE SERVICE CHARGE ACCOUNT PAY?

The question of who pays for leaks into your flat or building is a difficult one. **In our Newsletter for October/November 2009, click on www.astberrys.co.uk, we reviewed the legal position.** In summary it is as follows:

- **It does not follow, that just because your neighbour upstairs floods you that he must pay for the damage.** He is not liable unless he is negligent in some way. If, for example he has been warned that the pipework in his flat is in poor condition, he does nothing and the pipes leak, then he may be liable for the ensuing flood.
- **In the absence of proof of negligence you would have to pay for the damage to your flat yourself. In order to avoid this outcome most freeholders insure the building against such water damage** [They are also typically required to do so under the terms of your lease]. The cost of the cover [normally part of the general building insurance] is usually paid for by all the flat owners through the service charges.
- **Problems often arise over the policy “excess”.** Increasingly insurers are requiring buildings with a poor claims history to accept an excess of £1,000 or more. A large proportion of water damage claims only cost between £1,000 and £2,000 to make good. It follows, that many claims are so close to the excess level that it makes no commercial sense to claim on the policy [thereby risking an increase in the excess or premium on renewal]. The usual procedure is for the building service charge account to defray the cost of the repairs or the excess in a case where a claim is made under the insurance policy.

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Nevern Place, SW5

To let at £495 pw

1 bedroom maisonette with separate study/dressing room. Magnificent reception room with period features, solid wooden floors and fitted library.

We always have excellent applicants in search of quality flats in SW5, SW7, W8 and W11. Please contact us on 0207 370 0123 if you would like to let your flat.

- An interesting legal argument might arise in cases where the leases of the flats in any block place an obligation on the freeholder to insure the building against all damage to the full reinstatement value. Such an obligation is almost universal. It technically means that no excess under any building insurance policy is acceptable. On the other hand it would be very hard to find an insurer willing to insure a building with a poor claims history for no excess. And even if such an insurer could be found the premium demanded for a “no excess policy” would be enormous. This premium would be recoverable by way of service charges, so the flat owners would have to pay for it in any event. It is therefore, likely to make better commercial sense, whatever the strict legal position, to insure with an excess.

What undoubtedly makes good sense is to try and limit water damage claims and take steps to ensure that the flat owner who is responsible for the damage pays for it. The causes of many leaks from one flat to another are avoidable. If flat owners are:

- put on notice of those causes
- told how to avoid them
- informed of the provisions in the lease, which require them to maintain their flats in good condition
- warned, that they and not the service charge account will have to pay if they are found to be at fault then in the event of any leak coming from their flat it will be far easier to prove fault on their part.

Astberrys are expert at block and flat management and we are authorised by the FSA to carry out insurance mediation. We only manage property in Kensington and Chelsea. The problems and associated costs of water damage is an area in which we have great experience. **We have developed a pre-emptive notice relating to water damage, which we use in many of the blocks we manage.** Our course, not all blocks are the same and we would need to read the leases and insurance policy and look at the claims history of the block as well as visiting the block itself before deciding on the correct form of notice for any individual block. However, we set out below a basic draft notice. In blocks we manage the dissemination of similar notices to all flat owners has reduced the incidence of claims on the insurance policy to the benefit of most flat owners. **To talk to us about block and individual flat management in Kensington and Chelsea please call us on 0207 370 0123 or email us at business@astberrys.co.uk**

DRAFT / NOTICE RE WATER DAMAGE TO FLATS AND THE COMMON PARTS AT ...[NAME OF BUILDING]

Following the increase of water damage claims, the freeholder of ...[name of building] has decided the following –

Reports of any water damage by any flat owner or managing agent either to their flat or to the common parts or exterior of the building should be reported to ...[name of block managing agents/ freeholder] by [email at .../telephone ...] as soon as possible after detection. Please do not wait in the hope that the problem will go away or improve on its own.

Unless the cause is very obvious and it is possible to deal with over the telephone [name of block managing agents/ freeholder] will always send out a plumber to check the cause of the water ingress. In the event of the water ingress and subsequent call out being caused by any fault relating to the maintenance of your flat or its appliances or by some other matter for which you are responsible under the terms of the lease, please see clauses of your lease, then you will be charged £..... for the call out and identification of the problem. Up until now the service charge account has generally paid for any inspection. This should not continue because it penalizes those flat owners who keep their property in good condition and according to the terms of the lease.

Further, in the event of water ingress into another flat or the common parts no claim will be made on the building insurance policy nor any sum paid out of the service charge account, to cover the excess, if there has been real and/or persistent fault on your part. Otherwise other flat owners will suffer unfairly.

You should therefore pay particular attention to all of the following:-

- *The grout in floor and wall tiles in kitchens and bathrooms*
- *The mastic seals round all baths and sinks*
- *The connections to all washing machines and dishwashers*
- *The radiator valves and pipe connections*
- *The overflow pipes from each WC. All WC overflow pipes should be internal and not through a pipe into the outside wall and onto the rear of the building. Please convert any WC which is using an external overflow. Water should never be allowed to pour down the outside of the building.*

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LEXHAM GARDENS, W8



EARLS COURT SQUARE, SW5



HOLLAND PARK AVENUE, W11



CAMPDEN HILL GARDENS, W11



BLOCK MANAGEMENT

We manage blocks at all of these addresses and at many others in Kensington and Chelsea. Astberrys are experts in block management. We only operate in Kensington and Chelsea and we are never more than 15 minutes drive away from any block we manage.

We offer:

- Service charges and ground rent collection in accordance with the lease and relevant legislation
- Administration of the “major works” process
- Company secretarial services for any freehold company owning a block we manage
- In house legal advice on all aspects of Landlord & Tenant Law
- Insurance mediation services
- In house maintenance for electrical, plumbing and most other work
- Insurance valuation and risk assessment

If you are a freeholder and you are looking for block management services please telephone on 0207 370 0123 or email us at management@astberrys.co.uk

- *The waste pipes to boilers and water tanks often have to pass through the outside wall of the building but the appliances which are served by these pipes must be regularly serviced and kept in good condition. In the event of any leak, causing water ingress we will want to see the service history of the appliance.*

If you attend to all of these matters or ensure that your managing agent does then in the event of a water leak from your flat it is extremely unlikely that the same would be your fault, since you would have taken all reasonable steps to guard against causing damage. In such a case the service charge account would pay for any inspection fee and policy excess and a claim would be made on the building insurance for the cost of making good any damage to your flat, another flat or the common parts.

The same procedures will also apply to any other type of damage. If you have builders in your flat and the works damage another flat or the common parts then, on receipt of a complaint [name of managing agents/ freeholder] will investigate. If there is fault the £... inspection fee will have to be paid by you or your builders and the cost of any remedial work will not be borne by the service charge account or insurance.

We understand the law and practice of property management. To talk to us about block and individual flat management in Kensington and Chelsea please call us on 0207 370 0123 or email us at business@astberrys.co.uk.



Penywern Rd, SW5
To let at £825 pw / Under Offer

Large 2 bedroom flat with a separate study /dressing room. Vast drawing room. Private walled garden. The flat has been beautifully decorated by its fashion designer owner.

We always have excellent applicants in search of quality flats in SW5, SW7, W8 and W11. Please contact us on 0207 370 0123 if you would like to let your flat.

MARKET UPDATE

SALES

The market is extremely subdued. There is a very low volume of transactions. Right at the top end of the market properties sell and overseas demand for exceptional houses and flats remains. However, the almost universal reduction or abolition of cash bonuses in the City is bound to have an effect on the sales market [and indeed the rental market] outside the super prime areas. In particular we expect sales in the £1.5 to £3 million bracket to be affected. The start of the year has, therefore seen a consolidation of the trends which emerged in the last two quarters of 2011. **We think, that sales volumes will be no greater than in 2011 and that prices of all but the most expensive properties in Kensington and Chelsea are unlikely to rise this year.**

RENTS

The downward slide has started, as we predicted in the 2012 New Year edition of our Newsletter, click on www.astberrys.co.uk. A recent ARLA survey of letting agents in London showed that on average its members signed up 26 new tenancies in the last three months of 2011. This figure was over 15% down on the figure for the previous quarter of 2011.

A new wave of redundancies amongst financial staff in the City is imminent. This reduction may be the start of a trend for 2012 which will see a further reduction in the size of the workforce, perhaps by as much as 8%. If so, this will come on top of the 27,000 odd or 8.5% of the workforce already made redundant in 2011. **We expect most rents to remain static at best. Rents on some of the bigger flats will fall this year, indeed this has already started.**

Which type of property will be most affected by the fall in rental demand? The answer is two bedroom flats. There has always been an oversupply of such accommodation in Kensington and Chelsea relative to quality smaller units and larger houses. Traditionally the two bedroom flat has always been seen as a better rental investment. This view, often encouraged by mortgagees who are reluctant to lend on studios, is wrong. The yields on studios are significantly higher than those obtained on two bedroom flats. And as always in a downturn the smaller flats will be easier to let and suffer a smaller proportionate drop in rents. At Astberrys we have some of the best small flats in SW5, click on www.astberrys.co.uk to see our current selection. Come and talk to us about rental investment in small units in Kensington and Chelsea, phone 0207 370 0123 or email at business@astberrys.co.uk.



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