

Spring 2013

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. We carry out all building works, refurbishment and maintenance of flats and blocks, which we manage. 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. One of our directors is a barrister.**

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

### **CHANGES TO THE LAW RELATING TO MAJOR WORKS AND SERVICE CHARGES. EXTRA WORK FOR ALL**

**If the freeholder of a building wishes to spend the lessees' money, collected by way of service charges, on major works, such as exterior redecoration or installing a new roof, then he must go through a lengthy statutory procedure.** For a full description of the process go to [www.astberrys.co.uk](http://www.astberrys.co.uk) and click on the newsletter for January/February/March 2011.

A short summary appears below,

- The amount a freeholder can spend without triggering the statutory procedure is £250 multiplied by the number of flats in the building. So if there are 10 flats in a building the amount is £2,500 inclusive of VAT.
- If the freeholder wants to spend more than £2,500 on our example, then he must serve two sets of notices, obtain quotes and consult with the lessees before carrying out the works. This process usually takes around 3 months.
- If the freeholder spends more than £2,500 on our example without following the procedure he can only recover £250 per flat by way of contribution to the cost of the major works. He risks being seriously out of pocket. A wise freeholder and good managing agents should always be careful to adhere to the statutory procedures before engaging a contractor to carry out major works.

**Of course, provided expenditure is below the major works limit, this statutory procedure does not have to be followed.** On our example the freeholder can spend £2,500 of service charge money on the building without consulting with any of the lessees. Of course, the work carried out must be properly executed, but this is a separate point. For a full discussion of service charges generally go to [www.astberrys.co.uk](http://www.astberrys.co.uk) and click on the newsletter for New Year 2012.

**At the end of 2012 a new case was decided in the High Court called Phillips v Francis. It has completely turned upside down what everyone thought the law was up until then.** The case appears to decide the following;

- The £250 limit per flat applies to all works in any building service charge year
- The £250 limit is cumulative and does not relate to just one set of major works.

**The effect of this decision appears to be devastating and will involve freeholders and managing agents in vast amounts of extra work, which they are likely to seek to re coup from the lessees by way of increased service charges.**

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*CAMPDEN HILL GARDENS, W8*



*COURTFIELD GARDENS, SW5*



*EARLS COURT SQUARE, SW5*



*HOLLAND PARK AVENUE, W11*



*LEXHAM GARDENS, W8*



*NEVERN SQUARE, SW5*



## **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 [business@astberrys.co.uk](mailto:business@astberrys.co.uk)**

Before this case was decided a freeholder or his managing agents might have to go through the statutory major works process every few years - re-decoration, new roof, fire alarms, new lift etc. Normal expenditure on the building – repair a banister, fix a lock, replace a broken tile etc never triggered the process.

Now, if the cumulative limit is £250 per flat, it would be wise to follow the major works process on the first occasion that any work, however minor, needed to be carried out. The only exception might arise in cases, where no money had been spent on repairs and it was the day before the end of the service charge financial year. This is not likely to be a common occurrence!

The decision also raises the prospect of frequent applications to the Leasehold Valuation Tribunal, which acts like a court for service charge matters, for exemptions from the statutory procedures in the case of emergencies. How do you deal with a burst pipe or leaking roof if you have to serve two sets of notices, obtain quotes and consult with the lessees? The major works consultation process lasts months, by which time the building will be under water!

**It remains to be seen how the LVT and other courts apply this opaque decision. For the moment freeholders and managing agents should beware.**

**To talk to us about block management contact us on [business@astberrys.co.uk](mailto:business@astberrys.co.uk) or telephone 0207 370 0123.**

## EXAMPLES OF RECENT SALES



### *Onslow Square, SW7*

Unmodernised 2 bedroom flat on the second floor of a modern block. No garden view.

Sold by Astberrys at £1,600,000 within 4 weeks.

£1,600 per ft<sup>2</sup>



### *Penywern Rd, SW5*

1 bedroom basement flat in need of total refurbishment.

Sold by Astberrys at £385,000 within 7 days

£715 per ft<sup>2</sup>

**The skill is in the valuation and marketing. To talk to us about valuing and selling your property please email us at [business@astberrys.co.uk](mailto:business@astberrys.co.uk) or telephone 0207 370 0123.**

## SALES COMMISSION AND THE CHANGING TIMES

**Have you ever wondered why it is that estate agents charge a percentage of the sale price by way of a fee for selling your home? No other professional service is charged in this way.** The only real justification is that the high fee compensates the agent for the potential loss of time and advertising expenses in those cases where the agent tries, but does not succeed in selling.

Nevertheless, although **2.5% or even 3% of the sale price of a property in Kensington and Chelsea appears a relatively modest fraction, the amount the vendor now pays his agent is often ludicrously high for the service received.** Most two bedroom flats of around 900 ft<sup>2</sup> in SW5 or W8 will now sell for at least £1M. Do you think it fair remuneration that an agent may receive between £25,000 and £30,000 commission in a single transaction? That is above the average yearly gross salary earned in the UK. By comparison, think of how little your solicitor is paid on the sale transaction.

**The idea of being paid by percentage is justified, but the sums of money envisaged were very much smaller when this practice was first adopted.** The flat now worth £1M would have been worth about £500,000 10 years earlier. 20 years ago it would have been worth not even half that figure. In the early 1990s an estate agent might expect to make around £5,000 on the sale of a reasonable two bedroom flat in SW5 or W8. Even allowing for inflation over the last 20 years, the phenomenal growth in house prices has meant that vendors are now paying more of the proceeds of sale of their property to their agents and for no extra service.

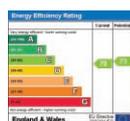
Indeed, **if anything it has become far easier and less labour intensive for agents to sell a property.** There is still the need to show the property but **most marketing is virtual** and an agent need not step out of the front door of his office without knowing that he has a serious potential purchaser at any booked viewing.

What is needed to sell a property is correct presentation, a realistic asking price and access to the greatest number of potential purchasers, both national and international. These days this marketing is all internet based. By **advertising on Zoopla, Rightmove and Prime Location**, as well as on the smaller sites, any property is likely to reach the widest possible section of the buying public. **Access to all these property portals means that the large chains are not offering greater exposure of your property to the buying public, than the smaller local or boutique agencies.** On the other hand, the service that you will receive from a local agent is likely to be superior.

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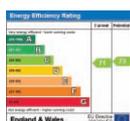
## CURRENT PROPERTIES TO LET IN SW5

### *Hogarth Road*



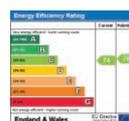
**1 bedroom flat**  
**23 m<sup>2</sup>**  
**£295 per week**

### *Earls Court Square*



**2 bedroom flat**  
**50 m<sup>2</sup>**  
**£460 per week**

### *Penywern Road*



**3 bedroom garden flat**  
**125 m<sup>2</sup>**  
**£825 per week**

**To talk to us about letting your property please telephone us on 0207 370 0123  
or email us at [business@astberrys.co.uk](mailto:business@astberrys.co.uk)**

As far as commission is concerned it has always been possible to negotiate a lower sales commission rate from the 2.5 to 3% bracket. However, at Astberrys we offer before you ask.

Our commission is banded and calculated as a percentage of the selling price as follows:-

**Up to £500,000 - 1.5% commission plus VAT**

**Between £500,000 and £1 M - 1% commission plus VAT**

**Over £1 M - 0.75% commission plus VAT**

What we do to earn this commission;

- We value your property by reference to the very best recent comparables and current rental yields, if appropriate, which we show you. We do not believe in “market feel”. We give you facts.
- We do not subscribe to the “greater fool theory” of house price marketing. We provide realistic valuations. Naturally, all vendors expect to sell at as high a price as possible. However, it is a bad move to market a property at an unrealistic price only to have to reduce the price 6 weeks later. A far better tactic is to market the property realistically and encourage multiple bids. Once a property is “under offer” higher “offers” invariably come in.
- We are able to help you manage the complexities which may be associated with multiple bids, such as sealed bidding or exclusivity contracts. One of our directors is a barrister and we also have a panel of recommend conveyancing solicitors should you not want to use your own.
- We give you access to every major property portal advertising sales in Kensington and Chelsea [we do not operate outside the Borough]. The big chains of agents offer no more.
- We give you access to most other London agents through the main agent only subscription site. We can sub instruct and split commission as we wish. You do not pay any more but at a time of scarcity most property will be of interest to at least one other agent, who may have a potential client. The big chains of agents use the site too, although you may not know this.

**To talk to us about valuing and selling your property contact Astberrys at [business@astberrys.co.uk](mailto:business@astberrys.co.uk) or telephone 0207 370 0123.**



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