

October/November
2009

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. For flats and blocks managed by us we carry out building works, refurbishment and maintenance. We offer in-house legal advice on all aspects of the letting business and property law.

We are members of the Association of Residential Letting Agents (ARLA) and we are authorised 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. 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.



Earls Court Square, SW5 - 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 CASE OF THE LEAKING WASHING MACHINE.

I have been flooded by the neighbours upstairs. What can I do?

These very simple and all too common facts lead to misery and annoyance to all occupiers of flats at least once during their residence in any building. The legal position is surprisingly complex.

It is logical to think if you have been flooded, even if it was an accident, that your neighbours upstairs must pay. It may well be that this should be the law and if you think so you can write to your MP! Sadly the true legal position is far more difficult.

In order to recover damages for the flood caused by your neighbours you will need to demonstrate some fault on their part. Have they done something obviously wrong? An example might be their failure to mend the faulty pipe to an appliance which had caused a leak in the recent past. If you are flooded in month one and they do nothing to rectify the fault they are likely to be liable for damages if the same pipe causes a flood in month two. On the other hand, your neighbours are not responsible for a flood caused by a faulty washing machine or dishwasher, loose connection, broken or blocked pipe unless they knew about any of these problems and chose to do nothing; generally it would be difficult to prove such knowledge. In between these examples there is a vast grey area. What if your neighbours left the bath running so that it overflowed and flooded you? What if they mended a broken pipe themselves instead of using a qualified plumber and it broke for a second time? In each case the law requires you to prove some act of negligence or establish some negligent omission on the part of your neighbour. This is rarely easy.

What about the lease; does it help? Many leases contain a covenant requiring each flat owner in any building to keep internal appliances, such as washing machines and boilers in a good state of repair. It is tempting to think that if there is a leak this means that your neighbours will be in breach of the terms of their lease. In reality they are unlikely to be. It would be sufficient if they could show some form of service contract or maintenance schedule. Of course if you could demonstrate that they were or must have been aware of a problem and did nothing then the position might be different. However it is only the freeholder of the building not you as another flat owner who has the right to enforce this type of covenant in the lease. Even if you can persuade your freeholder to act he is likely to want you to agree to pay all the legal costs, win or lose.

Am I insured? Generally the building insurance for the block will cover the costs of repair when one flat floods another. Your own individual policy of insurance, if you have one, will usually cover the cost of cleaning or replacing soft furnishings or clothes. However what happens about the excess? In many policies, especially in respect of buildings with a bad claims history, insurance companies demand a

continues over



Kenway Rd, SW5

Let At £600 pw

Charming bijou cottage of approx. 85 m², set over 3 floors, 3 bedrooms, study, reception, fully fitted kitchen, dining room, 2 bathrooms, patio. Earls Court underground 2 minutes.

substantial excess in respect of claims for water damage. It is not unusual to see these set at levels of £500 or £1,000, sometimes more. Often the cost of repairing the damage following a minor water leak is not much more than the excess. Who then bears the costs? In practice most freeholders and managing agents use the service charge account to meet the excess.

However, although this is a sensible solution it may be bad practice. Many leases require the freeholder to insure the building for the full reinstatement value; there is an argument that in such cases any excess on a block policy in respect of water damage may be in breach of this requirement and therefore the freeholder should not allow an insurer to impose any excess. He should instead insist on a policy of insurance without any excess. Of course this may mean changing companies and/or paying a much higher premium. Ultimately such a move might not be to the benefit of each of the individual flat owners because the freeholder will pass on the increased insurance premium to them via the service charges demands.

Damage caused by water ingress from another person's flat is just one of the many complex areas which arise in the management of buildings. Not all agents are aware of the legislative and regulatory framework in which building management must operate. At Astberrys, however we are well placed to administer and manage any block in Kensington and Chelsea. We have our own in-house legal services and maintenance team. We have excellent contacts with surveyors and insurance brokers and are authorised by the FSA to conduct insurance mediation business.

Please go to www.astberrys.co.uk and click on management

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Our specialist property law team deals with
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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

Recent surveys of the Royal Institution of Chartered Surveyors suggest that now **optimism outweighs pessimism in the housing market for the first time in years, especially in London** where the balance had risen amongst members from -71% in August 2008 to +43% this August. Overall house prices rose for a fifth month in a row this September and are now back to where they were in September 2008 according to figures supplied by the Nationwide. In prime central London prices are reported by some agents to have risen 1.3% in September 2009 and as much as 9% since March 2009. According to Rightmove asking prices [not the price paid on exchange] in Kensington and Chelsea have now risen 12% month on month to October 2009. Many agents are also reporting greater interest in top end properties, in anticipation of city bonuses.

However some main stream financial commentators express the view that these recent gains are temporary and that they will be reversed. Indeed the housing recession of the 1990s was characterised by a period of rises within the framework of a more extensive overall fall. The long term average house price to income ratio of around 4 suggests that prices may have to fall 30% from their high in the autumn of 2007. House prices are rising as a result of a new bubble caused by extremely low interest rates. Once borrowing costs and inflation [stoked by low interest rates and vast fiscal stimulus] start to rise the rally in the stock market will reverse and house prices will fall back. We take a similar view to these commentators. **We doubt that by the second half of 2010/start of 2011 there will be a booming housing market.** Should I buy now? We think that it may be more sensible to wait. The auction rooms are full and values are ahead of themselves both there and as suggested by some agents. However any realistically priced property, especially in the more sought-after squares of the Borough, is still likely to be a sound investment and so you should not be put off buying now provided you are not over paying and are taking a long term view.

Rents in the Borough are still about 12% below the equivalent quarter of 2008. However we are bullish on rents in the medium term. We see the amount of available housing stock decreasing over the coming months. Some sellers will dispose of their properties in the current upturn and others will have to dispose of their properties in the likely future downturn. Either way many current reluctant landlords, who have let at low rents unable to find a buyer, will disappear as their properties are sold and vanish from the letting market. This will firm up rents.

To some limited extent this trend has already started. The October figures released by the Association of Residential Letting Agents, ARLA [of which Astberrys are members] suggest that as many as one third of all agent members reported that there was now a proper balance of supply and demand for rental properties. Some agents and one well known property web portal report that the autumn market is especially busy at the top and bottom end of the markets. Rental values in prime central London are also reported to have risen overall by 1% in the third quarter of the year. We are finding that well presented flats of all sizes but especially those offered at around £450 per week are letting very well.

Whether you are buying or selling, renting or letting talk to Astberrys.



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