

Unhappy landings

Disputes over common parts make for bad neighbours. Our correspondent has some tips on keeping the peace

Lucy Denyer – The Times Online 28-10-2007

Several months ago, my normally peaceful living arrangements were shattered by trauma. The cause of the stress? My bicycle.

Like many Londoners, I live in a shared building, with one flat on the top floor and another on the ground floor, and a common entrance hallway. The hallway was where I had been storing my bike away from thieves and the elements.

Unfortunately, my downstairs neighbour took umbrage at the machine blocking the hallway, scratching the paintwork and getting in the way. A furious row ensued, which culminated in him threatening to throw my bike out into the street leaving me convinced I had as much right to store things in the hallway as he had to demand they weren't there.

I was wrong. My lease clearly states I am not permitted to obstruct the common parts of the property and if the common parts are damaged by whatever I bring in, be it a bicycle, furniture or pram, then I am the one who has to pay for repairs.

It is a problem shared by millions of flat-dwellers, whether theirs is in a block of 3 or 30. So, where do you put the bicycle to ensure your building is kept neat and tidy and avoid antagonising your neighbours for life?

“The first thing you need to do is get hold of a copy of the lease,” advises Peter Hayler, chief executive of the Leasehold Advisory Service. “Go through it with your solicitor and work out what your liabilities are, and what it allows and doesn't allow you to do.” Unfortunately, he adds, buyers often don't get to see the lease until a late stage but you can demand it at the first stage, or, failing that, download it from the Land Registry.

Remember, says Hayler, when you're buying a leasehold property, you're buying into an existing contract and what is already in the lease counts. “You need to go into it with your eyes open,” warns Nicolas Shulman, a solicitor and founder of News on the Block magazine, which provides news and information for people living in blocks of flats in London.

“Find out who owns the freehold, what service charges there are and what they cover, whether there is a reserve or sinking fund and, if so, how much is in it. Ask for copies of the previous three years' service charges and whether there are programmes of works planned for the future. This is where a sinking fund comes in. I know someone who moved into a block and six months later had to pay in about £20,000 top-up for works.”

Once you've established the official line, use your eyes and knock on doors. "Look at how well the building is managed," advises Richard Bagwell, a partner at Foot Anstey solicitors. "You can either ask the selling tenant or, if you're renting, the letting agent ought to be able to give you an idea.

Inspect at different times of day and see if people store items in the hallway. Look outside the building and see how the grounds are kept it will give you an indication of how well the building is looked after. There's a world of difference between blocks that are actively managed and those without any form of input at all."

So, what if the common parts of your block are just plain scruffy? Well, if the freeholder's not doing his job properly, the system is at least becoming more transparent. As of the beginning of this month, leaseholders in England and Wales must be provided with specific details of their rights and obligations with any demand for payment of a service or administration charge.

If problems persist, consider galvanising your fellow neighbours and taking over the management of the building. You can do this without buying the freehold, as long as the building is at least two-thirds leasehold and 50% of the occupants agree to band together and create a Right to Manage company, of which the lessees are members and directors. This would give you control of service charges and expenditure on repair and maintenance of the block. You could also go to the Leasehold Valuation Tribunal, make a case against the manager and ask them to appoint someone else though this requires you to provide sufficient evidence they are not up to the job.

As for storage, if you want to keep a buggy or a bike in a shared hallway, approach the issue with caution. Find out what your neighbours think; if there is mutual consent, you might be able to get away with it. Bear in mind that you should not block fire exits, so a shared hallway must be big enough.

Meanwhile, if you're a tenant who keeps banging their shins on someone else's bicycle, don't rush in with all guns blazing. Spencer Cushing, 36, who lives in a mansion block in Battersea, raised the issue with his neighbours after his small children kept catching their legs on machines chained to the stairwell. "I just asked them," he says. "I thought it was better than putting a note through the door." And, he adds, people rarely refuse you when you make a face-to-face request.

Of course, you might want to enhance the look of the common parts of your property with a side table or a plant or two but even this can be fraught with complications. Justine Williams, a former Foxtons manager, remembers one block consisting of four flats she used to manage in Mayfair. Two were owned by businesses, but the couple in the top-floor flat lived in the south of France for half the year, while the woman on the ground floor lived in South Africa for the other six months. Both liked furniture in the common parts but had entirely different tastes. For six months of the year, says Williams, the entrance hall would be chintzy Mayfair traditional, while for the other half, it would be zebra-skin rugs and trendy accessories. When the two tenants overlapped, there would be

fireworks. “I would be caught between the two but I knew I only had to wait a week for one of them to go,” she laughs.

The bottom line, as Shulman points out, is that common parts are there to be shared. So, if you want to buy into a block of flats, you might want to be wise to his words: “If you live in a house, your home is a castle, but it’s not if you live in a flat.”