



PRIVATE RENTED HOUSING PANEL

RENT (SCOTLAND) ACT 1984

Notification Of Decision By The Private Rented Housing Committee

REFERENCE NO:	OBJECTION RECEIVED	OBJECTION
RAC/G20/671	7 January 2009	Landlord

ADDRESS OF PREMISES

0/2, 142 Fergus Drive, Glasgow, G20 6AT

TENANT

Miss M Bacchus

NAME AND ADDRESS OF LANDLORD

John Hamilton Graham

AGENT

Ross & Liddell
60 St Enoch Square
Glasgow
G1 4AW

DESCRIPTION OF PREMISES

Ground floor traditional tenement flat C.1900 with double glazing, comprising Living room, 2 double bedrooms, dining kitchen and bathroom. Unimproved.

SERVICES PROVIDED

None

COMMITTEE MEMBERS

CHAIRMAN
SURVEYOR
HOUSING PANEL MEMBER

A Devanny LLB NP
I Mowatt FRICS
L Nicholson

FAIR RENT	DATE OF DECISION	EFFECTIVE DATE
£ 5,220.00 p.a.	26 March 2009	26 March 2009

A Devanny

Chairman of Private Rented Housing Committee

26th March 2009

Date



PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

In connection with

Inspection held on Thursday 26 March 2009

of the Properties

(ONE) Flat 0/2, 142 Fergus Drive, Glasgow G20 6AT
(hereinafter referred to as "the first flat")

(SECOND) Flat 2/1, 142 Fergus Drive, Glasgow G20 6AT
(hereinafter referred to as "the second flat")

(THIRD) Flat 0/1, 8 Dixon Road, Glasgow G42 8AY
(hereinafter referred to as "the third flat")

INTRODUCTION

References have been made to the Private Rented Housing Committee for the determination of a fair rent for the first, second and third flats under the Rent (Scotland) Act 1984 ("the 1984 Act").

The Landlords of the first flat is John Hamilton Graham, whose agents are Ross and Liddell Ltd., 60 St. Enoch Square, Glasgow G1 4AW. The Tenant of the flat is Ms. M Bacchus. The annual rent for the first flat was last registered on 1 November 2005 at the figure of £2900. On 13 October 2008, the Landlord applied to have the annual rent increased to £6000. The Rent Officer determined the annual rent for the first flat at the figure of £3600 with effect from 8 December 2008.

The Landlord of the second flat is John Hamilton Graham, whose agents are Ross and

Liddell Ltd., 60 St. Enoch Square, Glasgow G1 4AW. The Tenant of the flat is Mrs. Elizabeth McCallum. The annual rent for the second flat was last registered on 1 November 2005 at the figure of £ 2900. On 13 October 2008, the Landlord applied to have the annual rent increased to £6000. The Rent Officer determined the annual rent for the second flat at the figure of £3600 with effect from 8 December 2008.

The Landlords of the third flat are Vanouarra Assets Co. Ltd., whose agents are Ross and Liddell Ltd., 60 St. Enoch Square, Glasgow G1 4AW. The Tenant of the flat is Miss. Mary Rodgers. The annual rent for the third flat was last registered on 15 November 2005 at the figure of £2600. On 13 October 2008, the Landlords applied to have the annual rent increased to £3900. The Rent Officer determined the annual rent for the third flat at the figure of £3120 with effect from 17 December 2008.

The references to the Private Rented Housing Committee have been submitted in each case by the Landlord.

INSPECTION

The Committee inspected the three flats on 26 March 2009. At each inspection the Tenant was present. At the inspection of the first flat the Tenant's nephew, Mr. Peter Mathis, also attended. At the inspection of the second flat the Tenant's son, Mr. Gordon McCallum, also attended. No Representative of the Landlords attended the inspections.

(The first flat) The flat is located on the ground floor of a four storey traditional red sandstone tenement which was constructed circa 1900. The tenement has a tiled roof. There is a secure entry door to a communal close and the close and stairs were in reasonable decorative order and litter free at the time of inspection. At the front entrance door to the close some cracking of the concrete floor was noted and the floor is slightly raised at this section. The Tenant advised that she had intimated this common repair to the Landlord. The front garden is used exclusively by the occupier of the first flat and the Tenant has cultivated this area and maintains the garden. The large communal rear backcourt and drying green is accessed by a secure external door leading off the common close. The rear communal backcourt and drying green at the time of inspection were tidy and tastefully laid out to grass and shrubs which were well tended. There is a communal bin store located at the rear of the backcourt. The Tenant was unclear as to who tends the backcourt.

The first flat lies to the right hand side of the ground floor close. Double storm doors lead to a vestibule and then into the hallway which has two cupboards off. The larger of the cupboards contains the electrical fuse box. The flat has been rewired although the age of the fuse box would suggest that this was undertaken about 20/30 years ago. Off the hallway is a living room with bay window and a large walk in cupboard, two double bedrooms, dining kitchen with recess and narrow bathroom with modern white 3 piece suite but no shower. The Landlord has provided a free standing stainless steel sink unit in the kitchen but no wall or base units. There are no white goods, carpets, floor coverings, furniture or services provided by the Landlord. The Tenant has carried out improvements to the flat which were disregarded for the purposes of the inspection. The flat has new PVC double glazed windows provided by the

Landlord. The gas fires in the living room and in the kitchen belong to the Tenant and the Tenant provides other electrical heaters including an electrical light/heater in the bathroom. The flat has no space heating provided by the Landlord and water is heated by an immerser heater. The Tenant complained of a lack of electrical sockets in the kitchen which was borne out by her use of a multi-socket lead. The Tenant complained of cracks in the plasterwork on some ceilings but such cracking was considered by the Committee to be consistent with the age of the property. The Tenant pointed to some exposed pipework in the kitchen and although this could have been better concealed, the pipework did not detract substantially from the property.

The flat is situated in a desirable residential street near shops, and transport links. It is within walking distance of Great Western Road, the Botanic Gardens, Glasgow University, Byres Road and the Western Infirmary. Parking is on street with available spaces just outside the flat at the time of inspection.

(The second flat) The flat is located on the second floor of the same tenement block as the first flat and the comments relating to the common close, stairs and communal back court, and location apply as for the first flat.

The flat lies on the left hand side of the second floor close. The accommodation, size and layout in this flat is similar to the first flat. Double storm doors lead to a vestibule and then into the hallway with two cupboards off. The electrical fuse box is housed in one of these hall cupboards and inspection shows that there is a label on the fuse box which indicates that it was inspected in 1990. The rewiring of the flat appears to date from about that time. There is a large bay windowed living room with walk-in cupboard. The Tenant has provided a gas fire in the living room and complained of some cracks on the ceiling in this room in the vicinity of the bay window. The Committee are satisfied that the plaster cracks are consistent with the age of the property. The flat has the original timber sash and case windows and attempts have been made to eliminate draughts by installing draught-excluders. The Tenant advised that the windows remained draughty and this involved her in additional heating costs to compensate for the defective windows. She indicated that part of the exterior timber window frames were rotten and had been painted over. However, the Committee could see no clear evidence of this at the inspection. There is a large kitchen with a recess area and the Committee were advised that the original kitchen provided by the Landlord was basic with a sink unit, limited electrical sockets and no cupboards. The Tenant has installed kitchen units, a sink unit and has also undertaken electrical works to add sockets. The cooker is provided by the Tenant. There is a narrow bathroom with a 3 piece bathroom suite and an electrical heater provided by the Tenant. The Landlord provides no furniture, white goods, carpets, floor coverings, appliances or services. Space heating and hot water are provided by a combi-boiler. The Tenant complained that this boiler had broken down twice in the past year leaving her on one occasion without water for one month. The gas central heating system was installed under a government grant scheme and is maintained by the Landlord. The Committee disregarded the Tenant's improvements for the purposes of this inspection.

(The third flat) The flat is located on the ground floor of a traditional red sandstone tenement which was constructed circa 1900. There are commercial premises on the ground floor adjacent to the flat. The tenement has a tiled roof. There is a secure entry door to the communal close which was in reasonable repair and litter free at the

time of inspection. The communal rear back court is partly slabbed and partly laid out to grass and was reasonably neat at the time of the inspection.

The dark hall has two cupboards, one of which houses the electrical fuse box and gas meter. The flat has been rewired although from the age of the fuse box, this may be around 20 years ago. The accommodation comprises a living room which looks onto the street with a shallow press cupboard and a recess area, a large double bedroom which looks onto the street, a living kitchen with a recess area and an awkwardly shaped shower room with toilet and wash hand basin. The flat has the original sash and case timber windows which have draught excluders. The outside window frames and sills are in need of painting. The kitchen is very basic and the Tenant has installed a sink unit. High moisture readings registered on one of the kitchen walls. Investigations revealed that this was an outside wall although the cause of the dampness is not clear. The Tenant has provided the cooker which is housed in a cupboard. The combi-boiler is located in the kitchen and has exposed pipes running up to it from the floor. The Tenant complained that there was a slight leak from the boiler and an electrical socket is located on the wall below the boiler. The bathroom is very small and an awkward shape. The bath has been removed by the Tenant to allow a wet shower area. Space heating and hot water is provided by a gas central heating system which was installed under a government grant scheme and is maintained by the Landlords. The Landlords provide no furniture, white goods, carpets, floor coverings, appliances or services.

The flat is situated in a reasonably central location close to a busy street and is near shops, and transport links. Parking is 0 on street and there were limited available spaces in close proximity to the flat at the time of inspection.

HEARING AND REPRESENTATIONS

The Landlords' agents and the representatives of the Tenants' of the first and second flats intimated in writing that they wished to attend the hearing before the Committee. However, before the inspections the Landlord's agents telephoned the offices of the Private Rented Housing Panel and indicated that their Director would be unable to attend the hearing. The hearing took place at the offices of Private Rented Housing Panel at West Campbell Street, Glasgow following the inspections. Present at the hearing were the nephew of the Tenant of the first flat, Mr. Peter Mathis, and the Tenant of the second flat and her son, Mr. Gordon McCallum.

At the hearing the first and second flats were considered:

The appeal from the Landlords in each of the three cases under consideration is based on the suggestion that a higher rent be registered more in keeping with current market rents. It was noted according to the Landlord's written representations that the annual rent being sought for each of the first and second flats by the Landlord was £8340 which equates to £695 per month. It was noted that this was considerably more than the sum of £6000 per annum sought by the Landlord in the application for registration of rent submitted by the Landlord's agents on 13 October 2008. In written representations the Landlord's agents used a comparable of a three double bed roomed flat in Fergus Drive which has a new kitchen and gas central heating which achieves a

rent of £800 per month. The Landlord's agents submitted comparables of properties in Hyndland which are advertised for rent in the range of £595 to £795 per month. The Landlord's agents argued in their written representations that the rental of £300 per month assessed by the Rent Officer is grossly inadequate.

The Tenant of the first flat in her written representations emphasised the large increase in the rent; that no improvement works of any nature had been undertaken by the Landlord; the large number of properties for sale/let in the area; and the expenditure required to bring the first flat up to a marketable standard which would command the rental levels being achieved elsewhere. She concluded that the Rent Officer's assessment of a fair rent should be followed.

The Tenant of the second flat in her written representations compared the fair rent increase as determined by the Rent Officer with the annual rate of inflation; she pointed out that house prices were falling and properties were taking longer to sell; she highlighted that no improvements had been made by the Landlord over the period of the current rental; she specified repairs required to the flat and concluded that the Rent Officer's determination had been more than generous to the Landlord.

In addition Mr. Mathis and Mr. McCallum made the following observations at the hearing:

They highlighted the large percentage increase in rent being sought for both properties well in excess of the rate of inflation. They indicated their surprise at the comparables used by the Landlord's agents as the three double bedroomed flat in Fergus Drive had been rented by four students and following upon termination of this let, the flat had been on the market for rent at £795 per month and for sale since April 2008 and it remained vacant. They stated that the flats used for comparables in Hyndland were in a better location to Fergus Drive and were furnished and modernised and had in some cases a Jacuzzi and were not comparable to the flats under consideration which were unmodernised and unfurnished. Mr. Mathis indicated that tens of thousands of pounds would need to be spent to bring the flats under consideration up to the level of the Hyndland properties. He emphasised the unimproved nature of his aunt's flat and that a new kitchen would be required if the property was marketed. Mr. McCallum stated that the 3 double bedroomed flat in Fergus Drive referred to as a comparable had dropped in price and that an offer of £185,000 had been rejected by the Landlord. He pointed out the improvements made by his mother and the additional heating costs incurred by her due to the inefficient central heating system and the draughts in the flat. He emphasised the completely unimproved nature of his mother's flat. He had evidence which he produced of a modern apartment in Oban Drive with 2 double bedrooms and en-suite shower room and modern bathroom which was furnished and modernised with double glazing and central heating on offer for rent at £595 per month. He also referred as a comparable to a second floor furnished tenement flat for rent in Garrioch Road with 2 double bedrooms, modern fitted kitchen, electric powered heating at a rental sum of £495 per month. Both Mr. Mathis and Mr. McCallum indicated that they agreed with the Rent Officer's assessed rental of £3600 per annum for each flat.

On the issue of scarcity, Mr. Mathis and Mr. McCallum agreed that there is a plentiful supply of properties being advertised for rent in the Glasgow area.

DECISION

The Committee considered most carefully the written documentation before it, viz.: -

1. RRI Applications for the first, second and third flats, all dated 15 September 2008.
2. Landlords' letters of appeal dated 19 December 2008 and 20 January 2009.
3. Notification of fair rent appeal from Rent Registration Service for the first, second and third flats dated 5 and 22 January 2009.
4. Rent Register Pages.
5. Landlords' representations for the first, second and third flats, dated 23 January and 17 February 2009 with Hyndland flat comparables referred to.
6. Tenants' representations, comprising forms from Ms. Bacchus dated 22 January 2009, and from Mrs. McCallum dated 25 January 2009, and from Ms. Rodger dated 4 February 2009. The Tenant of the third flat stated in her letter that she did not wish to send written representations.
7. List of registered rent decisions compiled by the Clerk to the Committee relating to:
 - RAC/G42/653 2/1, 272 Allison Street, Glasgow G42 2HD
 - G043217 2/1, 16 Annette Street, Glasgow G 42 8YA
8. Letting Schedules for Oban Drive and Garrioch Road, both Glasgow referred to by Mr. McCallum at the hearing.

The Committee considered all the written evidence, submissions and representations together with the observations of Committee Members at the inspections. The Committee was mindful of the terms of Section 48 of the Rent (Scotland) Act 1984, which states

“The Committee shall have regard to all of the circumstances (other than personal circumstances) and in particular to apply their knowledge and experience of current rents of comparable property in the area, as well as having regard to the age, character and locality of the dwelling house in question and to its state of repair and, if any furniture is provided for use under the tenancy, and to the quantity, quality and condition of the furniture.” Paragraph (2) then provides that “For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwelling-houses in the locality... is not substantially greater than the number of such dwelling-houses in the locality which are available for letting”. This provision is sometimes known as “the scarcity deduction”. The Committee were also mindful of the observations of the Lord President in **Western Heritable Investment Co LTD v Hunter (2004)** which requires the Committee to proceed on the best available evidence and the use of the other evidence as a cross check where possible.

The Committee carefully considered whether there was evidence of scarcity in the rental market. Whilst travelling to the inspections the Committee were aware of a proliferation of “To Let” signs in the inspection areas. Inquiries with West End letting companies produced an extensive list of available properties for rent. Internet sources similarly produced numerous properties for rent in the areas where the flats under consideration were located. A report prepared by citylets.co.uk into the 'Trends in Scottish Residential Lettings' for Winter 2008 states " Stocks of rental property in

Scotland continued to climb throughout the last quarter of 2008 as more new supply from 'reluctant landlords' came onto the market. Properties took longer to let than in Q4 of last year (2007), rental growth is slowing and the year ahead looks to be very different to 2008" "While greater choice of rental accommodation is good news for tenants established landlords face the prospect of longer voids as properties take longer to let and, with increased competition for tenants, the capacity for rental growth looks limited"... "It looks as if the upward trend in Glasgow may have come to an end with a fall in average rents to £567" ...In Q4 2008, "the average time to let rose to 37 days (2 days longer than in Q4'07). Much of the rise can be attributed to one bedroom flats, where TTL's lengthened significantly". This evidence reinforces the Committee's view that the rapidly changing trends in residential lettings reflect the turmoil in financial markets and the economic slowdown. Rental stocks are rising as more owners unable to sell are entering the letting market and demand, although remaining relatively healthy by expectations of further house price declines and limited accessibility to mortgage finance, is dampening due to unemployment levels. Taking into account the plentiful supply of one and two bedroom flats and the average time to let in the area, the Committee concluded that at present there should be no scarcity deduction in the Glasgow area.

The Committee went on to consider which of the alternative methods of ascertaining a fair rent was the most appropriate in this case. The three accepted methods are:

- (a) determining a fair rent by having regard to registered rents of comparable houses in the area;
- (b) taking market rents and then discounting for any scarcity element and making any appropriate disregards as required by Section 48(3) of the said Act;
- (c) calculating the appropriate return based on capital value of the property, taking into account the element of scarcity.

None of these methods is regarded as the primary method.

(The first flat) There was no evidence produced by the parties regarding capital values and there was no evidence of registered rent decisions for comparable houses in the area. Given the lack of available evidence, the Committee decided that it was not appropriate to proceed on the basis of capital values or comparable registered rents. There was evidence of available rented accommodation in the vicinity of the first flat. The Committee accepted that the best evidence available was the evidence of market rents of similar flats within the area. The Committee considered the comparables given by the Landlord's agents and Tenants' representatives of rents sought in the area for flats with similar accommodation. The Committee's investigations revealed that on average improved furnished two-double bed roomed tenement flats in the vicinity of Fergus Drive with double glazing and gas central heating are being advertised for rent at £550 per month. From this figure the Committee made deductions of £40 to reflect the unfurnished nature of the first flat, £25 for the absence of white goods, floor coverings and carpets in the flat, £30 for the absence of central heating and disrepairs, and a deduction of £20 for the unimproved nature of the first flat and the kitchen. The Committee after disregards for Tenant's improvements and deductions as aforesaid concluded that the market rent for the first

flat should be £435 per month. The Committee cross checked this rental figure with the comparable rent being sought at Garrioch Road referred to of £495 per month. This flat is not in as desirable an area as Fergus Drive, has the detraction of electric powered heating, and does not appear to have a dining kitchen or double glazing. After adjustment for these differences, the monthly rental for the flat at Garrioch Road is comparable with the assessment of a figure of £550 for the first flat if it was furnished, free of required repairs, modernised with gas central heating, white goods and double glazing. The Committee considered the comparables given by the Landlord's agents. Reference was made to comparables with flats in the Hyndland area. The rents attained for flats in Hyndland as opposed to Fergus Drive are likely to be higher because of the desirability of the Hyndland area. There were even so two flats referred to as comparables for Airlie Street and Dudley Drive in Hyndland at £595 and £600 per month. Both of these flats were furnished, modernised with gas central heating, modern kitchens with white goods and in one case the flat had a master en-suite. The rents for these flats in Hyndland after allowance for the difference in areas is consistent with a rent of £550 per month for a similar type flat in Fergus Drive. The Committee were not persuaded to use the 3 bedroomed modernised flat at Fergus Drive referred to by the Landlord as a comparable given the comments of the Tenants' representatives that the flat had historically been let to 4 students and since it was vacated it had been empty and it had been marketed for rent at £795 per month and for sale without success. For the reasons already outlined, the Committee considered that no deduction should be made from the rent for scarcity as there was no market imbalance.

The Committee, after considering all the available evidence and making the necessary deductions, decided that the fair rent for the first flat would be £435 per month, which equates to £5220 per annum.

(The second flat) The Committee then went on to consider a fair rent for the second flat. This flat is very similar in accommodation, size and character to the first flat. However, this flat has gas central heating as opposed to the double glazing provided for the first flat. The Committee compared the first and the second flats and made adjustments for repairs required in the two flats, Tenant's improvements and an allowance for gas central heating in one flat and double glazing in the other flat.

The Committee decided, after considering all the evidence and making the necessary deductions, that a fair rent for the second flat would be £435 per month, which equates to £5220 per annum.

(The third flat) The Committee then went on to consider a fair rent for the third flat. There was no evidence produced of capital values. Committee investigations into market rents revealed that the monthly market rent of improved furnished flats in the locale with comparable accommodation to the third flat are £375. After adjustment of £35 for the unfurnished nature of the third flat, £20 for the unimproved nature and lack of double glazing in the third flat, £20 for the lack of white goods, carpets and floor coverings and £10 for repairs needed to the third flat including dampness, the Committee arrived at a monthly rental figure for the third flat of £290. The

Committee considered the registered rent for the flat at 2/1, 272 Allison Street before adjustment for scarcity as a cross check on their assessment of rent for the third flat. The Committee considered for the reasons already outlined that there should be no deduction from the rent for scarcity.

The Committee, after considering all the available evidence and making the necessary deductions, decided that the fair rent for the third flat is £290 per month, which equates to £3480 per annum.

In reaching this decision, the Committee has had regard to all the requirements of Section 48 of the 1984 Act.

The decision takes effect from the Twenty Sixth day of March, Two Thousand and Nine.

A Devanny

Chairperson,
26th March 2009

A handwritten signature consisting of a single, fluid, diagonal stroke.