



**PRIVATE RENTED HOUSING PANEL**

**RENT (SCOTLAND) ACT 1984**

**Notification Of Decision By The Private Rented Housing Committee**

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<b>REFERENCE NO:</b>	<b>OBJECTION RECEIVED</b>	<b>OBJECTION</b>
RAC/KA5/611	28 November 2007	Landlord

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**ADDRESS OF PREMISES**

34 Kilmarnock Road, Mauchline, KA5 5DE

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**TENANT**

Mrs M Graham

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**NAME AND ADDRESS OF LANDLORD**

Buchanan Heritable Ltd  
187a Stonelaw Road  
Glasgow  
G73 3PD

**AGENT**

Hacking & Paterson  
1 Newton Terrace  
Glasgow  
G3 7PL

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**DESCRIPTION OF PREMISES**

Lower villa house circa 1950 with gas central heating, double glazing and gardens to front and rear comprising living room, two bedrooms, kitchen and bathroom.

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**SERVICES PROVIDED**

None

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**COMMITTEE MEMBERS**

**CHAIRMAN**  
**PROFFFESSIONAL MEMBER**  
**LAYMEMBER**

Mrs J Taylor LLB Dip LP NP  
Mr G Campbell FRICS  
Mr J Riach

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<b>FAIR RENT</b>	<b>DATE OF DECISION</b>	<b>EFFECTIVE DATE</b>
£ 2490.00 p.a.	7 February 2008	7 February 2008

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**J Taylor**

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**Chairman of Private Rented Housing Committee**

**18<sup>th</sup> February 2008**

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**Date**

## STATEMENT OF REASONS

*in connection with*

### **INSPECTIONS HELD ON 7<sup>th</sup> February 2008**

*of the properties*

*34, Kilmarnock Road, Mauchline, KA5 5DE and 9 Weston Avenue, Annbank, KA6 5EE*

#### **1. THE PARTIES**

The landlord of the properties is Buchanan Heritable Limited, 187A Stonelaw Road, Glasgow and they are represented by Hacking & Paterson, 1 Newton Terrace, Glasgow, G3 7PL. Mrs Graham is tenant of 34 Kilmarnock Road, Mauchline and Mrs J Brown is tenant of 9, Weston Avenue, Annbank.

#### **2. BACK GROUND**

The dates the tenants commenced their tenancies and the history of the rents of the properties are as follows:-

Property	Commencement date of lease	Original rent	Rent requested by landlords	Rent determined by the Rent Officer
34 Kilmarnock Rd	Pre 1980	£2040	£3162	£2490
9 Weston Avenue	1954	£1930	£2991.50	£2380

The Landlords referred the determinations to the Private Rented Housing Panel (hereinafter referred to as 'PRHP').

### **3. THE INSPECTION**

The committee inspected the properties.

The properties are very similar, albeit that they are situated in different locations. They are both lower villa houses, which were originally built for the Coal Board pre war.

The accommodation comprises living room, two bedrooms, kitchen and bathroom.

Central Heating has been installed in both properties with the benefit of Scottish Executive grants made available to the tenants. Both properties had been improved and maintained by the tenants.

The landlords had installed UPVC Double glazing in both properties.

There is garden ground at both the front and rear of the properties.

They are located close to the local schools and they are conveniently located for public transport and local services.

### **4. THE HEARING**

No Hearing was requested for 34 Kilmarnock Road.

The hearing for 9 Weston Avenue took place in the property immediately following the inspection.

Mrs Brown, the Tenant, and her son Mr Brown were present at the hearing. Neither the landlords nor their agents attended the hearing.

Mr Brown advised the committee that his mother had been a tenant of the property for 54 years. He considered the 50% increase in rent proposed by the landlords to be 'diabolical.'

He advised the committee that there were not many properties available to lease in Annbank and he did not have knowledge of the rents of any other rented properties in the Annbank area.

He explained that the property next door was presently on the market for sale at offer over £59,000. Double glazing had been installed in the neighbouring property, otherwise it is in its original unimproved condition. He explained that if you were to disregard the tenant's improvements that had been made to his mothers property, the neighbouring property was virtually identical to his mother's property.

He advised the committee that Hacking and Paterson had only carried out essential repairs to his mother's property throughout her tenancy.

## **5. WRITTEN DOCUMENTS SUBMITTED BY THE PARTIES**

The committee had the following documents before them:-

- The form RR1, completed by the landlord.
- Letters from Hacking and Paterson to the Rent Registration Service dated 22<sup>nd</sup> November 2007 and 6<sup>th</sup> December 2007 explaining that 'the amounts registered do not take into account recent changes in the rental market, particularly with respect to scarcity. Consequently they wish to object to the decisions and refer the matter to the Rent Assessment Committee.' and 'Our appeal is being made on the basis that scarcity should not be taken into account for these properties.'

## **6. THE DECISION**

The committee considered the submissions mentioned and the documents submitted.

The committee were mindful of the terms of section 48(1) of The Rent (Scotland) Act 1984, which requires the committee 'to 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'. Also section 48(2) which requires them to 'assume that the number of persons seeking to become tenants of similar dwelling- houses in the locality on the terms (other than those relating to rent) of the regulated tenancy is not substantially greater than the number of such dwelling- houses which are available to let on such terms.'

The committee carefully considered the most appropriate method of determining the fair rent of the property. 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 use the other evidence as a cross check where possible.

Two members of the committee had previously inspected two properties at 26 and 30 Sherwood Road, Prestwick (hereinafter referred to as 'the comparable properties') in November 2007, following a referral by the landlords of those properties to the PRHP. The rents determined for those properties were £ 2880 per annum. The comparable properties were virtually identical to 34 Kilmarnock Road and 9 Weston Avenue.

The committee had been unable to find evidence of other properties for rent in either Mauchline or Annbank. They had been unable to find evidence of capital valuations of similar properties. They acknowledged Mr Brown's

evidence that the neighbouring property was on the market at offers in excess of £59,000, but considered this evidence to be of limited value as it was not evidence of a sale price only evidence of an asking price.

The committee considered that the evidence of the rents of the comparable properties to be the best evidence available.

The committee considered the landlords' agents submissions that scarcity should not be taken into account when assessing the rents of 34 Kilmarnock Road and 9 Weston Avenue. The committee acknowledged that the previous PRHP decision for the comparable properties 26 and 30 Sherwood Road, Prestwick stated that 'whilst there is no scarcity of supply of leased property in the Glasgow area they considered that there was some scarcity of supply of leased properties in the South Ayrshire area, which they reasonably assessed at 20%.' The committee agreed with that assessment of scarcity for the South Ayrshire area and therefore were comfortable in accepting the comparable evidence of the rents of 26 and 30 Sherwood Road, Prestwick.

The committee acknowledged that the comparable properties were located in Prestwick, which they considered to be a more desirable location than Mauchline and Annbank and therefore an adjustment was required to reflect the different locations of these properties and the age of the decisions of the rents of the comparable properties.

The committee, after considering the whole facts and applying their knowledge and experience decided that the fair rent for the properties is £2490 per annum for 34 Kilmarnock Road, Mauchline and £2380 per annum for 9 Weston Avenue, Annbank.

In reaching this decision the committee have had regard to all the considerations required to be taken into account in terms of Section 48 of the Rent (Scotland) Act 1984.

This decision takes effect from the Seventh day of February Two thousand and eight.

..... **J Taylor** .....

Chairperson, 18<sup>th</sup> February 2008