

EASTERN RENT ASSESSMENT PANEL

SUMMARY STATEMENT OF REASONS FOR THE DECISION OF THE COMMITTEE WHICH MET ON 15TH SEPTEMBER 2003 TO DETERMINE A FAIR RENT IN RESPECT OF 10 MILD MAY COURT, MILD MAY ROAD, CHELMSFORD, ESSEX

Landlord	RWH Properties Ltd.
Tenant	Mr. D.B. Maston
Rent at Date of Application	£270 per calendar month (pcm)
Rent Proposed by Applicant	£384 pcm
Rent Determined by Rent Officer	£313.50 pcm
Rent Determined by Committee	£320 pcm (capped)

MEMBERS OF THE COMMITTEE

Mr. Bruce Edgington (Chair)
Mr. Frank James FRICS
Mrs. Angela Alves

THE PROPERTY

The Committee inspected the property in the presence of the tenant and found it as described by the Rent Officer save that it has the benefit of a communal TV aerial and a 'phone entry system

CONDITION

Reasonable

LOCATION

Quiet residential area within walking distance of town centre

SCARCITY

Assessed at 20%

THE LAW APPLIED

See attached

OPEN MARKET RENT

Taking into account evidence and Committee members' knowledge and experience, decided at £600 pcm for similar property in good condition with modern facilities, carpets, curtains and some white goods

COMMITTEE'S CALCULATIONS

open market rent	£600 pcm
less global deduction for condition and lack of modern facilities, white goods etc.	<u>174 pcm</u>
open market rent for subject property	426 pcm
20% deduction for scarcity	<u>85 pcm</u>
	341 pcm

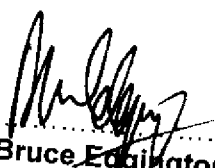
**THE RENT ACTS (MAXIMUM FAIR
RENT ORDER) 1999**

DECISION

The 'capped' rent calculated in accordance with the formula set out in the Order is £320 pcm

As the 'capped' rent is less than the Committee's calculations, the fair rent is **£320 pcm**.

Note: The Committee considered whether the installation of new windows and some re-decoration would have increased the rent by more than 15% over the last registered rent (in order to decide whether the exemption from 'capping' should apply) and decided that it would not


.....
Mr. Bruce Edgington
Chair

Note: This is a summary of the Committee's reasons for its decision. Should you require more detailed reasons, they can be supplied but only if a written request for such reasons is received by the Panel Office within 21 days from receipt of this document. The papers will then be returned to the Chair for such detailed reasons to be prepared

THE LAW RELATING TO THE ASSESSMENT OF FAIR RENTS

INTRODUCTION

1. This is a brief summary of the law applied by the Committee when reaching its decision. It is an integral part of the decision.

2. The definition of **Fair Rent** is contained in the Rent Act 1977 i.e.:-

70(1) In determininga fair rent under a regulated tenancy of a dwelling house, regard shall be had to all the circumstances (other than personal circumstances) and in particular to:-

- a) the age, character, locality and state of repair of the dwellinghouse
- b) if any furniture is provided for use under the tenancy, the quantity, quality and condition of the furniture, and
- c) any premium, or sum in the nature of a premium.....

70(2) For the purposes of the determination it shall be assumed that the number of persons seeking to become tenants of similar dwellinghouses 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 dwellinghouses in the locality which are available for letting on such terms

70(3) There shall be disregarded:-

- a) any disrepair or other defect attributable to a failure by the tenant under the regulated tenancy or any predecessor in title of his.....
- b) any improvement carried out, otherwise than in pursuance of the terms of the tenancy, by the tenant under the regulated tenancy or any predecessor in title of his
- e) if any furniture is provided for use under the regulated tenancy, any improvement to the furniture by the tenant under the regulated tenancy or any predecessor in title of his or, as the case may be, any deterioration in the condition of the furniture due to any ill-treatment by the tenant, any person residing or lodging with him or any sub-tenant of his

3. The Committee also has to take into account the Human Rights Act 1998. However, when interpreting the Rent Act 1977 (primary legislation) the Committee will have to follow the wording of the Act if it cannot be read or given effect in a way which is compatible with rights contained in the European Convention on Human Rights. Any party dissatisfied will then have to refer the matter to the High Court for the making of a Declaration of Incompatibility.
4. All other rights granted by the Convention such as the right to a fair and public hearing by an independent tribunal and the right to respect for a person's private and family life are to be observed by the Committee

5. There have been a number of cases decided over the years most of which have been either unreported or reported only in professional journals. However in 1997 a Court of Appeal decision was reported as *Curtis v London RAC (No. 2)* [1997] 4 AER 842 where the Court reviewed the various authorities and provided guidance to Committees to assist them in reaching decisions.
6. The Court confirmed that a Committee must first find an open market rent for the property taking into account evidence before it from the parties and the Rent Officer. It will not consider other registered rents unless there are very exceptional circumstances which will be set out in the decision if appropriate.
7. A Committee can use such factors as comparable rents being paid for similar properties in the locality, capital values and return on expenditure as well as the experience and expertise of its members.
8. Having established an open market rent the Committee then has to consider the deductions and allowances referred to above
9. In all cases the Committee will try its best to give the parties details of its calculations. The *Curtis* case (above) made it clear that a Committee's decision must be supported by some workings out, but precise arithmetical calculations are not possible in all cases. There are many properties where the deductions and allowances are of such proportions that a Committee must simply take a view as to how much a rent would have to be reduced in order to obtain a tenant. This may not be the same as the sum total of the Statutory deductions/allowances.
10. If the Committee considers that the demand for similar properties in the locality is substantially greater than the supply then a deduction has to be made in accordance with Section 70(2) Rent Act 1977. This is the so-called "scarcity factor". The Committee is obliged to look at scarcity in terms of people wanting regulated tenancies. However the reality is that no new regulated tenancies are created nowadays and scarcity is therefore considered using the types of tenancy currently in use.
11. The word "locality" in Section 70(2) has a different meaning to that in Section 70(1). In the case of *Metropolitan Property Holdings Limited v Finegold* [1975] 1 WLR 349 it was decided that the "locality" for this purpose should be a really large area. A Committee must define the extent of that "locality" when reaching its decision.
12. In determining scarcity, Committees can look at local authority and housing association waiting lists but only to the extent that people on such lists are likely to be genuine seekers of the type of private rented accommodation in question if the rent were to exclude the scarcity element.
13. The Committee must apply the Rent Acts (Maximum Fair Rent) Order 1999 – known as the "capping" provision – unless there is an exemption.