

LONDON RENT ASSESSMENT PANEL

Statement of Reasons for the Decision by a Committee of the Panel following an Inspection
carried out on 18th November 2005

Rent Assessment Committee

Mrs H C Bowers BSc (Econ) MSc MRICS (Chairman)

Mr D Huckle FRICS

Mr A Ring

Case No.:	LON/00AU/F77/2005/0486
Re:	Flat 6, 92 Hornsey Lane London, N6 5LT
Landlord:	Richworth Limited
Tenant:	Ms C M Dunne
Date of Decision:	18 th November 2005

Introduction

1. The property the subject of this objection is a studio flat that is let by Richworth Ltd (“the landlord”) to Ms Dunne (“the tenant”) on an unfurnished regulated tenancy governed by the Rent Act 1977 (“the Act”). Consequently the rent payable by the tenant is a fair rent as defined in section 70 of the Act it falls to be reviewed not more than once every two years. In an application made by the landlord dated 19th May 2005 a rent of £650 per calendar month was proposed. On 27th July 2005 the Rent Officer determined a rent of £415 per calendar month in respect of the subject property and registered it so that the rent was effective from that date. This was a first registration of the rent for this property. Prior to the current registration, the rent payable was £208 per calendar month. On 25th August 2005 the landlord objected to the current registration and so the matter came before the Committee.

The Statutory Provisions

2. It may be helpful if we describe the legal background to the function we have to perform. We have paraphrased the provisions of section 70 of the Act below, in the hope of making them reasonably comprehensible. The actual terms of the Act are in some ways rather more complex than our description indicates. This might suggest that we have failed to apply the terms of the Act properly. Therefore we make it plain that we have in practice carried out our work by

reference to the actual wording of the Act and the decided cases upon it and not by reference to this short description.

3. Under Section 70 of the Act the Committee had to consider, in determining what is or would be a fair rent under a regulated tenancy of the dwelling house, all the circumstances (other than personal circumstances), in particular the age, character and state of repair of the property, if any furniture is provided and any premium which has been or may be lawfully required. The Committee had further to consider for the purposes of the determination whether the number of persons seeking to become tenants of similar dwelling houses in the locality on terms (other than those relating to rent) of the regulated tenancy is substantially greater than the number of dwelling houses in the locality which are available for letting on such terms. This provision is referred to as the scarcity factor. The Committee had to disregard any disrepair or other defect attributable to a failure by the tenant; any improvement carried out by the tenant and, if any furniture is provided, any deterioration in the condition of the furniture due to any ill treatment by the tenant.
4. On 7th December 2000, the House of Lords overruled a decision of the Court of Appeal, dated 20th January 2000, which had declared the Rent Act (Maximum Fair Rent) Order (“the Capping Order”) invalid. This Order prescribed a formula to limit the amount of fair rents and has now to be treated as always having been valid. However, The Rent Acts (Maximum Fair Rent) Order 1999 will not apply on a first registration of a rent or in circumstances where the landlord has carried out repairs and improvements to a property and the rental value of the work exceeds 15% of the previously registered rent.

Inspection

5. We made an inspection of the property on the 18th November 2005 in the company of the tenant, Ms Dunne. As were leaving the building we met two representatives from the landlord company, but we informed them that we had already carried out our inspection. The subject property is a first floor studio situated in a large Victorian three storey house that has been subsequently converted into studios and possibly flats. There was an entry-phone system which was not working at the time of our inspection. The accommodation comprises one large room with a kitchen area. From the kitchen area there is a door to a small lobby with shower and wash had basin and a door to a WC. The accommodation has communal central heating. The entrance hall and stairs to the property were cluttered with building materials and rubbish.

6. There are communal gardens to the rear. There is some off street parking available but this is on an ad hoc basis.

Representations

7. Neither party requested a hearing, so this matter was dealt with by the means of written representations. Written representations were received from the tenant and these were copied to the landlord. There were no written representations from the landlord at the time of our consideration of this matter. The landlord subsequently sent written representations that were dated 1st December 2005. The original correspondence did not reach the office and these were then copied and received in the office on 2nd February 2006. Both parties had been given prior indication of the date that this matter was to be considered and representations were invited from both sides. As the landlord's representations were received after the decision had been made, the Committee had no opportunity to consider the contents. However there was a request for extended reasons in the landlord's letter dated 1st December 2005.

8. **Tenant's Representations**

With our papers from the Rent Officer we were sent details of the history of Ms Dunne's occupation and her transfer from Room 7, 92, Hornsey Lane to the subject property. Ms Dunne stated that she was concerned about the amount claimed for services. The transfer from Room 7 to the subject property was to be on the same terms. Ms Dunne expressed her concern about the high level of services. In addition to the rent, Ms Dunne was also responsible for water rates and council tax. Finally, Ms Dunne had stated that there was continuing building work in the property and this was causing an inconvenience.

Consideration

9. When considering the rental of a property under the provisions of the Rent Act 1977 we are obliged to ignore any personal circumstances when arriving at rental values. We are to consider the property at the date of our inspection and take account of the condition of the property at that time.
10. In the judgement of the Court of Appeal in the case of *Curtis v London Rent Assessment Committee* {30 HLR 733} the Court held that the starting point for the determination of the fair rent must be the open market rent appropriate for the property. A fair rent is the open market

rent adjusted for the statutory disregards and for scarcity. As to the scarcity factor, in the case of *Queensway Housing Association Limited v Chiltern, Thames and Eastern Rent Assessment Committee*, the Court held that the Committee must consider a really large area that gives an appreciation of the trends of scarcity and their consequences, in determining whether the factor is applicable in the instant case. In the light of the recent House of Lords decision, the Committee also has to consider the application of the maximum fair rent under the capping formula.

11. In the first instance we must look at the level of rents in the open market as these provide us with the closest guidance as to the level of fair rents once certain deductions have been made and these are considered below. At the time of our consideration of this matter we had not been provided with details of any comparable properties. Therefore relying on our own knowledge of rental values in the area we are satisfied that the open market rental value for the subject property, given its location would be £500 per calendar month.
12. The studio was however in a somewhat basic state and not in the condition considered usual for an open market letting. In particular the communal access area was in a poor condition. Furthermore, the letting terms we are required to assume, as set out in the Act, are different from those which usually apply on open market lettings. We therefore made an adjustment of £50 per month to reflect these matters.
13. We need to consider whether there should be any allowance for the effects of scarcity. We considered the market in the area of Greater London for this purpose. That seems to us to be the area in which conditions of supply and demand would be likely to affect the rent for the property with which we are concerned and from which prospective tenants are likely to be drawn. It seems to us to be the extent of the really large area that the Courts have described as being appropriate to this purpose. We also took into account our collective knowledge and experience of the market in that area. We bore in mind that we must consider the effect that scarcity might have on the net rent after the adjustments. We have come to the conclusion that whilst we had no specific representations before us, there is a general imbalance of supply and demand within the locality we have described and therefore we have made an allowance of 25% for scarcity.
14. We therefore produced the following calculation on a calendar monthly basis:

Open Market Rent:	£
Less allowances for:	500
Condition/Common Parts/Terms	<u>50</u>
Scarcity	450
	<u>112</u>
	338

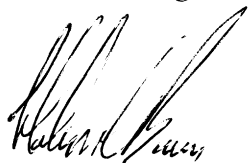
Fair Rent

£338 per calendar month

15. We therefore determined a rent for the subject property of £338 per calendar month. The fair rent to be registered is not limited by the Rent Acts (Maximum Fair Rent) Order 1999 because there was not an existing registered fair rent at the time of the application. Therefore the amount to be registered is **£338 per calendar month**. This rent will be registered with effect from **18th November 2005** being the date of the Committee's decision. The rent is inclusive of an amount for services, including heating. However, the rent is exclusive of water rates and council tax.

Chairman

Date:-



14/2/06.