

**RENT ASSESSMENT PANEL FOR SCOTLAND**

**RENT (SCOTLAND) ACT 1984**

**NOTIFICATION OF DECISION BY THE RENT ASSESSMENT COMMITTEE**

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<b>REFERENCE NO.</b>	<b>OBJECTION RECEIVED</b>	<b>OBJECTION</b>
RAC/G82/448	8 August 2006	Tenant

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**ADDRESS OF PREMISES**  
G/L, 37 Castlegreen Street, Dumbarton, G82 1JB

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**TENANT**  
Mr & Mrs Coll

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**NAME AND ADDRESS OF LANDLORD**  
Volbis Ltd.  
36A Queen Street  
Helensburgh  
G84 9PU

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**DESCRIPTION OF PREMISES**  
Ground floor tenement flat circa 1890 with gas central heating and partial double glazing, comprising 4 rooms, kitchen and bathroom.

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**SERVICES PROVIDED**  
None

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**COMMITTEE MEMBERS**

<b>CHAIRMAN</b>	Mrs J Taylor LLB Dip LP NP
<b>PROFESSIONAL MEMBER</b>	Mr G Campbell FRICS
<b>LAY MEMBER</b>	Mr J Riach

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<b>FAIR RENT</b>	<b>DATE OF DECISION</b>	<b>EFFECTIVE DATE</b>
£2,200.00per annum	2 October 2006	2 October 2006

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**J Taylor**

Chairman of the Rent Assessment Committee

3<sup>rd</sup> October 2006  
Date

## **STATEMENT OF REASONS**

*in connection with*

**INSPECTION HELD ON 2<sup>nd</sup> October 2006**

*in respect of the property*

*G/L, 37, Castlegreen Street, Dumbarton, G82 1JB.*

### **1. THE PARTIES**

The landlord is Volbis Limited, 36A Queen Street, Helensburgh. The tenants are Mr and Mrs Coll.

### **2. BACK GROUND**

The current rent is £1552 per annum, this was effective from 13<sup>th</sup> March 2002. The landlords applied for the rent to be increased to £1939.92. The Rent Officer registered the rent of £1939.92 per annum with effect from 18<sup>th</sup> July 2006. The Tenants referred the determination to the Rent Assessment Committee.

### **3. THE INSPECTION**

The committee inspected the property, which is a ground floor flat in a three storey, red sandstone tenement constructed circa 1890. There are steel support straps across the front of the tenement and at the gable end. The tenement has a slate roof. There is no communal door entry system. There is a communal area at the rear of the tenement, which is laid with slabs and gravel. The communal bin storage area is located here.

The property is a large flat which was formed by joining together two separate flats. The accommodation comprises living room, three bedrooms, kitchen and bathroom.

The bathroom suite had been replaced by the tenants, with the landlord paying the installation costs. The landlord had supplied the original ceramic sink in the kitchen, which had been replaced with a stainless steel sink by the tenants some time ago. Nine windows in the property had been replaced with double glazing, leaving two single glazed windows in the smaller bedroom. The property is heated by gas central heating and hot water was supplied by the combi boiler.

It was apparent to the committee that the property was affected by flooding as there were sandbags stored in the close. The burn is located some one hundred yards or so from the property. The landlord and other owners had recently had a fence erected at the end of the terrace in an attempt to alleviate the effects of the burn flooding. The parties commented further on the flooding during the hearing.

The property is conveniently located for public transport and local services.

#### **4. THE HEARING**

The hearing was carried out in the property immediately following the inspection.

Present at the inspection were Mrs Coll and her son Raymond Coll. Mr Coll was unable to attend the hearing as he was in hospital. The landlords were represented by their property manager, Mandy Gardner.

Raymond Coll, on behalf of his parents, explained why his parents disagree with the rent fixed by the Rent Officer:-

- The rent fixed does not reflect the voluntary contributions to the maintenance and improvement of the property made by his parent, namely £720 towards replacement double glazing in the living room in February 2004; £300 to replace a corroded bath in June 2005; £100 for a replacement wash hand basin, fitting and installation; £160 for the purchase and installation of an electric overbath shower.
- His parents believe that the floors in the property are affected by rot which remains untreated.
- The bathroom ceiling is cracked and has not been repaired by the landlord.
- The property has been affected by flooding in the past and it is likely that it will be affected by future flooding. There have been three incidents of flooding in the last six years. The tenant showed the committee video footage of the flood in 2004. Raymond Coll and his mother advised the committee that when the burn floods the water comes to the front and back of the tenement and enters the close. This tends to happen when there is a combination of heavy rain and high tides. They also explained that the Council have taken no steps to alleviate the problem, albeit that the landlord and other owners have erected a fence at the end of the terrace.

Mandy Gardner referred the committee to the evidence of comparable rents, the capital valuation and short assured tenancy rents she had provided. Raymond Coll and Mandy Gardener commented on these as follows:-

### Capital Valuation

Barr Brady's valuation report dated 25<sup>th</sup> August 2006 valued the property at £75,000. Raymond Coll questioned whether this valuation took account of the structural works required to be carried out to the building and the rot repairs required to the floors. Mandy Gardner assured the committee that the report did take account of the structural condition of the tenement. Raymond Coll was surprised that the report did not refer to the rot repair works that he and his parents consider are required to the floors. Mandy Gardner explained that the surveyor had tested the property for damp and rot and no evidence had been found.

### Volbis Limited Statutory Tenants

Address	Accommodation	Effective Date	Registered Rent	Raymond Coll's comments	Mandy Gardner's comments on behalf of the landlords
G/L, 1 Chapelton Gardens, Dumbarton	3R & B	18/7/06	£1969.92	This property is located in close proximity to 37, Castlegreen Street and is reasonably comparable.	This property is smaller as it has one less bedroom and it has a scullery kitchen.
1/1, 41A East Clyde Street, Helensburgh	3R, K & B	18/7/06	£2376.24	This property is located in a different area.	This property is located in a more desirable area.
G/R, 7 Dumbarton Road, Bowling	3R, K & B	18/7/06	£1995	This property is located in a more desirable area.	This property is located in a less desirable area

Raymond Coll also gave the committee a print out of comparable properties from the Rent Registration Office web site. These included the two properties in the list provided by the clerk:- 1/R, 2, Station Road, Dumbarton and G/F/D, 17, Wallace Street, Dumbarton. He considered these properties to be directly comparable.

### The Landlord's Short Assured Tenancies

Address	Accommodation	Effective Date	Registered Rent	Raymond Coll's comments	Mandy Gardner's comments on behalf of the landlords
27 Castlegreen Street, Dumbarton	4R, K & B	01/02/06	£4800	This property is situated across from the burn.	The property has been decorated. A fully fitted kitchen was installed and appliances were supplied. The bathroom has been upgraded. Carpets have been fitted throughout. The property had GCH and single glazing.
G/R 33, Castlegreen Street, Dumbarton	2R & B	06/07/06	£2940	The property is closer to the burn than number 37	This is a smaller property. It has been decorated. A fully fitted kitchen was installed and appliances were supplied. The bathroom has been upgraded. Laminate flooring has been fitted throughout. The property had GCH and double glazing.
T/L, 33, Castlegreen Street, Dumbarton	2R, K & B	01/03/06	£3900		This is a smaller property and it has been decorated. A fully fitted kitchen was installed. The bathroom has been upgraded. Carpets have been fitted throughout. The property had GCH and double glazing.
1/r, 35, Castlegreen Street, Dumbarton	2R, K & B	25/03/06	£3720		This is a smaller property and it has been decorated. A fully fitted kitchen was installed. The bathroom has been upgraded. Carpets have been fitted throughout. The property had GCH

The committee asked both Raymond Coll and Mandy Gardner whether they considered there was scarcity of supply of rented properties in the area in relation to the demand for these properties. Mandy Gardner definitely agreed that there was scarcity of supply. She explained that whenever she had a property available to rent she is inundated with enquiries by prospective tenants. Raymond Coll did not agree with this and did not consider that there was scarcity, albeit that he later changed his mind and agreed with Mandy Gardner on this point.

Separately, Mandy Gardner advised the committee as follows:-

- She explained that the landlord had been prevented from carrying out repairs required due to the tenants being unwilling to cooperate.
- She considered that the tenants had been premature in having the lounge windows replaced with double glazing as the original windows were in sufficiently good condition not to warrant replacement.
- The bathroom suite was serviceable and it was not necessary to replace it. She advised that the only wear and tear to the bathroom suite was rust damage to the bath, which was cosmetic.
- The landlords had attempted to have the bathroom ceiling repaired but the tenants had stated that they did not want the repair to be carried out at this time.
- The history of flooding has not prevented the landlord from leasing the various properties they own in the area and should not affect the rent of the property.

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

The committee had the following documents before them:-

- The list of comparable properties prepared by the clerk, which stated as follows:-

Address	Description	Accommodation	Effective Date	Registered Rent
1/R, 2 Station Road, Dumbarton	Pre 1919 tenement flat	3 rooms, kitchen and bathroom	20 <sup>th</sup> September 2005	£1254
G/F/D, 17, Wallace Street, Dumbarton	Pre 1919 tenement flat	3 rooms, kitchen and bathroom	20 <sup>th</sup> September 2005	£1417

- The form RR1, completed by the landlord, which stated inter alia:-
  - New circuit board and flow switch fitted
  - repoint windows and painted
  - Repairs to bedroom window
  - Bathroom suite fitted.

Total costs £1520.
- The tenants' written statement, which stated inter alia:-
  - The rent set does not reflect the voluntary contribution made to the improvements to the property by the tenant:-

- Feb 2004- they contributed £720 to the replacement of elderly windows.
- June 2005- £300 paid to replace a corroded bath for a wc.  
  - £100 was paid for a wash hand basin, fittings and installation
  - £160 was paid for an electric overbath shower.
- The landlord has recently benefited from the Scottish Executive installed central heating.
- There are outstanding repairs:-
  - The bathroom ceiling was damaged in February and has still to be repaired.
  - Double glazed windows are draughty.
  - Rot works are outstanding.
  - The property is frequently affected by flood damage. Water floods under the property filling the area beneath the floor. Water floods into the close front and back.  
 The tenants have lost cars to flood damage in the past.
- The tenants' spreadsheet showing the timing of the rent payments made by them, together with a letter from the landlord dated 20<sup>th</sup> August 2002, regarding rent payments. The tenants concluded that they were in credit with their rent payments.
- Written representations from the landlords, which advised of the major repairs and improvements carried out:-
  - Three double glazed windows fitted to lounge bay window.
  - Boiler repair work carried out to fit new circuit board and flow switch.
  - Repointing works to bedroom window.
  - Repair work to living room window and wooden surround to bathroom window.
  - Installation of bathroom suite purchased by Mr and Mrs McCoil.
  - Bedroom windows painted.
  - Seal around bath repaired in July 2006.
  - Various factoring charges to communal repairs.

The total cost to the landlords of the above work was £1564.23.

The landlord also advised that the tenants have found it difficult to work with tradesmen and some of the tradesmen the landlord had instructed refused to attend the property. They explained that their attempts to improve the property have been frustrated by the lack of cooperation from the tenants.

- The landlord's list of Registered rents of properties and Short Assured Tenancies in the locality, already referred to.
- The valuation report by Barr Brady dated 25<sup>th</sup> August 2006, already referred to. In the report Barr Brady state that the property comprises a ground floor flat in a largely unimproved three storey tenement comprising four rooms, kitchen and bathroom, with gas central heating and most windows having been replaced with PVC framed double glazed units. Domestic fittings and décor were to a fairly basic standard. They confirmed that their valuation was a desk top survey and they valued the property at £75,000.
- Letter from the landlord to the Rent Registration Service dated 2<sup>nd</sup> August 2006 explaining that the rent arrears to that date amounts to £227.39- annotated to explain that the rent arrears were adjusted to £195.06 as the tenants had appealed the increase in rent.
- Letter from the landlord to the tenants dated 1<sup>st</sup> September 2006 explaining that the rent arrears amounted to £324.39.
- Letter from Alternagas Limited dated 28<sup>th</sup> September 2006.

The letter explains the difficulties they experienced pleasing the tenants, when they installed the bathroom suite.

- Letter from the landlord to the tenants dated 1<sup>st</sup> September 2006

The letter explains that the tenants had advised the landlord's tradesmen that they did not want the bathroom ceiling to be repaired.

## **6. THE DECISION**

The committee considered the parties submissions and comments and the documents submitted.

The committee were mindful of the terms of section 48 of The Rent (Scotland) Act 1984, which states, inter alia :-  
 "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".

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.

The committee disregarded the evidence of rent arrears as this does not affect the determination of the fair rent.

They did not gain assistance from the comparable rents of the landlord's statutory tenants as the properties were smaller and they considered that the Helensburgh and Bowling properties were located in different, non comparable areas. They also gained no assistance from the evidence of the rents of comparable properties provided by the clerk as the properties were smaller, lacked central heating and the rents had been determined in September 2005 and were therefore considered to be too old to be of assistance.

They acknowledged that the evidence of the market rent of 27 Castlegreen Street, Dumbarton was evidence of a market rent of a property of a similar size to G/L, 37, Castlegreen Street. However as that property had been improved, they gained no assistance from this evidence.

They considered that the best evidence available was the capital valuation of the property of £75,000 detailed in the valuation report by Barr Brady. They agreed with the valuation.

They accepted the evidence of Mandy Gardener that there is scarcity in supply of rented properties in the Dumbarton area. They noted that they had not seen any signs advertising properties for rent in the area. They acknowledged that in Glasgow there are many signs advertising properties available for rent and therefore concluded that the Dumbarton area, unlike Glasgow, does have scarcity of supply, which they reasonably assessed to be one third.

They applied an annual return of 4% to the capital valuation and made the deduction of one third for scarcity. They considered a reasonable estimate for the cost of annual repairs and insurances to be £500. The committee accepted that the landlord had made reasonable efforts to alleviate the effects of flooding but recognised that the tenants amenity of the property was affected by the knowledge that until the flood defences were significantly improved the property would undoubtedly be affected by floods in the future. Therefore the committee made a reasonable deduction to allow for this loss of amenity and decided that the fair rent for the property was £2200 per annum.

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 Second day of October Two thousand and six.

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

Chairperson, 17<sup>th</sup> October 2006