

RENT OFFICER: APPOINTMENT

**Lodged au Greffe on 17th March 1998
by the Housing Committee**



STATES OF JERSEY

STATES GREFFE

175

1998

P.45

Price code : B

PROPOSITION

THE STATES are asked to decide whether they are of opinion -

1. to agree, in principle, that the Dwelling Houses (Rent Control) (Jersey) Law 1946, as amended, be repealed and replaced by a new Law which *inter alia* would provide -
 - (a) for the establishment of the post of Rent Officer, whose role would be to determine the fair rent for a residential property in the private sector should either the landlord or the tenant make application for an assessment; and
 - (b) that in assessing a fair rent the Rent Officer would -
 - (i) take due note of the annual rent at which the dwelling might reasonably be expected to be let, with vacant possession and without premium, in the open market between a willing lessor and a willing lessee;
 - (ii) have due regard to the age and condition of the property;
 - (iii) have due regard to the right of the landlord to a reasonable economic return on his property; both in terms of the current value of the property and the cost of improvements, routine maintenance and repairs; and
 - (iv) have regard to any scarcity factor which might unreasonably inflate the rent of the property; and
 - (c) that the Rent Officer would be suitably qualified and experienced and appointed by, the Housing Committee; and

- (d) that rents set by the Rent Officer would be fixed for a minimum period of one year, and if longer only by agreement between landlord and tenant; and
- (e) that either the landlord or the tenant would have a right of appeal against the decision of the Rent Officer to an Appeals Board, comprising at least three persons, appointed by the States for a period of time to be agreed; and
- (f) that either the landlord or the tenant would have a right of appeal on a point of law to the Royal Court; and
- (g) that a register of assessed fair rents would be maintained by the Rent Officer and be available for inspection by the public; and
- (h) that any landlord failing to comply with the terms of the Law would be subject to a fine.

HOUSING COMMITTEE

Note: The Finance and Economics Committee supports this proposition on the basis that any additional costs arising from the new arrangements should be met from within the Housing Committee's existing budget.

Report

The Dwelling Houses (Rent Control) (Jersey) Law 1946, was registered on 19th October 1946, and the States promulgated the Dwelling Houses (Rent Control) (Jersey) Regulations later in the same year.

The legislation provides for the States to appoint annually persons to serve on the Rent Control Tribunal, an independent body with powers to approve, reduce or increase rents in private sector residential property following an application which can be made by either landlord or tenant. The last amendment to the legislation, in 1993, allows for properties to be exempted from rent control where the landlord is using the Housing Committees approved Standard Tenancy Agreement.

The purpose of the rent control legislation was, and still is, to protect tenants from landlords exploiting the general housing shortage by charging unreasonable rents. The Tribunal has been in the public spotlight recently, mainly because of the large increases being requested by the landlords of property which has been rent controlled for many years and is now let at a considerable discount to the open market.

When, in 1994, a large increase was requested by Daisy Hill Real Estates in respect of Marett Court, the Tribunal maintained the past policy of allowing a small increase but, following an appeal by the landlord to the Royal Court, the Tribunal accepted that in making decisions on fair rent levels it must first have regard to the present market rental obtainable and might then decide on a discount if it were apparent that scarcity had resulted in a premium. In accepting that the normal method of rent assessment would be to establish a market rental and then deduct a figure in respect of scarcity, if any, the Tribunal was bound to agree a more substantial increase in rent for Marett Court than had been previously allowed.

Other applications for considerable rent increases followed, including those for Perquage Court and Spencer Close. In each case the rent requested by the landlord has not seemed unreasonable but the percentage increase from previous levels has been much less acceptable, particularly to the tenant. For example, it was proposed that the rent for a two bedroom flat at Perquage Court would increase from

£68 per week to £91 per week. The rent requested is not unreasonable for a two bedroom flat and an advertisement at that rental would undoubtedly result in many replies. However, for the sitting tenant the increase is a considerable shock and, may call for a major adjustment in the household budget, particularly if the tenant is unable to claim a subsidy through the Rent Rebate Scheme.

With every intention of being as fair as possible to the tenant, nevertheless past Rent Tribunals have built up over a number of years a problem in respect of controlled rents which are unrealistically low when compared to the rents of similar properties in the private sector. The problem is that when an increase is proposed which better reflects the current rental market, it can present a major difficulty for the sitting tenant.

Over the last 30 years Jersey has seen a steady fall in the number of dwellings in the private sector available to rent to persons qualifying under Housing Regulations '(a)-(h)'. Unless landlords are able to obtain a reasonable return on their property, more will opt to sell as it is evident that the proceeds can be re-invested for a much higher return elsewhere. There are no financial incentives to encourage private developers to build new accommodation to rent and without considerable assistance from the States even non-profit making Housing Trusts would be unable to build to rent. Those private landlords who remain, offering decent accommodation at a fair price, must be reassured that they will continue to be allowed to ask a fair price. If not, the arguments for selling up will become too strong and the States will inherit an even greater burden than it has now to provide rental accommodation.

As well as reassurance for landlords, reassurance must also be given to tenants. In 1993 the last amendment to the Rent Control Law allowed for the exemption from control of properties where landlords utilised the Standard Tenancy Agreement. While the Committee encourages landlords to continue to use the Standard Agreement it believes that all residential tenancies should be subject to the proposed new legislation. All tenants can therefore be satisfied that they have a right of redress if they believe the rent being charged is unfair.

Clearly, the lay people appointed by the States over the last 50 years to serve on the Tribunal have approached this task in a committed and dedicated manner. Many tenants will be thankful for the past intervention of the Tribunal and the intention of the current legislation to ensure that landlords do not exploit tenants should be continued. However, the current situation where large rent increases are having to be granted, causing much distress to tenants, is a legacy of past decisions of the Tribunals to keep rents pegged at unreasonably low levels.

If the private rental sector is to continue to provide a significant proportion of the Islands housing, landlords must be confident that States control in the form of rent assessment will be done in a professional, fair and consistent manner. The logical answer, as suggested by the current membership of the Rent Tribunal, is a suitably qualified Rent Officer to be appointed by, but not responsible to, the Housing Committee. At present, the Tribunal in reaching a decision has to rely heavily on the advice of a qualified professional, and so the proposal is not as radical as it might appear.

The Rent Officer would assess rents on the basis of open market rentals, allowing for the landlord to receive a reasonable economic return on the property but also ensuring that landlords are not exploiting a particular scarcity by increasing rents excessively. In addition the Rent Officer would, when inspecting the property, take full account of the state of repair and age and condition of the premises. Rents would be fixed for a minimum of one year and could be fixed for longer if both landlord and tenant agreed. A register of assessed rents would be maintained by the Rent Officer and available for public scrutiny. If either landlord or tenant was dissatisfied by the decision of the Rent Officer an appeal could be made to an Appeal Board of three suitably qualified persons appointed by the States for a period of time to be determined. It is envisaged that the States would appoint perhaps five persons from whom the Appeals Board of three would be drawn on a rota basis. The Appeals Board would hear all cases in private but its decisions would be made public.

The Appeals Board could only consider appeals on rental levels on the same basis as a Rent Officer but could offer alternative interpretations of rental value, given the wide discretionary powers vested in the Rent

Officer. There is a slight risk that the Appeals Board could initially receive numerous frivolous appeals as either landlord or tenant take the view that they may get a better deal by making an appeal. However, this is unlikely to be a continuing problem if decisions taken are consistent and a matter of public record. Where the appeal is on a point of law either landlord or tenant would have the right to appeal to the Royal Court.

The replacement of the Rent Tribunal by a Rent Officer could be achieved at very little cost and with minimal increase in manpower requirements. Currently the Rent Tribunal is advised by a professional valuer whose fees are paid by the Housing Committee, with secretarial support provided by the Housing Department. The Committee also employs on a contract basis a professional valuer to assess fair rents for claimants under the Rent Rebate Scheme. Given the fairly limited demand for the services of a Rent Tribunal in the past, it is proposed that one person be appointed on a contract basis to fulfil the role of Rent Officer and that same Officer would be used by the Housing Department to agree fair rents for claimants under the Rent Rebate Scheme.

The administrative arrangements would change with the appointment of a Rent Officer, in that a formal meeting of the Tribunal would not be required. The Rent Officer would be easily accessible to both tenant and landlord, with applications being dealt with on a more ad hoc basis and decisions reached and communicated more promptly than at present. Only if the parties should disagree with the Rent Officers decision would it be necessary for an Appeal Board to be convened.

For the reasons outlined above, the Housing Committee strongly recommends that the current arrangements for rent control should be abolished as soon as possible and replaced by a single Rent Officer, appointed by the Housing Committee but operating independently.