

## **Private Housing (Tenancies) (Scotland) Bill**

### **Written submission to the Infrastructure and Capital investment Committee**

#### **Earlstoun Estate**

- (a) The Estate incorporates some 6 residential properties which are all subject to letting on the basis of Short Assured Tenancies. In addition, there are three residential properties occupied by Estate employees (2) and a retired employee (1).
- (b) certainly in rural areas, the existing Assured Tenancy/Short Assured Tenancy regime is regarded as having worked well: there is a view that the present legislation balances the interest of landlords and tenants in what might be regarded as an equitable manner.
- (c) the provisions of the Bill, in many respects, are a regressive return to Regulated Tenancies.
- (d) the position of the Estate is that landlords and tenants should be free to contract for a period of let of a specific duration (not less than six months).
- (e) removing the right to contract as above, is likely to make many property owners hesitate over future letting; and, it can only be anticipated that there will be a decrease in the number of residential properties available for rent.
- (f) in many instances existing owners of let property might be expected to sell; it can only be envisaged that purchasers of such properties will not be those who are presently dependent on the rental market.
- (g) if indeed there is a reduction in properties available for rent, this will only increase pressure on the social sector to provide additional properties; and it could take many years to build the number of properties which may be withdrawn from the present market.
- (h) it is difficult to envisage that any Government would enact legislation which may well lead to a material reduction in properties available for rent.
- (i) looking to the future, one option for the Estate would be to bring the existing tenancies to an end with the exception of the service occupancies: with the rural location such properties could be expected to sell without difficulty.
- (j) purchasers of such properties would be in a quite different category from the Estate's existing tenants; most of the existing tenants have lived and worked in the vicinity for much of their lives; while future purchasers might include those wishing to secure retirement houses and holiday accommodation.
- (k) with the shortage of property available for rent in rural areas, it would be unfortunate if the proposed legislation resulted in the withdrawal of rental stock from the market; the established balance of a local community could be prejudiced.

(l) the Estate prides itself on its excellent relationship with residential tenants, with continuing tenancies ranging in duration from 1 month to 19 years.

(m) the Estate will certainly review its letting policy in the event of the Bill being enacted; it is indeed possible that a decision may be made to sell some of the let properties (following termination of existing Short Assured Tenancies); the Estate however would only take such action with reluctance.

(n) even if the Estate maintained all of its letting properties after enactment of the legislation, business sense would dictate a much more robust approach to the selection of new tenants and the financial terms to be imposed.

(o) taken the extended period which Landlords would face to recover possession in by reason of default in rental payments, Landlords could be expected to be intrusive over references and assessment over affordability on the part of prospective tenants; in addition, Landlords may well insist on much higher cash deposits as a condition of let.

(p) such a change of strategy by Landlords in rural areas, could exclude many (particularly younger) members of communities who already suffer from an inadequate stock of properties available for rent.

(q) the prospect of lease termination and recovery being controlled through a First-tier Tribunal will discourage many property owners from retaining residential properties for let; over the last two decades the certainty of a termination date under Assured Tenancies and Short Assured Tenancies has increased the rental stock significantly.

(r) the proposals are such that a meaningful number of property owners may change their business models to provide for short term "holiday" lets, through agencies such as AIRBNB; in many instances, owners might secure a higher financial return; with local members of a community again being excluded.

(s) the discretion which the Tribunal would have, to terminate a lease in a number of situations, would only result in uncertainty; as such, some property owners would find further reason to remove properties from the rental market.

(t) anti-social behaviour is a scourge of the modern world; in dealing with such conduct, and while Landlords have to act reasonably, they also owe duties to other residents in the vicinity; much continuing conflict over such conduct has been thwarted on Landlords allowing leases to terminate at the end of the contractual periods; on the Bill being enacted, this pragmatic solution will end.

(u) on a Tribunal considering application to terminate on the ground of anti-social behaviour, it can only be anticipated that they will require evidence from neighbours affected by the conduct; there must be a concern that neighbours in such situations (many elderly) would fear intimidation at the instance of those complained about; to add to this the Tribunal will have "discretion" as to decisions on the particular matter; all in all yet further discouragement to retain residential properties for let.

(v) looking to the development of new properties for rent, it can only be anticipated that many of those from the private sector will withdraw from the Scottish market; many may restrict their activities to jurisdictions which provide fixed period contracts.

(w) the Estate cannot support the proposed legislation and has particular concern over the perhaps unintended reduction in the number of residential properties available to let in rural areas.

It is hoped that the foregoing may be taken into account by the Committee.

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**Trustee of Earlstoun Estate**  
**19 November 2015**