

The EU-case of Swedish rents

FACT SHEET FROM
THE SWEDISH UNION OF TENANTS

Negotiation, not regulation

In Sweden landlords and tenants are free to negotiate the level of rents. If no agreement can be reached the rent will be set at a level deemed fair by rent tribunals and courts of law. In the majority of cases the rent is set on the basis of a general assessment of a fair rent level.

In determining the level considered fair a comparison can be made with apartments which are deemed comparable on the basis of utility value.

This is done only when there are housing units that are comparable. The comparative value is based on housing units in the municipal housing company.

The rent set may not be "manifestly higher". In practice this usually means that the rent level can be 5 % higher.

Public non-profit housing

Most municipalities own public utility housing companies. These companies are not run only on purely commercial grounds. Their main purpose is not to make a profit for the owners and the profits made represent a yield on capital to provide security for the future. The municipal companies play a social role. They should be able to provide decent housing at a reasonable cost. They promote social integration among different social groups since there is no upper income level for those wishing to rent an apartment. In many cases they provide other municipal services as well as acting as housing companies.

Not an EU Issue

In the run-up to the referendum on EU membership in Sweden, the Swedish government made it clear that housing policy fell outside the scope of EU co-operation. This meant that neither the operations of the public housing companies nor the Swedish rules for setting rent levels would be set at risk as a consequence of membership. This remains the dominant understanding in Sweden today.

Complaint to the Commission

Despite this the organisation representing landlords has decided to question the legality of government housing policy on the basis of EU law. They maintain that the existing housing policy prevents landlords from charging the rents they wish. They maintain that public housing companies receive a state subsidy which leads to an unacceptably lower level of rents in public housing companies; a rent level that affects rents in the privately owned housing sector because of the application of the principle of utility value.

Small direct support

The European Property Federation in cooperation with the Swedish Property Owners Federation has filed a complaint to the European Commission. The complaint deals only in minor detail with the claim that direct subsidies of little more than 18 m SEK have been made to public housing companies in 2002. This operational support or additional support from the owners must in our view, be regarded as justified with a view to the extensive social responsibilities shouldered by the companies.

Municipal guarantees

The complaint filed holds that the cost of the loans held by the municipal housing companies are in effect a form of disguised state subsidies. According to the plaintiffs they represent a real guarantee from the municipalities. Moreover they claim that the circumstances demonstrate that it is, generally speaking, easier to obtain loans on advantageous terms when the municipality is the owner. These claimed subsidies provided in the form of better terms for loans amount to 2 148m SEK per annum according to the plaintiffs.

One significant factor has been the restructuring of the Swedish credit markets and in particular the measures adopted to dispense with loan guarantees in housing construction. The question remains as to whether the municipal housing companies enjoy better terms on the financial markets when it comes to interest rates because of their ownership structure. The issue of principle involved here is the negotiating position of the municipal companies in the financial markets and whether this position can be regarded as an advantage comparable to public subsidies. Related to this issue is the fact that public housing companies have higher capital costs per square metre while their loan liabilities are lower than the liabilities of the private landlords.

Demand on Yields

Around $\frac{3}{4}$ of the state subsidy named – 9 309mSEK – consists of unreasonable by low yield demands on the capital assets of the public housing companies according to the European Property Federation. According to the plaintiffs the yield should be set at 9.3%. Since the yield is lower, this in effect constitutes a public subsidy according to the plaintiffs.

Social Obligations Cost

The criticism of the plaintiffs is directed at the very core of Swedish housing policy. As already stated, public housing companies in Sweden are not run for commercial profit and are forbidden by law to do so. Municipalities have social obligations which the private companies do not have. These obligations entail costs. The public housing companies have maintenance and management costs that are considerably higher (around 150SEK/m²) than the private companies

The issue is whether the same demand for yields can be made on public utilities as are made on purely commercial property companies.

Higher rents in private tenancies

On top of this we have the Swedish rules for rent setting, which give private landlords the right to set rents at 5 – 10 % above the level for comparable units in the public housing sector. The statistical information available shows that rents in the private sector are indeed higher than they are in the public housing companies.

Following legal precedent, rents in the public housing companies should not be used in comparable studies by the rent tribunals if these rents are under priced. The Swedish system of utility value presents no barrier to private landlords maintaining a higher margin in their operations than do the public housing companies in theirs.

Excessive Yield Demands

The claims made by the plaintiffs raise a number of important issues one of which is the grounds for calculating the yield on capital. This is set at very high level – 9.3% - and that even by normal commercial standards.

Expensive to rent an apartment

In conclusion it should be noted that the complaint that the private landlords are forced to charge rents that are unreasonably low, is difficult for tenants to understand. For many years now it has been more expensive to rent private accommodation than it is to own one's own home. Those hardest hit by this are persons who cannot obtain a bank loan to finance a house purchase. Their question is not why rents are too low it is rather why it is that rented accommodation is so much more expensive than other forms of tenancy.