



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **MAN/00FF/RTB/2019/0014**

Property : **2 Frobisher House, Woolnough Avenue, York
YO10 3RG**

Applicant : **BARRY ROBERT PICKARD**

Respondents : **CITY OF YORK COUNCIL**

**Type of
Application** : **DETERMINATION AS TO EXCEPTION OF
THE PROPERTY FROM “RIGHT TO BUY”**

Tribunal Members : **A M Davies, LLB
J Jacobs, MRICS**

Date of Decision : **13 December 2019**

DECISION

Paragraph 11 (1)(b) of Schedule 5 to the Housing Act 1985 does not apply to the Property, and consequently the Respondent may not rely on the exception to the right to buy set out in that paragraph.

REASONS

1. This is an application made by the tenant to the Tribunal to determine whether the exception to the right to buy in paragraph 11 of Schedule 5 to the Housing Act 1985 (“the Act”) applies to 2 Frobisher House, York (“the Property”).
2. The Respondent council leased the Property to Mr Pickard on 21 July 2008. On 18 July 2019 the Respondent refused Mr Pickard’s application to buy the Property pursuant to section 118 of the Housing Act 1985, and on 28 October 2019 he filed this application.
3. In refusing Mr Pickard’s application, the Respondent relied on paragraph 11 of Schedule 5 to the Act, which provides an exception to the right to buy if the dwelling
 - (a) is particularly suitable for occupation by elderly persons; and
 - (b) was let to the tenant or a predecessor in title of the tenant for occupation by a person who was aged 60 or over; and
 - (c) was first let prior to 1st January 1990.

The paragraph gives the Tribunal jurisdiction to determine whether or not this exception applies.

4. The Tribunal inspected the Property on 15 November 2019. At that time it was unclear whether the Respondent continued to object to Mr Pickard’s application to buy the Property, and no determination was made. The parties were invited to make further representations in writing.

5. No further representations were received from the Respondent. Mr Pickard, represented by his father, claims that the property is not suitable for occupation by the elderly for various reasons. The Tribunal has not made a determination on this issue.
6. The Respondent does not have a record as to whether the Property was first let and the Tribunal has not made a determination on this issue.
7. Mr Pickard informs the Tribunal, and the Tribunal accepts, that when the Property was let to him he was not a successor in title to any previous tenant. Mr Pickard is aged 34 and no-one aged 60 or over has occupied the Property since it was let to him. It follows that the conditions for excluding the right to buy have not been met, and that the Respondent may not rely on paragraph 11 of Schedule 5 to the Act.

Tribunal Judge A. Davies

13 December 2019