



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

**Case Reference** : CHI/24UJ/RTB/2020/0002

**Property** : 2 Rushington Lane, Totton, Hampshire,  
SO40 9AA

**Applicant** : Mr John Morgan

**Representative** :

**Respondent** : New Forest District Council

**Representative** : Mr Kerry Leach  
Rent Accounting and Home Ownership  
Manager

**Type of Application** : Appeal against the denial of the Right to  
Buy

**Tribunal Member(s)** : D Banfield FRICS Regional Surveyor

**Date and venue of CMH** :

**Date of Decision** : 19 October 2020

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DECISION

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**The Tribunal confirms the Respondent was entitled to deny the Applicant tenant's right to buy the property.**

## Background

1. On 19 August 2020 the Tribunal received an appeal from Mr John Morgan against the denial of the right to buy the property. The application form included a reference to a tribunal case CHI/24UJ/RTB/2012/2004. (the 2012 decision) Also included was a letter to Mr J G and Mr S Morgan from New Forest District Council dated 14 July 2020 paragraph two of which stated that “*the application had been denied because on the 10 December 2012 the Residential Property Service decided that paragraph 11 of Schedule 5 to the Housing Act 1985 applied to your home.*”
2. It was stated that if the recipients did not agree with the decision they should contact the Tribunal.
3. Paragraph three of the letter stated that Mr S Morgan did not meet the residential qualification criteria and his right to buy was therefore denied.
4. Attached to the letter was a Notice in Reply to Tenant’s Right to Buy Claim dated 14 July 2020 and addressed to J G and S Morgan denying the claim on the grounds in paragraph 11 of Schedule 5 of the Housing Act 1985 (as amended) (“the Act”).
5. The Tribunal made Directions on 2 September 2020 indicating that the application was to be determined on the papers **without a hearing in accordance with rule 31 of the Tribunal Procedure Rules 2013** unless a party objects in writing to the Tribunal within 14 days of the date of receipt of the directions.
6. A determination bundle has been received from the Respondent which includes amongst other things a copy of the RTB Notice, the Respondents statement of case, a note that no Applicants reply had been received and a copy of the 2012 decision.
7. No objection to a paper hearing has been received and the application is therefore determined on the bundle received.

## Evidence

8. For reasons which will become apparent there is no need to record the statements included in the bundle.

## Determination

9. This is an application to the Tribunal by Mr John Morgan who was also referred to as the Applicant in the 2012 decision which confirmed the Respondent was entitled to deny the Applicant tenant’s right to buy the property.

10. Whilst the Respondent's letter of 14 July 2020 referred to denying the Applicant's right to buy due to the Tribunal's 2012 decision somewhat confusingly a Notice was also served refusing the application on the grounds of paragraph 11 of Schedule 5 to the Housing Act 1985.
11. There has been no suggestion that the physical characteristics of the property or its surroundings have altered since 2012 and the Tribunal's unchallenged decision dated 28 November 2012 under reference CHI/24UJ/RTB/2012/0004 remains binding in denying Mr John Morgan the right to buy the property.
12. Whilst the Tribunal would normally have struck out as an abuse of process an application where a previous decision remained binding, in view of the Respondent's further notice dated 14 July 2020 the Tribunal also determines that the Respondent is entitled to deny Mr John Morgan's right to buy the property as referred to in that Notice.

### **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office, which has been dealing with the case. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
2. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
3. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.