



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

Case Reference : CHI/00HX/PCH/2021/0005 & 0006

Property : 19 and 24 Kingsdown Mobile Home Park
Swindon
Wiltshire SN25 6PG

Applicant : Mr John Hemming (19)
Mr Stephen Fifield (24)

Representative :

Respondent : Oaklands Property Developments Ltd

Representative : IBB Law Limited

Type of Application : Park Home: Any question under s4 Mobile
Homes Act 1983 (as amended)

Tribunal Member(s) : Judge D R Whitney

Date of Decision : 25th June 2021

DECISION

Background

1. The Applicants are the owners of residential park homes known as 19 and 24 Kingsdown Mobile Home Park, Swindon. The Respondent is the owner of the site.
2. Both Applicants made individual applications dated 15th February 2021. Both of the Application made the same requests: -
 1. I seek an urgent determination that the park owner does not have the right to come on to my pitch to survey/inspect my home, the reason being he does not have the right under the consolidated implied terms Paragraph 15 (The rights conferred in Paragraphs 12 to 14 do not extend to the mobile home) and if so
 2. I seek a determination that any survey/inspection carried out on my home without my express permission cannot be used in evidence in any tribunal against me. I am aware that 9 other homeowners on this park have recently had surveys/inspections carried out on their homes without their permission by an unqualified person who is not a licenced surveyor.
 3. If so I seek an order from the tribunal that the park owner desists from asking/pressurising me to have my home surveyed/inspected either now, in the future or at the point of any sale and that he puts any future comments /observations regarding me or my home in writing.
The reason being: The new site owner has notified me verbally that an enforced survey of my home is going to be carried out and I am feeling threatened.
3. Directions were issued in both cases on 17th March 2021 in similar terms. The directions provided that unless either party objected the applications would be determined on paper. Subsequently the time provided for the Applicants to reply was extended but essentially now all the directions have been complied with.

Decision

4. In making this decision I have had regard to all the documents filed and I thank both parties for their assistance.
5. I have considered whether or not the matter remains suitable for determination on the papers. I am satisfied that it is. Both sides have set out their arguments in a clear and succinct manner. The basic facts are not in dispute.
6. The Applicants case is set out primarily in their application forms and the Respondents' case in the witness statements (one for each case) from Shaun Gorman, director of the Respondent and which

are in similar form. I have also considered carefully the written pitch agreements for each of the two properties. I do not set out the terms in this decision as the parties are familiar with the same.

7. The Applicants suggest that they feel pressured to allow the Respondent access to their pitches and into their mobile homes. Mr Gorman accepts that certain homes on the site have been inspected but denies pressuring the Applicants in the way they suggest.
8. Mr Gorman suggests the company is entitled to inspect the pitches upon giving not less than 14 days' notice. He agrees that the Respondent has no right to enter the pitches unless express agreement is provided.
9. Mr Hemming in the reply he filed suggests he was told that the reason for the inspection was so that the Respondent could obtain a site licence. Further he disputes that the person who the Respondent has used for inspections is an expert given they are not an RICS surveyor. He suggests his complaint should be upheld.
10. Under both of the written agreements the Applicants are afforded a right of quiet enjoyment. Further both agreements provide that the Applicants are required to keep their mobile homes in repair.
11. The Respondent under both agreements (Part IV 3(m) of number 19 and 14 of Schedule 1 of number 24) allow the Respondent on notice to inspect the pitch. This clause requires notice and only allows inspection of the pitch. The notice must state the date, time and reason for the inspection.
12. I am satisfied that subject to the Respondent giving not less than 14 days prior notice in writing to the park home owner the Respondent may have access to the pitch for the purpose of inspection. This does not allow them to enter into the park home itself, simply on to the pitch. Such notice must specify the date, time and reason for inspection. It is for the Respondent to set out the reason. Plainly if the reason given turns out to be untrue this may affect what view is taken of any findings which the Respondent seeks to rely upon. Given the Respondent is a company it should also specify the names of those who will be inspecting on their behalf and if appropriate any titles or an explanation as to who they are.
13. In my determination such access does require the Applicants to consent to the same. Such consent may be implied if they do not object. If they object and are not prepared to allow such access they should notify the Respondents. If they do refuse such access it may be, dependent upon the circumstances, that the Respondent will be entitled to make applications on the basis that the Applicants are breaching their agreements by not providing access to the pitch

upon notice being given. Such determinations are always made on their own merits and dependent upon the facts of the individual case.

14. It is for the Respondent to specify who shall attend any such inspection. It is for the Respondent to satisfy themselves as to the qualifications of the person. In reaching this determination I make no findings as to whether or not the person whom Mr Gorman says historically has carried out inspections is suitable or not. That is not a question for me to determine within this application. Whoever attends, if subsequent proceedings are issued based on their inspection, would need to give evidence and their status as an expert could be challenged. I do make the point that there is no requirement for such person to be an RICS surveyor. It is for an expert to set out their qualifications and experience and to satisfy a court or tribunal that they have the correct expertise for the evidence they are giving to that forum.
15. The Applicants are of course entitled to challenge any findings such inspection determines. It would be for them to then adduce evidence supporting the position they contend.
16. As is conceded by the Respondent I find that the Respondent cannot require entry to the mobile home. The Respondent can ask the Applicants to enter the park home but if this is declined then the Respondents are not entitled to require or force access and any attempt to do so would be a breach of the Applicants right to quiet enjoyment.
17. This decision determines the questions posed. I would urge the parties to work together. Plainly there is an ongoing relationship between them and resolving these disputes together is always preferable to judicial intervention.

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 by email to rpsouthern@justice.gov.uk to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. 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.
3. 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.

4. 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.