



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

Case Reference : **MAN/00CE/RTB/2024/0600**

Property : **3 The Bungalows, High Street, Everton,
Doncaster**

Applicants : **Stephen Price and Beverley Price**

Respondent : **BASSETLAW DISTRICT COUNCIL**

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

Tribunal Members : **Judge A M Davies
A HOSSAIN MRICS**

Date of Decision : **7 April 2025**

DECISION

1. Paragraph 10 of Schedule 5 to the Housing Act 1985 (“the Act”) does not apply to the Property.
2. Pursuant to paragraph 11 of Schedule 5 to the Act, the Applicant has the right to buy the Property.

REASONS

1. Mr and Mrs Price, the Applicants, have, according to the information in their application to the Tribunal, rented the Property from the Respondent since

August 2021. This date and the dates of birth given by the Applicants have not been challenged by the Respondent. If the dates are correct, the Applicants were aged 58 and 59 at the start of the tenancy. On 12 September 2024 the Respondent's Senior Admin Support Officer refused their application to buy the property, stating "*The property is exempt from the Right to Buy as it is "particularly suitable for occupation of persons of pensionable age" – Housing Act 1985, Schedule 5, paragraph 10*".

Immediately below this entry on the form are the standard printed words: "*You have been denied the right to buy on the grounds in paragraph 11 of Schedule 5....If you do not agree with this decision.....you may ask a residential tribunal to decide whether it is correct.*" It was therefore unclear whether the Respondents intended to refuse the right to buy on the basis of paragraphs 10 or paragraph 11 of Schedule 5 to the Act. The Applicants applied to the Tribunal for a determination as to whether they were entitled to buy the Property.

2. The Local Authority may refuse to sell a property to a tenant if paragraph 10 of Schedule 5 to the Act applies. This paragraph provides -
"10(1) The right to buy does not arise if the dwelling-house is one of a group of dwelling -houses –
 - (a) which are particularly suitable, having regard to their location, size, design, heating systems and other features, for occupation by elderly persons and
 - (b) which it is the practice of the landlord to let for occupation by persons aged 60 or more, or for occupation by such persons and physically disabled persons,
and special facilities such as are mentioned in sub-paragraph (2) are provided wholly or mainly for the purposes of assisting those persons.
 - (2) the facilities referred to above are facilities which consist of or include
 - (a) the services of a resident warden, or
 - (b) the services of a non-resident warden, a system for calling him and the use of a common room in close proximity to the group of dwelling-houses."

3. If paragraph 10 of Schedule 5 applies to a property and the application to buy is refused, the tenant has no right of appeal to this tribunal.
4. The right to buy a property rented from the Local Authority may also be refused if paragraph 11 of Schedule 5 1985 applies. Paragraph 11 of Schedule 5 provides –

“(1) The right to buy does not arise if the dwelling-house—

(a) is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by elderly persons, and

(b) was let to the tenant or a predecessor in title of his for occupation by a person who was aged 60 or more (whether the tenant or predecessor or another person).”
4. The Tribunal is required to have regard to guidelines issued for the purpose of assessing whether a property is particularly suitable for occupation by elderly persons. For this purpose “elderly persons” means people who are able to live independently despite some limitations owing to age. It does not mean people who are frail or severely disabled.
5. Following receipt of the application, the tribunal issued directions with a view to establishing whether paragraph 10 or paragraph 11 of Schedule 5 applies to the Property. The parties were invited to make written representations on this issue.
6. The Applicants responded by denying that the Property is one of a group of properties, saying that it is merely one of 4 adjacent bungalows with similar bungalows across the road. Further they said that the bungalows were not particularly suitable for occupation by persons either aged 60 or more or with physical disabilities, because they have no wide doors internally or externally, and no handrails to assist mobility. They said that there are no access ramps to assist with the front step and door sills, and no room internally in the bathroom and elsewhere to manoeuvre walking frames. With regard to paragraph 10(2) they said that there was no resident warden and no regular

contact from the Respondent's on-call warden. There was no common room for use by the occupants of the bungalows.

7. The Respondent claimed that the words inserted into the refusal of the right to buy were "standard wording" and did not mean that the refusal was based on paragraph 10, as indicated. Nevertheless, the Local Authority said that the reason for refusal was the exemption under paragraph 10, but in the event that the exemption did not apply, the right to buy was also refused under paragraph 11. In his written representations the Respondent's solicitor Mr Ridge pointed to the words "such as" at paragraph 10(a), and said that the facilities referred to in paragraph 10(b) were examples, but that the words "such as" meant that similar facilities would suffice to exempt a property from the right to buy. In this case, the Respondent relied on the fact that the Property *"has a hard wired 24 hour monitoring system. There is a base unit in the living room and pull cord in the bathroom."* Mr Ridge also said that it was the Respondent's practice to let this and the other properties in this group to those over 60 years old. He did not explain why this Property was let to the Applicants when they were under 60.
8. The Tribunal finds that paragraph 10 does not apply and does not exempt the Property from the right to buy provisions for the following reasons:
 - (i) The Applicants' evidence is that there is no regular contact by the off-site warden indicating acceptance of any responsibility for the day to day welfare of the tenants. There is no common room, and no facilities are in place which would suggest any alternative provision for social care. The supply of a 24 hour remote monitoring system is not in itself a sufficient alternative since in the event of a medical emergency a 999 call would be appropriate. The Respondent has not indicated what services are available via the monitoring system or when it should be used.
 - (ii) The Property was let to the Applicants when one of them, Mr Price, was suffering from a physical disability but Mrs Price was able-bodied and under 60. Consequently, there was no compliance with paragraph 10(1)(b).
 - (iii) The Property is not particularly suitable for occupation by elderly persons, for the reasons given below.

The Tribunal has therefore to determine whether the Respondent has the right to refuse the application to buy the Property on the basis of paragraph 11 of Schedule 5.

9. On inspecting the Property the Tribunal found it to be a one bedroomed bungalow, with access from the road via a flat pathway. There is an 8 inch step in front of the front door, and no hand rail. To the rear is an enclosed garden. Internally the accommodation is cramped. The bathroom is small, and the usable space is encroached upon by the door. The kitchen is a small area off the living room. There is a conservatory at the rear.
10. There are no shops at all in Everton. A bus stop very near the Property is used by buses to Retford. The nearest town for shops, doctor, dentist and other facilities is Bawtry, around 3 to 4 miles distant. There is a bus service there, leaving from the end of the Applicants' road.
11. The Tribunal finds that the Property is not particularly suitable for occupation by tenants aged 60 and over because
 - (a) there are no shops within walking distance for obtaining day to day provisions, and
 - (b) there is no handrail to assist with navigating the step at the front door.Further, the Property was not let to the Applicants for occupation by a person who was aged 60 or more, and therefore does not satisfy the test at paragraph 11 (1)(b).
12. In view of these findings, the Tribunal concludes that the property is not particularly suitable for occupation by elderly persons, and therefore the Applicants have the right to buy it under the provisions of the Act.