

RESIDENTIAL PROPERTY TRIBUNAL SERVICE LEASEHOLD VALUATION TRIBUNAL

Property: 21 Crescent Way, Cholsey, Wallingford Oxfordshire
OX10 9NE

Appellant: Mrs Pamela Jean East and Mr Robert Fred East

Respondent(s): SOHA Housing Limited

Case number : CAM/38UD/RTB/2006/0006

Date of Application: 22nd July 2006

Type of Application: Appeal against denial of tenants' right to buy
(Schedule 5 Housing Act 1985 as amended ("the 1985 Act"))

The Tribunal: Mr JR Morris (lawyer chair)
Mrs H Bowers MRICS
Mr D Wills ACIB

DECISION

Introduction

1. The Appellants have applied to the Respondents to exercise their right to buy the property, which is presently let by the Respondent to the Appellants.
2. By notice to the Appellants dated 12th May 2006, the Respondent refused the right to buy stating
 - (a) that the property was first let before 1st January 1990,
 - (b) that it is particularly suitable for occupation by elderly persons and
 - (c) was let for occupation by a person aged 60 or more.
3. This appeal has been lodged within the 8 week statutory period allowed for such appeals.

The Law

4. The principle Statute which sets out the qualifying conditions to the right to buy is the 1985 Act. Schedule 5 deals with the cases where the right to buy does not apply and the Respondent relies upon Paragraph 11 which says:-

11(1) The right to buy does not arise if the dwellinghouse

- (a) *is particularly suitable, having regard for 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 years or more (whether the tenant or predecessor or another person)*
- (2) *In determining whether a dwelling is particularly suitable, no regard shall be had to the presence of any feature provided by the tenant or a predecessor in title of his*
- (3) *...(not applicable to this appeal).*
- (4) *.... "*
- (5) *.... "*
- (6) *This paragraph does not apply unless the dwellinghouse concerned was first let before 1st January 1990*

The Facts of This case

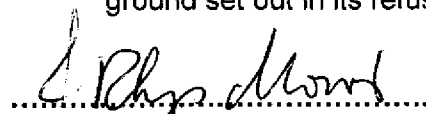
5. In their application to this Tribunal the Appellants state that the property was first let to them on the 18th April between 1993 and 1995 but they were not sure of the year. They stated that the age of the oldest person was between 61 and 63 in those years.
6. In addition the Appellants stated that the Property is an end of a terrace bungalow built about 1950. It is of concrete slab (Cornish design) construction with the concrete walls being later surrounded by brick. The roof rests on the concrete sections. It is considered habitable but is sub standard i.e. no building certificate is available. The Respondent stated that there is a kitchen, bathroom, sitting room, one small bedroom and one double bedroom. There is a Tesco mini market, hairdresser, butchers and chemist about half a mile away, the railway station is a but a quarter of a mile away and the bus stop to Wallingford and Goring is 250 to 300 yards away. The nearest surgery, bank and building society are in Wallingford. The Respondents stated that they were currently 74 and 80 years old respectively.
7. The Applicants stated that they had carried out the following improvements: 4 new interior doors, 2 cupboards and work surface to cover tumble dryer, removed passage wall to the front door to make the sitting room larger, fenced front, side and back with gate access to the rear, added a small conservatory to cover the back door, laid concrete slabs to the side of the bungalow to a wooden shed and gravelled part of the front garden (all with SOHA's permission).
8. A copy of the application form was sent to the Respondent for its observations. It was stated that the property was first let to a tenant before 1st January 1990. The current

tenant took the tenancy of the property on 20th April 1998 when she was aged 65 years her date of birth being 26th April 1932. The Respondent confirmed the Appellants statement as to the construction of the bungalow but that it had not been repaired under a PRC repair scheme. It was added that the Property has gas central heating installed by the Respondent. There is one step to the entrance at the front of the Property and two to the door at the side. Two handrails have been provided to each of the entrance doors. There are no other steps or slopes to be climbed in getting to or from the nearest street.

9. The Respondent stated that the Tesco mini market selling all the basic food items was the nearest shop and was about a third of a mile away. It was stated that there was an excellent bus service between Cholsey and Wallingford and a timetable was provided. It was added that Wallingford is a market town about 3 miles from Cholsey with a range of amenities including supermarkets, banks, doctors' surgery, community hospitals etc. There is a railway station at Cholsey about a third of a mile from the Property.
10. The Tribunal inspected the property in the presence of the Appellants. It is a two bed-roomed bungalow. The accommodation comprises a lobby, living room, kitchen two bedrooms and a bathroom. The shops are about a third of a mile, the buses and train about a quarter of a mile away along level road. There are no more than three steps up to the property. The accommodation is all on one level. It appears to have a good and sufficient central heating system.

Decision

11. It is the Tribunal's decision that this appeal must fail because the statutory criteria are met. The property is particularly suitable, in its unimproved form, for occupation by elderly persons taking into account location, size, design, heating system and 'other features'. This property is in a pleasant, quiet location with amenities within a reasonable distance for an elderly person.
10. The Respondent therefore can refuse the Appellants' right to buy the property on the ground set out in its refusal notice.


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John R Morris

Date 13th October 2006