

**RESIDENTIAL PROPERTY TRIBUNAL  
EASTERN RENT ASSESSMENT PANEL**

**HOUSING ACT 1985 (the Act)**

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<b>Ref:</b>	<b>CAM/22UF/RTB/2005/0013</b>						
<b>Property:</b>	<b>50 Orton Close, Margaretting, Ingatestone, Essex CM4 9JN</b>						
<b>Appellants:</b>	<b>(1) Brian William Webb (2) June Webb</b>						
<b>Respondent:</b>	<b>Chelmer Housing Partnership Limited</b>						
<b>Date of Application:</b>	<b>17 November 2005</b>						
<b>Type of Application:</b>	<b>Appeal against the refusal of a tenant's right to buy (Schedule 5 of the Act)</b>						
<b>Date of Determination:</b>	<b>23 March 2006</b>						
<b>Date of Decision:</b>	<b>28 March 2006</b>						
<b>Tribunal:</b>	<table><tr><td><b>Mr John Hewitt</b></td><td><b>Chairman</b></td></tr><tr><td><b>Mr Richard Marshall</b></td><td><b>FRICS FAAV</b></td></tr><tr><td><b>Ms Cheryl St Clair</b></td><td><b>MBE BA</b></td></tr></table>	<b>Mr John Hewitt</b>	<b>Chairman</b>	<b>Mr Richard Marshall</b>	<b>FRICS FAAV</b>	<b>Ms Cheryl St Clair</b>	<b>MBE BA</b>
<b>Mr John Hewitt</b>	<b>Chairman</b>						
<b>Mr Richard Marshall</b>	<b>FRICS FAAV</b>						
<b>Ms Cheryl St Clair</b>	<b>MBE BA</b>						

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**Decision of the Tribunal**

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**Decision**

1. The decision of the Tribunal is that the appeal is dismissed.
2. The findings of the Tribunal and its reasons for reaching this decision are set out below.

**Introduction**

3. The Appellants have applied to the Respondent, pursuant to Part V of the Act, to exercise the right to buy (RTB) the Property which is presently let to them by the Respondent on the terms of a secure tenancy within the meaning of Part IV of the Act.
4. By notice in form RTB2 dated 1 November 2005, the Respondent refused the right to buy stating:
  - a) that the Property was first let before 1<sup>st</sup> January 1990,

- b) that the Property is particularly suitable for occupation by elderly persons, and
  - c) that the Property was let for occupation by a person aged 60 or more.
5. The Appellants wish to appeal that decision and do so by notice of appeal dated 15 November 2005 which has been lodged within the 8 week statutory period allowed for such appeals.

#### **The Law**

- 6. The Act is the principle statute which sets out the qualifying conditions under which certain tenants have the right to take advantage of the RTB scheme in respect of the home let to them.
- 7. Schedule 5 to the Act deals with cases where the right to buy does not apply. The Respondent relies upon paragraph 11 of Schedule 5, which, so far as is material to the present proceedings, provides as follows:-
  - '11(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 a 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 of his.*
  - (3) ...*
  - (4) ...*
  - (5) ...*
  - (6) This paragraph shall not apply unless the dwelling-house was first let before 1<sup>st</sup> January 1990.'*

#### **The Procedure**

- 8. This case falls to be determined in accordance with The Residential Property Tribunal (Right to Buy Determinations) Procedure (England) Regulations 2005.
- 9. Neither party requested a hearing and the parties asked the Tribunal to decide the appeal on the basis of the written submissions made by them.
- 10. The Tribunal carried out an internal inspection of the Property and the surrounding area on 23 March 2006. Mrs Webb was present and gave us access to the Property. The Respondent had been invited to attend the inspection, but declined to do so.

### **The Background to the Appeal and the Contentions**

11. The Appellants entered into a tenancy of the Property in June 2000, having requested in 1999 to be put on the 'elderly persons housing register'. The Appellants' application form states that at the time of the grant of the tenancy the Appellants were aged 60 and 66.
12. The Respondent contends that the Property is a bungalow designated for the elderly or physically disabled and that it has been adapted as such with a hard wired community alarm system, and a graded floor shower. The Respondent also contends, and it was not disputed, that the Property was first let in February 1988.
13. The Appellants contend that the properties are suitable for the elderly but are sometimes difficult to let, there being no shops nearby. They say that you have to be reasonably fit and healthy to travel by bus for shops and doctors, or else be able to afford to run a car.

### **Findings and Reasons**

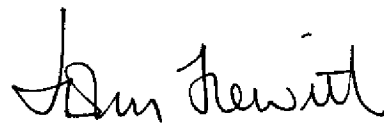
14. At the inspection the Tribunal noted that Margaretting is a rural area and that the Property was situated at the end of a quiet cul de sac. The subject Property constructed of red brick under a tile roof is at the end of a terrace of three bungalows. Nearby there is a block of 4 bungalows and a block of 6 bungalows which appear to have been constructed in the same style and probably at about the same time in the 1970s or 80s.
15. The Tribunal found that the accommodation within the bungalow comprised a small living room, bedroom, kitchen and a combined bathroom and toilet together with a hallway and with good storage facilities. Evidently the bath had been removed from the bathroom by or at the request of a previous tenant and replaced by a walk-in shower. Apparently over time replacement double glazed windows have been installed throughout the Property. A number of grab handles had been installed at key points.
16. The Tribunal noted that the Property has the benefit of an electric night storage heating system, albeit now somewhat aged, to the living room, hall, kitchen and bedroom. The bathroom was heated by a wall mounted electric fan heater. The Property also has the benefit of a hard wired alarm system with pull switches in all rooms. Most electrical plug sockets and some switches are at half height.
17. The Property is approached from the roadway by a short concrete path which gently slopes upwards to a small step into the front door. There are small gardens to front, rear and side, although it appears that one or both of the other bungalows in the terrace may have access rights across the side and rear gardens.
18. The Tribunal noted that a bus stop for the half hourly 351 service into Ingatestone was within 800 metres of the Property. The

Tribunal was informed and accept that a local trust also provides an occasional bus service.

19. With regard to the relevant criteria that the Tribunal has to consider, it finds as follows:

1. Was the Property first let before 1 January 1990?  
We find that it was because it was asserted by the Respondent and not disputed by the Appellants that the Property was first let in February 1988.
2. Is the Property particularly suitable for occupation by elderly persons?  
We find that it is because:
  - a) the Property is easily accessible from the roadway by way of a gently sloping path, and a small step into the hallway.
  - b) the Property is a well designed one bedroom bungalow on one level, double glazed, with an adequate functioning (if dated) heating system to all rooms with night storage heaters which may safely be left on overnight, with a hard wired community alarm system with pull switches in all rooms, and with plug sockets set at half height.
  - c) the Property is in a rural area with reasonable access to a bus stop within 800 metres which provides an adequate service into Ingatestone for opportunities for shopping at least three times per week.
3. Was the Property let for occupation by a person aged 60 or more?  
We find that it was because the Appellants application form states that at the time of the letting to them in June 2000 they were aged 60 and 66 and we accept what they have stated.

20. In these circumstances we have no doubt that the Respondent has made out its case denying the Appellant's the right to buy the Property within the terms of the Act and we must therefore dismiss the Appellants' appeal.



John Hewitt  
Chairman  
28 March 2006