

Residential Property Tribunal

Housing Act 1985 - Schedule 5, paragraph 11

LON/00BG/RTB/2005/001

Applicant: **Mrs M Dorey (tenant)**

Respondents: **The London Borough of Tower Hamlets (landlords)**

Address|: **11 Inglefield Square, Prusom Street, London W1W 3RS**

Decision and Reasons

Decision

The flat at 11 Inglefield Square, Prusom Street, London, W1W 3RS is particularly suitable for occupation by elderly persons, within the meaning of paragraph 11 of schedule 5 to the Housing Act 1985 and for that reason is exempt from the right to buy. Accordingly, the application is dismissed.

Reasons

Background

1. This is an application under paragraph 11 of Schedule 5 to the Housing Act 1985 by Mrs M Dorey who is the secure tenant at 11 Inglefield Square, Prusom Street, London E1. Her landlord is the London Borough of Tower Hamlets (the council).
2. On May 4, 2005, the council received an application from Mrs Dorey to exercise her right to buy 11 Inglefield Square under Part 5 of the Housing Act 1985. On June 16, 2005, the council wrote to Mrs Dorey with a form RTB 2 denying her application.

3. The reason given for the denial of the right to buy was that “Your home is designated as a property suitable for the elderly and these homes should not be sold to their tenants”
4. On June 27, 2005, Mrs Dorey’s daughter applied on her behalf to have the decision considered by the Secretary of State. That letter was forwarded to the Residential Property Tribunal, which now deals with such applications.
5. Neither Mrs Dorey, nor the council required an oral hearing of the application and therefore the Tribunal met to consider written submissions of the parties and to inspect the property on September 29, 2005.

Inspection

6. The Tribunal visited the property on the morning of the 29th September 2005. The Applicant was at home but requested that the Tribunal carry out an external inspection only and the Tribunal proceeded to view the block containing the subject flat and the local environs.
7. We saw a small development of 24 flats in 4 linked blocks each of two storeys built circa 1970s and constructed of brick and concrete under pitched roofs and surrounding an enclosed communal garden. Windows and doors are of double glazed plastic and appear to be replacements for the originals. There is a communal central heating system with a boiler house to the south-west corner of the development.
8. The subject flat opens onto the pathway to the rear of the block. This rear doorway has a shallow threshold and there is level access to the pathway which leads to shops and transport links. There is limited on site parking and controlled on street parking in the area. The immediate area is quiet with no through traffic.
9. The Tribunal observed that the flat is within 100 metres of bus stops for the D3 and 100 routes, both of which use vehicles suitable for wheelchair users.

Shops including a pharmacy, post office, greengrocer, launderette, fish & chip shop, butcher and small supermarket were also about 100 metres from the subject flat. The area offers level access to these and other local amenities of a health centre, churches and Wapping London Underground Station, which is approximately 225 metres from the flat.

The written submissions from the parties

10. Information in writing was provided by both parties. From this the Tribunal ascertained that Mrs Dorey's flat was let to her in 1987 when she was 65.
11. The flat is not secured by an entry phone. It has one bedroom and is served by the communal heating system. There are no specific adaptations for the elderly within the flat.
12. The Tribunal were also informed that the block is not warden controlled, that there is no resident caretaker and no home help and that other flats in the block are occupied by young people. As part of Mrs Dorey's case it was said that the flat opposite had been bought by a young man and that the tenants at number 6 had bought their flat for a fixed price of £38,000.
13. In response the council stated that number 6 had been purchased under the right to buy in May 2002 but that none of the other 23 dwellings had been sold. They also stated that this should not affect the Tribunal's decision and that the substance of the appeal is the particular suitability or otherwise of number 11 Inglefield Square for occupation by elderly persons.

The Law

14. Paragraph 11 of Schedule 5 to the Housing Act 1985 (the Act) provides:
 - “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 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.”

15. Paragraph 11 of Schedule 5 to Act can be contrasted with paragraph 10 which provides a different exception to the right to buy where a dwelling house is one of a group of dwelling-houses with special facilities for elderly persons such as resident warden. Paragraph 11 is much wider and can apply to any house or flat.

The Decision

16. The Tribunal decided that 11 Inglefield Square is particularly suitable for occupation by elderly persons and for that reason is exempt from the right to buy.


17. In reaching its conclusion the Tribunal took into account the following:

- (a) The flat is situation well for access. It is on the ground floor and there is level access to the entrance from the pavement without steps;
- (b) Access to public transport is very good. In particular bus stops with disabled access are within 100 metres in both directions from the flat. The bus stops are reached without having to negotiate any steps or stairs;
- (c) Shopping facilities are again within easy walking distance and the number and variety of shops is sufficient to enable all normal household shopping to be undertaken. In the same vicinity there is a health centre and community centre;
- (d) The flat itself has one bedroom and heating is provided via a central boiler. On the information before the Tribunal there was no indication that the internal arrangement of the flat causes any difficulty in mobility or usage.

18. In reaching its conclusion the Tribunal was satisfied that the property was not merely suitable for occupation but that it was particularly suitable having regard to its location, size, design, heating system and other features. It was common ground that the flat had been let to Mrs Dorey when she was 65 and that this was before 1990. Therefore all of the conditions of paragraph 11 were fulfilled.

19. The fact that another property in the square has been sold under the right to buy does not mean that flat 6 does not fulfil paragraph 11.

20. Accordingly the application was dismissed.

Chairman 

Date: 17.10.05.

Tribunal: Siobhan McGrath (Chairman)
Aileen Hamilton-Farey FRICS FCI Arb
Trevor Sennett MA FCIEH