



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

Case Reference : **MAN/00FB/RTB/2019/0007**

Property : **6 Church Field, Hessle, Hull, HU13 9HA**

Applicant : **Mrs Celia Laughton and Mr Alan Laughton**

Respondent : **East Riding of Yorkshire Council**

Type of Application : **Right To Buy A Dwelling, Housing Act 1985, Schedule 5, Paragraph 11, As Amended By The Housing Act 2004, Section 181.**

Tribunal Members : **Judge C. P. Tonge, LLB, BA.
Mr P. Mountain FRICS.**

Date of Decision : **4 June 2019**

DECISION

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Application and Background

1. Mrs Celia Laughton and Mr Alan Laughton (the Applicants) gave notice under section 122 of the Housing Act of 1985 (the Act) to the landlord, East Riding of Yorkshire Council (the Respondent), of their intention to exercise their right to buy their dwelling, 6 Church Field, Hessle, Hull, HU13 9HA (the property).
2. The Council then served a notice (form RTB) dated 27 February 2019 on the Applicants under Section 124 of the Act denying the tenants' right to buy on the grounds set out in paragraph 11 of Schedule 5 of the Act.
3. By an application dated 18 March 2019, the tenants applied to the First-tier Property Tribunal under paragraph 11(4) of Schedule 5 of the Act for a determination as to whether the grounds set out in paragraph 11 are satisfied.
4. The tenants' application was copied to the Respondent by the Tribunal. In reply the landlord served a notice, indicating an intention to oppose the tenants' appeal.

Dispensing with the Oral Hearing

5. By letters dated the 7 May 2019 the Tribunal notified the parties under rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (SI 2013 Number 1169), of the Tribunal's intention to proceed without an oral hearing if neither party requested a hearing. The parties did not request a hearing.
6. The Tribunal has received written representations for the landlord and tenant and these have been copied to the other party. The tenants' representations are contained in their application to the Tribunal with additional evidence on a page of representations, dated 15 May 2019. The Respondent's representations are contained in a letter dated 13 May 2019.

The Property

7. The Tribunal inspected the property and surrounding area at about 10.30 am on 4 June 2019. The Applicants' were present, no one attended to represent the Respondent.
8. The property is a two bed roomed ground floor flat, in a purpose built block of flats, forming part of a small estate accommodating 54 flats, built

as sheltered housing for the elderly. The complex contains a community centre, which was locked when the Tribunal attempted to gain access to it.

9. Access to the front of the block of flats containing the property is along a flat and level path with a step with a six inch rise at the common exterior door. The communal entrance has a door buzzer entrance system. The front door to this flat is then off the communal hallway and is at the same level as the communal entrance door. The rear exterior door is at the same level and leads into an partly grassed area with a washed clothes drying area.
10. The interior of the flat is built on one level. The exterior windows are uPVC double glazed. It has two bedrooms, lounge, kitchen with dining area and shower room. The Tenants have improved the flat by replacing the kitchen fitments with a modern fitted kitchen and replacing the wet room with a modern shower room. When assessing whether or not the property is particularly suitable for occupation by elderly persons these improvements will be disregarded.
11. The property is heated by a gas fired central heating wall mounted boiler, situated in the kitchen. All rooms are heated by the central heating system that works efficiently. Electrical sockets that are raised well above the floor.
12. The Tribunal then inspected the nearby area. The nearby Tesco Express and petrol filling station are approximately 430 paces away from the property. This shop sells all items that are necessary for everyday life. The nearby bus stops providing a frequent bus service are visible from the edge of the complex and are approximately the same distance away from the property. The routes to both are flat and easily walked by a person of 60 years of age and over of reasonable health.

The Law

Paragraph 11 of Schedule 5 of The Act provides that:-

- 1) The right to buy does not arise if the dwelling-house
 - a) is particularly suitable, having regard to size, design, heating system, and other features, for occupation by elderly persons, and
 - b) was let to the Tenant or 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 the title of his...

6) This paragraph does not apply unless the dwelling house concerned was first let before the 1st day of January 1990.

The Issues

13. The Respondent states that the premises had first been let prior to 1 January 1990 and this has not been challenged by the Applicants. The Applicants' tenancy commenced when Alan Laughton was 68 years of age.
14. The only matter for the Tribunal to determine is whether under Paragraph 11(1) (a) of The Act the dwelling house is particularly suitable... for occupation by elderly persons.

Written Submissions

The Applicant

15. The Applicants state that it is their belief that one of the flats above the community centre has already been sold, that the community centre is now open to the general public, that over the last 11 years persons who are under the age of 60 years have moved onto the complex and that denying their right to buy is age discrimination. The Applicant's main point of contention is that

The Respondent

16. The Respondent submits that the property is particularly suitable for occupation by elderly persons and the Applicants' right to buy is being denied because of that.
17. The Respondent gives detail as of the entrance to the flats, the bus stops and shop close to the property.
18. The Respondent agrees that the use classification of these flats has recently been altered from designated for use by persons aged 60 years plus to now being classified as for general needs (sensitive lettings). The Respondent states that there are 27 ground floor flats in the complex of which 26 are let to persons who had an elderly resident when the tenancy began, the remaining flat being let to a person of 58 years of age with medical needs
19. The Applicants' tenancy of this property commenced on 14 January 2008, when Alan Laughton (who's date of birth is 16 July 1939) was 68 years of

age, whilst Celia Laughton (who's date of birth is 4 January 1945) was 63 years of age.

The Deliberations

20. In the determination of whether or not the interior of the property is particularly suitable for occupation by elderly persons, the Tribunal disregards the tenant's improvements and therefore considers the flat to have a dated wet room and an old partially fitted kitchen with a metal sink. However the flat does have effective central heating, electrical sockets that are raised well above the floor and double glazing. The Tribunal determines that the flat, in that condition, is particularly suitable for use by an elderly person.
21. The Tribunal determines that the main communal entrance provided with a door buzzer entry system can be used by an elderly person of reasonable health.
22. The Tribunal decides that the paths to the nearby shop and bus stops can be walked by a person of 60 years of age, or older, of average health. The bus services stopping at these bus stops provide a frequent bus service.
23. The Tribunal takes account of the change in designation of use of the complex but this does not prevent the property from being particularly suitable for occupation by elderly persons.
24. The Tribunal determines that the property is particularly suitable for occupation by elderly persons.

The Decision

25. The requirements of Paragraph 11 (1) (b) of the Act as to date of the first letting and the age of the occupier are met.
26. The flat does provide a home that is particularly suitable for occupation by elderly persons.
27. The Tribunal therefore determines that the grounds set out under paragraph 11 of schedule 5 of the Act are satisfied and that East Riding of Yorkshire Council may rely on those grounds to deny the Applicants' their right to buy.

Tribunal Judge C Tonge
14 June 2019