



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

Case Reference : **CHI/43UE/PHC/2019/0006**

Property : **77 Surrey Hills Park,
Box Hill Road, Box Hill
Tadworth, Surrey
KT20 7LY**

Applicant : **Haulfryn Group Limited**

Representative : **Tozers LLP**

Respondent : **Leilani Ashe**

Representative : **In person**

Type of Application : **s.4 MHA 1983**

Tribunal Members : **Judge D Dovar
Mr BHR Simms FRICS**

**Date and venue of
Hearing** : **1st July 2019, Kingston**

Date of Decision : **17th September 2019**

DECISION

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1. This an application under s.4 of the Mobile Homes Act 1983 for the determination of various matters in relation to the Property. By s.4, the Tribunal has jurisdiction to determine any question arising under the Act or any agreement to which it applies.
2. The application dated 19th March 2019, sought a determination as to whether the Respondent had succeeded to a mobile home agreement dated 23rd December 1988 ('the Agreement') with her late father, Mr Horne, by virtue of s.3 of the Act.
3. Section 3 of the Act provides

“(1) An agreement to which this Act applies shall be binding on and enure for the benefit of any successor in title of the owner and any person claiming through or under the owner or any such successor.

...

(3) Where a person entitled to the benefit of and bound by an agreement to which this Act applies dies at a time when he his occupying the mobile home as his only or main residence, the agreement shall enure for the benefit of and be binding on (a) any person residing with that person ... (b) in default of any such person so residing, the person entitled to the mobile home by virtue of the deceased's will or under the law relating to intestacy ...’

4. In the event that she had, and was therefore bound by the agreement, the Tribunal was asked to determine whether the Respondent was:

- a. residing at the Property in breach of the Agreement (and s.3(4)(a) of the Act; which precludes a successor from residing);
 - b. in breach of her obligation to keep the mobile home in a sound state of repair;
 - c. in breach of her obligation to maintain the outside of the mobile home in a clean and tidy condition;
 - d. in breach of clause 4 (k) (i) of the Agreement by causing a nuisance to neighbours (the clause being '*not to do or suffer to permit to be done on the Park or the Pitch any act or thing which shall or may be or become a nuisance or cause annoyance or inconvenience or disturbance to the Owner or other Occupiers on the Park...*').
5. In the event that any of the above breaches are made out, the Applicant requests that the Tribunal gives directions for their remedy.

The Tribunal inspected the Park and the mobile home on the morning of the hearing. The property is located on a well maintained site and comprises an older-style park home with gardens to front and rear. There is a porch; inner hall/utility area; living room; kitchen with sink worktops & cupboards; two bedrooms; bathroom with bath washbasin and W.C.

The park home is only in fair condition and is in need of some maintenance, the garden is overgrown.

6. In support of the application, the Applicant filed a statement from Mr Hackett who is the manager of Surrey Hills Park. In that statement, dated 2nd May 2019, he makes unparticularised complaints about noise in the early morning and late evening as well as about the condition of the mobile home.
7. The Respondent is uncertain as to whether or not she has succeeded to the Agreement. She does not know whether or not her parents were divorced, her mother is still alive and she thinks her father did not leave a will. She denies living at the property or causing a nuisance and is carrying out works to improve its condition.
8. At the hearing, the Applicant withdrew the allegation that the Respondent had been residing at the Property. In terms of the condition of the mobile home and surrounding area, they relied on what was observable at the inspection. They did not provide any schedule of works and suggested that if the Tribunal did find that there were breaches, then broad directions could be given to tidy up the site. On reflection, the Applicant then withdrew the allegations in relation to the condition of the mobile home and pitch.
9. In terms of the alleged nuisance, they relied on the evidence, referred to above of Mr Hackett. The Respondent denied the allegations of nuisance and said she whilst she had been carrying out some work at the mobile home, she was mindful of the neighbours.
10. The Tribunal finds that under s.3 of the 1983 Act, the Respondent has succeeded to the Agreement and is therefore bound by its terms. It is

satisfied on the evidence before it, that Mr Horne died intestate and that the Respondent, as his only child, succeeded to the Agreement. There had been some doubt as to whether Mr Horne had divorced the Respondent's mother, but after the hearing, the Applicant made further enquiries and provided the Tribunal with the decree absolute.

11. On the remaining allegation of breach, that of nuisance, the Tribunal is not satisfied on the evidence that it is made out. It is impossible to make any finding in the face of wholly unparticularised allegations of nuisance which themselves were reported to Mr Hackett by unnamed individuals.

Judge D Dovar

Appeals

A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.