



**First-tier Tribunal
Property Chamber
(Residential Property)**

Case reference : **CAM/22UN/PHI/2014/0003**

Site : **Castlehill Park,
London Road,
Clacton-on-Sea,
Essex CO16 9QW**

Park Home address : **66 Castlehill Park**

Applicant : **Tingdene Developments Ltd.**

Respondent : **Ann Margaret Armstrong**

Date of Application : **16th April 2014**

Type of application : **to determine pitch fee for the
address**

The Tribunal : **Bruce Edgington (lawyer chair)
David Brown FRICS**

DECISION

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1. The Tribunal determines that the annual pitch fee for the pitch known as 66 Castlehill Park as from 1st February 2014 is £1,516.79

Reasons

Introduction

2. The Respondent is the occupier of the park home known as 66 Castlehill Park placed on the pitch forming part of the Applicant's park home site at Clacton-on-Sea, Essex and she has not agreed to an increase in pitch fees for 2014 in line with the Retail Prices Index ("RPI"). The site owner must therefore apply to this Tribunal if it is to obtain an increase in pitch fee. There does not appear to be any dispute that the annual review date for pitch fees is on 1st February as is set out in the occupation agreement.
3. On the 19th November 2013, a letter was written to the Respondent, explaining that following a pitch fee review, as from the 1st February 2014 the pitch fee would be increased in line with RPI i.e. 2.6% in accordance with the Office for National Statistics figures produced at page 16 in the bundle supplied to the Tribunal for this determination.

4. Following receipt of this application, a copy was sent to the Respondent. A letter dated 14th May 2014 was received from the Respondent in which she describes her financial situation by way of explanation for late payment of her pitch fee. Whilst the Tribunal obviously has every sympathy for the Respondent in what appears to be a very difficult situation, there is nothing in that letter suggesting that the Respondent is objecting to the proposed increase.
5. The Tribunal issued a directions Order on the 6th May 2014 ordering the Respondent to file and serve any statement of case by the 23rd May 2014. None has been received which argues that the pitch fee should not be increased in line with the RPI. The Order also said that the Tribunal was content to deal with this matter by considering the papers only, to include any representations from the parties, and would do so on or after 24th June 2014 unless any party requested an oral hearing which would then be arranged. No such request was received.
6. The Applicant has filed a statement from Kerry Wild which the Tribunal has noted.

The Occupation Agreement

7. A copy of such agreement has been produced which seems to comply in all material respects with those terms imposed by the **Mobile Homes Act 1983** ("the 1983 Act") as it was. The only material amendments since have been to give this Tribunal, rather than the court, jurisdiction to deal with the approval of pitch fees if agreement cannot be reached.
8. The express and Statutory terms are intended to provide protection to park home owners because the site owner is perceived to have the 'upper hand' in an unequal negotiating position. As far as pitch fees are concerned, the provisions are quite straightforward. The initial pitch fee is negotiated between the parties and the site owner can only increase the pitch fee annually with the agreement of the occupier or with the permission of this Tribunal.
9. There can be an annual review of the pitch fee. If there is, notice then has to be given to the occupier of the result of that review within certain time constraints set out in the agreement prior to the 'review date'. Now, certain statutory information has to be served on the occupier in addition to the notification of the result of the pitch fee review. The Tribunal agrees that the statutory information has been given and the relevant time limits have been complied with in this case.
10. As to the pitch fee set out in the agreement, this is a contractual matter. This Tribunal has no power to interfere with what was agreed. Unlike the jurisdiction of this Tribunal to assess fair and open market rents, there is no suggestion in either the agreement or the 1983 Act that the Tribunal starts a *de novo* consideration of the open market position with regard to pitch fees either on the same site or other sites.
11. As to the amount of any increase or decrease in the pitch fee, the starting point is that regard shall be had to the RPI. Schedule 1, paragraph 18 of the 1983 Act, which overrides the express provisions,

goes further than this by saying that there is a presumption that the pitch fee will change with the RPI.

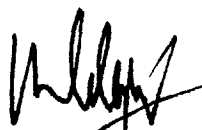
12. Upon application, the Tribunal has to determine 2 things. Firstly that a change in the pitch fee is reasonable and, if so, it has to determine the new pitch fee. There is no requirement to find that the level of the pitch fee is reasonable.
13. There are other matters which may be taken into account, depending on the circumstances, i.e. monies spent on the site by the site owner, whether there has been a reduction in the 'amenity' of the site since the last increase and any other statutory requirement. None is relevant to this application.

Site Inspection

14. As no-one had raised any issues which required an inspection of the site or the pitch, none was arranged in this case.

Conclusions

15. As to whether a change in the pitch fee is reasonable, the Tribunal is conscious of the wording of the 1983 Act as mentioned above i.e. that the starting point is a change in line with the RPI. Where, as in this case, there has been a change in RPI, one is almost bound to conclude that a change is reasonable. The Tribunal does so find in this case.
16. There does not seem to be any dispute that the formalities imposed by the 1983 Act as to the undertaking of a pitch fee review, the service of notice of increase plus statutory information and the time limits for the application to this Tribunal have been complied with. Thus the Tribunal accepts that they have all been complied with.
17. The Tribunal concludes that the pitch fees shall be increased in accordance with RPI as from 1st February 2014 as set out in the decision above.



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Bruce Edgington
Regional Judge
24th June 2014