



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

Case Reference : CAM/22UL/PHC/2017/0013

Property : 80 Crouch Park, Poole's Lane,
Hullbridge, SS5 6PY

Applicant : Peter Kerridge

Respondent : Wyldecrest Parks (Management) Limited

Date of Application : 28th September 2017

Type of Application : Application for an order requiring the site
owner to provide a written statement –
section 1(6) of the Mobile Homes Act
1983 as amended (“the Act”).

Tribunal : David S Brown FRICS (Chair)
Bruce M Edgington (Judge)

Date of Decision : 3rd December 2017

DECISION

The Tribunal orders the Respondent to provide to the Applicant a written statement which complies with paragraphs (a) to (e) of section 1(2) of the Mobile Homes Act 1983 and to do so by 5pm on 5th January 2018.

The Tribunal also orders the Respondent to reimburse to the Applicant the application fee of £100. This should be paid by the same date.

STATEMENT OF REASONS

Application and Background

1. Mr Kerridge has attempted to sell his mobile home. During the formalities with a purchaser, Mr Kerridge's solicitor and his daughter, Stevie Morden, requested Wyldecrest Parks (Management) Limited (“Wyldecrest”) to provide a valid copy of the written statement for the home as they considered that the

copy held by Mr Kerridge was incorrect and incomplete. Wyldecrest refused the request.

2. Mrs Morden states that as a result of Wyldecrest's refusal, Mr Kerridge's purchaser withdrew from the sale. Mr Kerridge has applied to this Tribunal for an order under section 1(6) of the Act to enable him to remarket the home.

The Law

3. The relevant part of section 1 of the Act provides that -
 - (2) *Before making an agreement to which the Act applies, the owner of the protected site ("the owner") shall give to the proposed occupier under the agreement a written statement which -*
 - (a) *Specifies the names and addresses of the parties;*
 - (b) *Includes particulars of the land on which the proposed occupier is to be entitled to station the mobile home that are sufficient to identify that land;*
4. Subsection (3) requires that statement to be given to the proposed occupier not less than 28 days before the date on which any agreement for the sale of the mobile home to the proposed occupier is made, unless the occupier consents to an alternative date which is less than 28 days before the sale date.
5. The right to apply to this Tribunal is set out in subsection (6) -
 - If the owner has failed to give the occupier a written statement in accordance with subsections (2) to (4) above, the occupier may, at any time after the making of the agreement, apply to (the appropriate judicial body) for an order requiring the owner -*
 - (a) *To give him a written statement which complies with paragraphs (a) to (e) of subsection (2) (read with any modifications necessary to reflect the fact that the agreement has been made), and*
 - (b) *To do so not later than such date as is specified in the order.*
6. Neither party has referred to the **Mobile Homes (Written Statement) (England) Regulations 2006** ("the 2006 Regulations") but we presume that Wyldecrest, as experienced park home site owners, are aware of them. These regulations apply to written statements given after 1st October 2006. They require such written statements to contain the particulars contained in Part 1 of the Schedule to the regulations (so far as not required by section 1(2)(a) to (d) of the Act).
7. In addition to the particulars of the land on which the mobile home is to be sited, paragraph 5 of the Schedule requires there to be attached to the statement -
 - A plan showing*
 - (a) *The size and location of the pitch;*
 - (b) *The size of the base on which the mobile home is to be stationed;*
 - (c) *Measurements between identifiable fixed points on the site and the pitch and base.*

The Applicants Case

8. Mrs Morden has submitted representations on behalf of Mr Kerridge. She encloses copies of a series of emails, which can be summarised as follows:-

12/9/17. Mr Sunderland to Mr Kerridge's solicitors, Turbervilles, stating that there is no requirement to provide a replacement written statement where one has already been provided, asking on the basis of what legislation they contend that the original statement is invalid and declining to provide a new statement and rekindle the ability to challenge the terms in the court or tribunal. It is clear that Mr Kerridge lives at no. 80. Turbervilles can complete section 1 of the statement. The pitch fee has been reviewed annually and this would take precedence over the terms of the agreement.

Neither party is disputing that rights under the Act for Mr Kerridge to keep a home on plot 80 exist or the validity of the agreement. Date and signatures are superfluous.

13/9/17. Turbervilles to Mrs Morden. Mr Sunderland has refused to sign the written statement on which they had completed the majority of the details. Advising her of the possibility of an application to the Tribunal but warning that the costs would be in the region of £5,000 plus VAT and disbursements.

20/9/17. Mrs Morden to Mr Watson asking for a properly completed written statement because the one her father has is not signed or dated and incorrectly refers to no. 18 instead of no. 80.

26/9/17 at 08.40. Mrs Morden to Mr Sunderland repeating the request.

26/9/17 at 08.44 Automatic reply from Mr Sunderland's email address stating that he is away until 3rd October and "your email will be deleted automatically without being read" and giving a phone number for urgent enquiries.

9. Mrs Morden states that she telephoned the number given and forwarded a copy of her email to "estatesassistant" at the Wyldecrest email address. Her phone call was taken by someone called Tina who said she was new and would get back to her.
10. Mrs Morden states that 18 Crouch Park does not exist as a postal address and the post code of no.80 is SS5 6PY whereas the postcode on the written statement is SS5 6PX.
11. The lack of a valid written statement has caused her father's buyer to pull out of the sale. A plan has been provided but it is not included in the original written statement. The written statement now provided by Wyldecrest is signed by a D Turner; this does not appear on the original statement provided to her father and he says he has not seen it before. Her father's signature is not witnessed.
12. She asserts that as Wyldecrest have now found a copy of the original, which by their own admission differs from the one provided to her father, it is surely not difficult to amend the typing errors and reprint those two pages and get the document properly signed.

13. Her father has incurred solicitors' fees and the Tribunal fee due to the sale falling through. He needs a valid written statement so that he can sell his home.
14. The written statement which she exhibits names the site owner as Wyldecrest Properties Limited. It gives Mr and Mrs Kerridge of 18 Crouch Park, Hullbridge, Hockley, Essex SS5 6PX as the mobile home occupier. The date for the agreement to begin is 10/1/2009. Under 'Particulars of the Pitch', it gives the same incorrect address and the grid for a plan is blank. The signature page is signed by D Turner as the site owner and names Waseem Hanif as signing on behalf of Wyldecrest Properties Limited with Miss Sarah Shah as witness but the signatures are missing and the date is “_/_/2008”.

The Respondent's Case

15. David Sunderland, Estates Director of Wyldecrest has provided a statement in reply to the application. He submits that as a written statement was provided at the commencement of the agreement by the previous site owner, the provisions of section 1(6) do not apply and the Tribunal does not have jurisdiction to make an order.
16. He says that the Applicant has not produced a copy of a plan which was provided following a request made under paragraph 22(a) of Chapter 2 of Part 1 of Schedule 1 to the Act. He attaches a copy.
17. Having checked Wyldecrest's files, they find that they have a copy of the Written Statement produced by the Applicants in the same terms, save for the completed signature page, copy of which he encloses.
18. He notes that the site owner in 2009 appears to have mistyped the number as 18 instead of 80 but there is no dispute between the parties as to where the Applicant is entitled to keep his home and pitch fee review notices show the address as 80 Crouch Park. In any case, the plan provided under Implied Term 22(a) states 80 Crouch Park. Crouch Park has no plot 18.

Discussion and Decision

19. The continued refusal by Wyldecrest to provide a copy of the written agreement that they say was signed at the relevant time, with the address corrected, is difficult to comprehend and appears to be wholly unreasonable. That simple response to Mr Kerridge's request would have rendered these proceedings unnecessary. Mr Sunderland asserted in an email to Turbervilles that a new statement would rekindle the ability to challenge the terms in the court or tribunal but Mr Kerridge was not asking for a new statement, just a corrected copy of the original statement.
20. Whether or not a signed copy of the written statement was originally provided to Mr Kerridge, (and it appears, on the balance of probabilities, that it was not), it is clear from the evidence from both parties that the written statement prepared in 2009 stated the wrong plot number and the wrong post code and did not include a plan as required by the 2006 Regulations. As a result, it could not possibly be a valid written statement as required by section 1 of the

Act. The fact that later documents show the correct address (although the pitch fee review notices still have the incorrect post code) is completely irrelevant; the Act requires that a valid written statement must be provided 28 days before the agreement takes effect or at a subsequent “chosen date” which is less than 28 days before the agreement commences if the proposed occupier accepts, under section 1(4).

21. We note that on page 23 of the written statement provided to us by Wyldecrest neither of the alternatives (a) and (b) have been deleted and that, given that the stated start date of the agreement was 10th January 2009, if the statement was delivered on or after 10th January 2009, as per the signature dates, it did not comply with section 1(3) or (4) of the Act either. However, as neither party has raised that issue, it has not informed our decision in this case.
22. Mr Sunderland’s assertion as to our jurisdiction has no merit. Section 1(6) applies where the site owner has failed to give the occupier a written statement “*in accordance with subsections (2) to (4)*”. Wyldecrest failed to do so and the subsection is engaged.
23. It is accepted by both parties that the agreement between Mr and Mrs Kerridge and Wyldecrest is for plot 80 with a post code of SS5 6PY and that there is no written statement recording that. Mr Kerridge is entitled to a correct written statement and any prospective purchaser of his home may reasonably request sight of one. There is no reason why we should not order Wyldecrest to provide a valid written statement, showing the correct plot number and post code.
24. Mr Kerridge’s daughter has referred to the costs he has incurred, including the application fee paid to the Tribunal. We cannot consider a question of costs under Rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 without evidence as to the conduct of either party by reference to Rule 13(1)(b). We can consider making an order for reimbursement of the application fee on our own initiative and we consider that in the light of our findings above such an order is justified and reasonable.

D S Brown FRICS (Chair)

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ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.