



PARK HOME RESIDENTS ACTION ALLIANCE (PHRAA)



OPEN LETTERS

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“TO BE APPEALED – AND RIGHTLY SO” By Tony Turner Campaigning Park Home Owner. Cornwall September 2017

TO BE APPEALED – AND RIGHTLY SO

In what can be regarded as an extraordinary decision made by a 1st Teir Tribunal, residents are to appeal a determination that works undertaken by Wyldecrest Parks to ensure that the water supply at one of their sites in Cornwall met the same standards provided to the general public must be paid for by residents

To summarise, this case involved ongoing complaints that the previous supply of water from a nearby bore-hole and inadequate water pressure was unreliable, where the problems were resolved by change of supply from the privately owned bore-hole to South West Water (SWW) then followed by an Application by Wyldecrest Parks (Management) Ltd., who argued that the provision of a supply that meets proper standard is a chargeable improvement and where, more than surprisingly, although denying the £15 per month proposed increase, the Tribunal agreed. In setting out the reasons for their decision, the Tribunal stated that the new supply by SWW should have the benefit to residents of a secure water supply and considered that the certainty of a metered public supply of known quality and adequate pressure was a benefit to the occupiers. The Tribunal appears not to have considered that these works were remedial works and went on to value the bringing of the water supply up to standard at £10 per home per month, thus increasing their monthly pitch fees to £164.48p

Of course, the Tribunal was right to regard the change of an inadequate supply to one that meets proper standards as an improvement - but I would strongly argue that this should not be paid for by the residents, where the decision of the Tribunal contradicts the obvious right of the occupiers to be provided with the same standards of supply enjoyed by their bricks and mortar neighbours. In also determining that the meterage of supply is a benefit, this appears to conclude that in relieving occupiers of the requirement to pay for water that may be attributable to unrepaired site water leaks, this has a monetary value and that the obligations of Wyldecrest in maintaining satisfactory services which they supply to the mobile home are not the responsibility of the site owner if the delivery system is already below standard. In making this decision and in extreme example, the determination paves the way for site owners to allege that even the replacement of a failed street light bulb is a chargeable improvement because the area had been previously unlit, or that the replacement of leaking gas pipes is an improvement because the work has eliminated the previous risks.

In my view, the Application made by Wyldecrest should have been dismissed by the Tribunal on the grounds (a) that the residents were entitled to adequate supply and (b) if Wyldecrest acquired the site without undertaking due diligence in ensuring that the site was provided with an acceptable supply, that this was their problem to be rectified at their own costs. Furthermore, where the Tribunal has determined that there is a payable value in receiving a metered supply (Government policy) I refer to OFWAT's own policies on meters, which states "You can choose to be

charged according to the amount of water you use by having a water meter fitted. You may be able to save money on your bill by switching to a water meter. Household customers in England and Wales can choose to have a meter fitted in their homes free of charge". That the Tribunal has determined that Park Home residents must pay for the meters as part of the consideration of pitch fees increases is not only extraordinary, but supports the obviously discriminatory application of charges that are not incurred by home-owners in other housing sectors.

This determination must now be overturned by the Upper Chamber and Government must ensure that all homes have similarly free personally metered access to the same competitive utility markets afforded to bricks and mortar homes, where abuses of site owner controls will be eliminated, including those I have previously confronted, where they have been concealments and failures to pass on high value water company leakage rebates (one owner, two sites, £60,000) and where some site owners have adopted charging formulas for private sewerage services that are based upon close to three times the volume of water used, where failures to repair site water leaks increases the metered volume and enables illicit profiteering from an essential utility.

In short, the issue of utility supplies to Park Homes is a muddled mess that enables exploitations, not assisted by ambiguities within the rules where Tribunals can make determinations that do not stand the test of logic and support unacceptable discrimination. It may, of course, have been that the position of residents in this case were not effectively argued - but for part of the increase in pitch fees to be based upon the installation of meters that meets residents obligations to pay for the water they themselves consume and will protect them from any future overcharges is an absurd

Hopefully, the Upper Tribunal will consider these factors, including my understanding that even though the affected residents have notified intended Appeal and therefore that the 1st Tier Tribunal remains subject to legal dispute, the Tribunal has advised their residents to pay what Wydecrest regard as arrears, rather than exercise their rights to withhold them and await the determination following Appeal, such advice offering Wydecrest the opportunity to later submit that payment of the increases represented acceptance of the 1st Tier determination.

In the main, 1st Tier Tribunals do a very good job – but in making their decisions they must not only be careful in their interpretations of what are often unclear laws and regulations - but also of the possible consequences of determinations that can create yet further and wider disputes.

Tony Turner

JBS Residents Action Alliance

(This item refers to Tribunal determination CH/00HE/P111/2017/0012,0013,0014,015,016 dated dated 27th October 2017. Applicants: Wydecrest Parks (Management) Ltd., Respondents: occupiers Rose-in-the Bush Park, Mawgan, Helston, Cornwall) For a full copy of the determination email your request to the above at ferrier57@btinternet.com

Thanks Tony. Great article. This RPT decision must be reversed as the consequences for all park home residents will be disastrous. All park owners will be jumping on the bandwagon.

Published for the PHRAA website by Ron Joyce. General Secretary PHRAA Editor of PHRAA NEWS & PHRAA Website September 2017 Email ronjoyce@thephraa.co.uk END.....

