



**HM COURTS & TRIBUNALS SERVICE  
RESIDENTIAL PROPERTY TRIBUNAL**

Property : Bramfield Park Homes  
Lubenham,  
Market Harborough  
Leicestershire LE16 9TP

Applicant : Bramfield Park Residents' Association  
c/o Mrs Jean Williams as Secretary  
Field View  
2B Bramfield Park Homes,  
Lubenham  
Market Harborough  
Leicestershire LE16 9TP

Respondents : (1) Nelson Smith Esq  
(2) Albe Saunders Esq

Case number : BIR/00FN/PHK/2011/0001

Date of Application : 21<sup>st</sup> September 2011

Type of Application : Application for an order recognising the  
Applicant as a qualifying association under  
Paragraph 28(1)(h) of Chapter 2 of Part 1 of  
Schedule 1 to the Mobile Homes Act 1983 (as  
amended) ("the Act")

The Tribunal : Nigel Thompson (Chairman)  
David Underhill

Date of decision : 29<sup>th</sup> December 2011

**ORDERS**

1. The application for an order recognising the Applicant as a qualifying association for the purposes of the Act is granted. An Order is therefore made pursuant to Paragraph 28(1)(h) of Chapter 2 of Part 1 of Schedule 1 to the Mobile Homes Act 1983 (as amended) that the Bramfield Park Residents' Association is formally recognised as a qualifying residents association for the purposes of the Act.
2. It is also ordered that the Respondents shall repay to the Applicant within 28 days of the date of the granting of this order, the application fee of £150 paid by the Applicant to the Tribunal.

## Introduction

- 3 This is an application by the Bramfield Park Residents' Association ("the Association") requesting an order by the Tribunal recognising it as a qualifying association for the purposes of the Mobile Homes Act 1983 (as amended). The Application is dated 21st September 2011 and is signed by the Secretary of the Association, Mrs Jean Williams. It was received by the Tribunal on 23rd September 2011 and was accompanied by:
- i. a copy of the constitution of the Association adopted at a General Meeting held on 10 May 2011,
  - ii. a list of 14 members of the Association and
  - iii. a letter dated 11th May 2011 addressed to the owners of Bramfield Park (the Respondents in this case) requesting formal recognition under the Act and giving details of the membership of the Association as well as enclosing a copy of the adopted constitution.
- 4 Directions were issued by the Tribunal 13<sup>th</sup> October 2011 indicating, inter-alia, that the application would be determined on the basis of written submissions and without an oral hearing. Both parties were, however, given the an opportunity to request a hearing if they so wished, but neither did so.

## The Law

- 5 The application is made pursuant to Section 28 (1) of Chapter 2 of Part 1 to Schedule 1 of the Act, which says:

*"28-(1) A residents' association is a qualifying residents' association in relation to a protected site if-*

*(a) it is an association representing the occupiers of mobile homes on that site;*

*(b) at least 50% of the occupiers of the mobile homes on that site are members of the association;*

*(c) it is independent from the owner, who together with any agent or employee of his is excluded from membership;*

*(d) subject to paragraph (c) above, membership is open to all occupiers who own a mobile home on that site;*

*(e) it maintains a list of members which is open to public inspection together with the rules and constitution of the residents' association;*

*(f) it has a chairman, secretary and treasurer who are elected by and from among the members;*

*(g) with the exception of the administrative decisions taken by the chairman, secretary and treasurer acting in their official capacities, decisions are taken by voting and there is only one vote for each mobile home; and*

*(h) the owner has acknowledged in writing to the secretary that the association is a qualifying residents' association, or, in default of this, the Tribunal has so ordered"*

## **Evidence**

6. The applicant submitted with the application a copy of the Constitution of the Association together with a list of the fourteen members of the Association (**Attached as Appendix 1**). On 9<sup>th</sup> October 2011, the applicant supplied a list of the nine owner occupied homes at Bramfield Park whose owners were not members of the Association, being numbers 1, 4, 5, 7, 8,11,12,15, and 20.
7. The Respondents did not comply with the Directions and failed to provide any evidence or make any submission or representation in connection with the application.
8. The Tribunal therefore determined the application on the basis of the papers before it, as submitted by the Applicant.

## **Decisions**

9. In order to gain recognition as a qualifying residents' association, it is necessary for the Applicant to show compliance with the requirements of Section 28 (1) of Chapter 2 of Part 1 to Schedule 1 of the Act (as detailed above at paragraph 5).
10. By adopting a model form of constitution agreed and promulgated by various trade and residents' association bodies, the Applicant demonstrates compliance with subsections 28 (1) (a), and (c) to (g) inclusive, thus leaving only subsections (28) (b) and (h) for further consideration by the Tribunal.
11. In relation to the first of these points, the applicant has to demonstrate that at least 50% of the occupiers of the mobile homes on the site are members of the Association. From the list supplied with the original application (see Appendix 1) and the subsequent letter from the Applicant of 9<sup>th</sup> October 2011, it is clear that there are 14 members of the Association and 9 non-members; thus the 50% requirement is met.
12. In relation to the second of these points, the Applicant supplied with the original application a copy of the letter of 11<sup>th</sup> May 2011 addressed to the Respondents seeking formal recognition of the Association. Unfortunately, that letter was not answered and it is therefore a question for the Tribunal as to whether the association should be granted formal recognition as a qualifying residents association for the purposes of the Act. Given that the Applicant and the application comply with all of the relevant legal requirements as set out above, the Tribunal determines that the Association should be given qualifying residents' association status and so orders.
13. The lack of any response from the Respondents to the Applicant (or subsequently, to the Tribunal) regarding this matter appears to have left the Applicant with no choice but to apply to the Tribunal for the appropriate order in an effort to obtain formal recognition as a qualifying residents' association. Given that the Respondent had all of the necessary information to agree to this some months ago, but

appears to have chosen to ignore the Applicant, it is considered reasonable that the Respondent should reimburse the Applicant the application fee payable to the Tribunal. Accordingly, the Tribunal orders that pursuant to Regulation 50 of the Residential Property Tribunal Procedure & Fees (England) Regulations 2001, the Respondent is to reimburse the Applicant the sum of £150 within 28 days of the date of this order.

N R Thompson  
Chairman

Date: 13<sup>th</sup> January 2012

**MEMBERS OF BRAMFIELD PARK RESIDENTS ASSOCIATION**

**1 JIM LEE**

**14. Les Stokes - Emery**

**2 REMEY AND RITA ARNOLD**

**3 JEAN WILLIAMS**

**4 DENNIS AND MARGE MARSHALL**

**5 ROY AND GWEN SCRIVNER**

**6 GRAYHAM AND MARGRET BLACK**

**7 JOHN AND ANNETT WHATT**

**8 LEN AND JUNE SHAW**

**9 CLIFF AND IRENE HOCROFT**

**10 CAROL SUDALE**

**11 RAY AND WENDY MILLS**

**12 JON READER**

**13 PHIL AND COLEEN SCOTT**