First-tier Tribunal
Property Chamber
(Residential Property)

Case reference	**:**	**CAM/22UA/PHI/2017/0001**
Site	**:**	**Meadowview Park,** **St. Osyth Road,** **Little Clacton,** **Essex CO16 9NT**
Park Home address	**:**	**Plot 3 Meadowview Park**
Applicant	**:**	**Wickland (Holdings) Ltd.**
Respondent	**:**	**Terence George Pigram**
Date of Application	**:**	**13th February 2017**
Type of application	**:**	**to determine the 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 Plot 3 Meadowview Park as from 1st June 2016 is £173.74 per month.

Reasons

Introduction

2. On the 23rd November 2016, a letter was written to the Respondent explaining that following a pitch fee review, as from the 1st January 2017 the pitch fee would be increased in line with RPI i.e. 2.00%, plus 54p per month over 10 years for an 'improvement'. It is that improvement which is the subject of dispute in this case.

3. The Applicant should be aware that the 'evidence' of RPI increase was insufficient. It appears to be an extract from a magazine and the entry for September 2016 is unreadable on the copy supplied. As there is no dispute about the RPI rate in this case, the Tribunal members checked this themselves. In future, the Applicant should print off the relevant page from the Office for National Statistics website

4. The Tribunal issued a directions Order on the 2nd March 2017 saying 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 21st April 2017 unless any party requested an oral hearing which would then be arranged. No request for a hearing was received.

The Occupation Agreement

5. 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").

6. 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 by a determination of this Tribunal.

7. If a review of the pitch fee is undertaken by the site owner prior to the review date, then notice has to be given to the occupier of the result of that review within certain time constrains set out in the agreement. 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.

8. 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.

9. 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.

10. Clause 18(1) of the agreement states that particular regard should be had to any sums expended by the site owner since the last review date on improvements. Such improvements have to be for the benefit of the occupiers. They also have to have been the subject of a consultation. If a majority of occupiers has not disagreed in writing to the improvements or this Tribunal has ordered that the improvements should be taken into account, then they should be taken into account.

11. 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.

Site Inspection

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

Discussion

13. The facts which do not appear to be in dispute are as follows. On all the pitches, the Applicant has supplied a storage building in which occupiers can presumably store belongings not needed in their park homes. These buildings had a lock and key but the same key was used to open and shut all the stores buildings.

14. It seems that one or more keys came into the hands of thieves and a letter was written to all park home owners on the 2nd September 2014 advising them of this and that the Applicant was assessing what should be done, with a locksmith.

15. On the 25th September 2014, a further letter was written stating that the Applicant proposed to fit Yale Dead Locks to all the stores buildings with individual keys which would not open any other locks. The Applicant would have a master key. The cost would be £65 per building and the Applicant was prepared to spread the cost over 10 years "*by increasing the pitch fee by 54 pence per month at the next rent review, this would be in addition to any RPI increase*".

16. On the 10th November 2014, a further letter was sent to the occupiers confirming what was intended and stating "*if you object to our proposal would you please complete the slip at the bottom of this letter tear off and return to the site office by Monday 17th November 2014*". There were 45 objections from the 216 park homes. All the locks were changed between January and December 2016.

17. The Respondent's objection is, in effect, that this is not an improvement. He says "*the existing locks were operating perfectly and the replacement locks are no different (except for their key) in function which clearly indicates a 'maintenance status quo' – result* ***no*** *improvement*".

Conclusions

18. 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 start the assessment process by agreeing that a change is reasonable. As the increase following the review is in accordance with RPI, the Tribunal determines that this part of the suggested increase is reasonable.

19. As far as the 54p per month is concerned, the Tribunal concludes that the circumstances leading up to and the consequent reason for the change of locks does amount to an improvement.

20. There is an obvious flaw in having storage buildings where one key can open all 216 buildings. It is not disputed that items were stolen from at least one storage building. Although the storage buildings are owned by the site owner, an implied term of the contract clearly seems to be that these buildings will be suitable for storing the occupiers' belongings. If they had become insecure, it was obviously sensible and reasonable for the site owner to rectify the situation. The proposed pitch fee includes the sum of 54 pence per month for the benefit of more secure storage which the Tribunal considers is reasonable. What was installed was clearly an improvement and far less than 50% of occupiers objected.

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Bruce Edgington
Regional Judge
26th April 2017

ANNEX - RIGHTS OF APPEAL

i. 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.

ii. 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.

iii. 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.

iv. 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.