

Property

Edited by JANE SLADE

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IN
THE UK

A recent landmark legal decision means long overdue protection for thousands of holiday chalet owners in Britain, reports JANE SLADE

HOLIDAY chalet owners are celebrating after winning a historic court case against the new owners of their holiday park in Cornwall. The chalet owners at Point Curlew Holiday Park, also known as Atlantic Bays, in St Merryn, banded together to take the new owners of their park to court to stop them imposing large increased service charges.

Their victory handed down by a High Court judge sitting at the Plymouth County Court has a dramatic effect on anyone who owns or is thinking about buying a holiday chalet. It could also offer a lifeline to anyone who has experienced increased service charges or unfair treatment at a holiday park over the past six years.

"This is a landmark case," says Charles Knapper, a solicitor heavily involved in the legal tussle and himself an owner at the Point Curlew park. "At last owners of holiday chalets now have the weight of landlord and tenant legislation behind them."

Up until the recent High Court decision, operators and owners of holiday parks could undertake massive refurbishment and regeneration works without consulting the chalet owners and then demand that the chalet owners paid for those works through hugely increased service charges.

Any owners refusing or unable to pay could see their chalets repossessed or find the locks changed when they arrived for the start of a holiday. Unbelievably, there was almost nothing the homeowner could do about it.

"The problem was that holiday chalet leases were regarded as commercial rather than residential," says Mr Knapper, a specialist in landlord and tenant law and senior partner at Fursdon Knapper Solicitors in Plymouth. "As such, the owners had no protection from laws such as the Landlord and Tenant Act 1985, which protects tenants and limits the power of landlords. Now that has changed."

Following the High Court decision the legal status of holiday homes has been clarified and they are now classed as "dwellings". With that comes all the legislation that protects residential lease owners.

In the case of chalets at Point Curlew the new owners of the park proposed major works on the site and then tried to pass on the cost of these works to chalet owners. They point out that the park was in a run-down state when they took over and that any improvements would benefit chalet owners.

However it was the lack of consultation and limited amounts of choice or say which propelled the chalet owners into taking legal action. "We were not properly consulted and felt we had no say in the increased charges or how they would be spent," says chalet owner Dennis Phillips.

"The only course of action open to us was to go to court to seek clarification on our legal status and

Landmark case will protect holiday homes



LEGAL BACKING: Holiday homes at Point Curlew and chalet owners Charles and Amanda Knapper



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NEW RIGHTS: Raymond Afshar, far left, with fellow chalet owners who helped bring the case to court

rights. The ruling means we finally now have the law on our side." Previously anyone who couldn't afford to pay the increased service charges was faced with the site owner taking possession of their chalet, even though it may have cost them tens of thousands of pounds and in some cases much more to buy. Yet even if it is many years since they lost their chalet under these circumstances they could now get it back and be entitled to claim damages. "We know of many owners who were left with no option but to sell up," says Raymond Afshar, a chalet owner and one of the main people who took an active role in bringing the case to court.

HE ADDS: "We weren't looking for a fight. This is supposed to be a place to come to relax and get away from it all but we were left with no option. Co-ordinating the case has been exhausting but we got there in the end." The park owners claim that the majority of homeowners were in favour of their plans and only a small number were unhappy. However 99 out of the 150 chalet owners joined in the action against them. Following the historic ruling, the maximum any site owner will be able to charge for works done without consultation with the chalet owners

will be limited to £250. This means that any chalet owner who has paid increased service charges of more than £250 at any time over the past six years could be eligible for a substantial refund. In addition, any service charges must now be paid into a separate trust account and all site owners

'We know many owners who felt they had no option but to sell up'

must recognise residents' associations. Rebekah Francis, co-owner of the Point Curlew Holiday Park says: "We welcome the clarification of the law and will now follow the required consultation process before undertaking any works or improvements to the park. In many

ways this new ruling simplifies matters for holiday chalet landlords and we are happy that holiday chalets now come under the umbrella of the various landlord and tenant legislations."

CHARLES KNAPPER says: "This really could open the floodgates for claims against park owners all over the country. Any chalet owner in this position should contact a solicitor with property experience and get the ball rolling straight away. "In addition all owners of holiday chalets should now form a residents' association on their respective parks, which will now have to be consulted and give approval before any refurbishment works or increase in service charges takes place." However for Dennis Phillips and other homeowners at Point Curlew Holiday Park the victory has come at a high price. "Coming here doesn't feel the same any more," he says. "Our holiday home feels like it has been soiled and the enjoyment of being here is blighted. We will probably end up selling our chalet." Raymond Afshar agrees: "It's ripped the heart out of the site for us and has turned it into a holiday home from Hell. My wife and child no longer come here and the stress has ruined the past two years of my life."

● **MORE INFORMATION:** Fursdon Knapper: www.fklaw.co.uk/ 01752 309 090.

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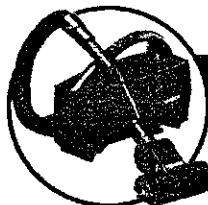
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