

IN THE HEREFORD COUNTY COURT

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The County Court

First Floor

1 – 3 Broad Street

Hereford HR4 9BA

13th July 2010

Before:

DISTRICT JUDGE NIELD

Between:

OBSERVICES PARKING CONSULTANCY

Claimant

and

COLIN THURLOW

Defendant

(Transcribed from the Official Tape Recording by Cater Walsh & Co, Transcription Suite, 1st Floor, Paddington House, Kidderminster, Wors. DY10 1AL
Tel: 01562 60921 Fax: 01562 743235)

The Claimant was represented by Ms Thomlin
The Defendant appeared in person

JUDGMENT
(As Approved)

Tuesday 13th July 2010

JUDGMENT

1. DISTRICT JUDGE NIELD: What we have here is a claim by Observices Parking Consultancy Ltd (OPC I shall call them) against Mr Colin Thurlow for parking payment in respect of parking on 11th September 2009 on a private development at Greenhithe. Mr Thurlow's vehicle was R342 JGR. It is not in dispute that that was Mr Thurlow's vehicle, that he was driving it and that it was parked where the claimant says it was parked on that day.
2. The issue is whether there was a deemed contract between Mr Thurlow and OPC and that depends on the prominence of the signage upon which the claimant relies and whether Mr Thurlow saw it or should have seen it.
3. There is established court authority to the effect that if somebody parks on private land then there is a contract to pay whatever charge is set out if that parking regime and set of charges is made known to the person parking.
4. The claimant relies on the numerous parking notices which they have put in their photographs at various parts of the estate. Some are large ones setting out the general conditions and, in particular, that if anybody parks there they agree to pay £100 which would be remitted to £50 if paid within 14 days and some are smaller ones directing people to the larger signs where the terms and conditions are displayed. For example, the small one says "OPC parking restrictions, patrolled area. Please see the conditions of acceptance of the parking restrictions on the main board."
5. It is common ground that there is one way into this development. Mr Thurlow drove in that way to visit the memorial of his old ship, HMS Worcester, which he had last seen in 1965. I can well understand that that was important to him and something he had not done since he last left in 1965. This housing estate was not there then. He says he knows Greenhithe and can find his way in. He says he negotiated his way in through the roads using his sense of direction towards the river. He parked as shown on the Google map well into the estate so that he was reasonably close to where the memorial is at Hatton Mews near the junction with Lighterman's Way.
6. As he says, the memorial is beautifully laid out but there is no provision for anybody to park who is visiting. That begs the question of what visitors are in fact to do? I can understand that. Mr Thurlow says that his attention was mainly directed to finding the memorial. He looked for markings on the road to see if there were any yellow lines to prevent parking. He said that his attention was not really directed towards signs on posts. He did not observe any that he may have passed and none registered with him, he says.
7. I can understand all that but the test is whether they were plainly there to be seen and whether they were sufficiently drawn to anybody's attention coming into the estate. We see, for example, on Mr Thurlow's own photograph in the bottom left hand corner, the bonnet of his car in the foreground and in the bottom right and at the middle of the photograph one of the small signs to which I have referred. It says that parking restrictions apply and it is a small sign which says, "Please see the conditions of acceptance of the parking restrictions on the main board." So that is clearly in view and I find that there are sufficient large notices with the details on at various parts of the estate so that it has to be more likely than not that in getting to Hatton Mews and Lighterman's Way, Mr Thurlow must have passed one or more of them.
8. That being so, there is a deemed contract between Mr Thurlow and OPC. He has to be taken to have been aware of those restrictions and the contents of the main board. So OPC are entitled to make their charge. I do understand Mr Thurlow's point that he was not actually causing any obstruction and that he thought, given the reason for his visit, that special circumstances should apply. I understand his writing to the claimant to see if it would waive the charge. Some would say that they should have done and that it would have been reasonable to do so, but there is no obligation on OPC to do that. They are entitled to stick to their strict legal rights as they have done in this case. So they are entitled to succeed with their parking claim.