



Decision of the Homeowner Housing Committee  
In an Application under section 17 of the Property Factors (Scotland) Act 2011  
by

Darren Heaney, 6/2, 104 Lancefield Quay, Glasgow G3 8HF ("the Applicant")

Hacking and Paterson Management Services, 1 Newton Terrace, Glasgow G3 7PL  
("the Respondent")

Reference No: HOHP/PF/14/0145

Re: Property at 6/2, 104 Lancefield Quay, Glasgow G3 8HF  
("the Property")

**Committee Members:**

John McHugh (Chairman) and Andrew Taylor (Surveyor Member).

**DECISION**

The Committee has decided to issue a Property Factor Enforcement Order ("PFEO"). The terms of the PFEO are stated below.

The decision is unanimous.

**REASONS FOR DECISION**

We have given consideration to the correspondence received from the parties in the period since the issue of our Decision and Proposed PFEO dated 17 May 2015 and up to 30 June 2015. In particular, we have considered the Applicant's emails of 4, 5 and 25 June 2015 and the Respondent's letters 29 May and 29 June 2015.

Much of the content of the Respondent's letter of 29 May 2015 is irrelevant to our consideration in that the letter provides comment upon the Decision whereas the exercise required to be performed by the Committee at this stage is to determine whether the PFEO should be issued and its terms.

The Respondent contends that the making of a PFEO in terms of the draft would result in the frequency of its communication being reduced. We reject that contention because the wording of the draft PFEO contains the words “no less frequently”, which negates the Respondent’s argument in respect of all but the first report required. In any event, the issue of the PFEO would not prevent more frequent issue of reports by the Respondent.

The Respondent further contends that it would be unable to comply with the PFEO as drafted because it advises that repairs are now in the hands of third parties appointed by the residents of the development.

That information appeared to contrast with the fact that correspondence was provided to us showing communications issued by the Respondent to the Applicant regarding remedial works which correspondence was dated 3 June 2015 and post dated the time when the Respondent appeared to represent that the remedial works were no longer under its control.

We accordingly sought the parties’ further representations on the matter. By letter dated 29 June 2015, the Respondent advised that the residents’ appointed contractor, 4<sup>th</sup> Consulting, was informing the Respondent of the progress of the remedial works and that it in turn intended to provide updates to the Applicant on a regular basis. That confirms that the Respondent remains in a position to comply with the PFEO as drafted.

We are therefore of the view that a PFEO should be issued in accordance with the original proposal.

## **PROPERTY FACTOR ENFORCEMENT ORDER**

The Committee hereby makes the following Property Factor Enforcement Order (“PFEO”):

Within 28 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must provide to the Applicant a written progress report indicating the current status of the works and investigations which have been (or are in the course of being) undertaken in relation to the leak affecting the Property’s balcony including an estimated timescale for completion of the works. Thereafter, the Respondent must issue to the Applicant an updated report containing the same information no less frequently than every 28 days until such time as the remedial works have been completed.

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**Failure to comply with a property factor enforcement order may have serious consequences and may constitute an offence.**

## **APPEALS**

The parties' attention is drawn to the terms of section 22 of the 2011 Act regarding their right to appeal and the time limit for doing so. It provides:

"...(1) An appeal on a point of law only may be made by summary application to the sheriff against a decision of the president of the homeowner housing panel or a homeowner housing committee.

(2) An appeal under subsection (1) must be made within the period of 21 days beginning with the day on which the decision appealed against is made..."

**JOHN M MCHUGH**

**CHAIRMAN**

**DATE: 20 July 2015**