



**Certificate of the Homeowner Housing Committee issued under the Homeowner Housing Panel (Applications and Decisions) (Scotland) Regulations 2012**

Hohp ref: HOHP/PF/15/0013

**Re: 5 Mortimer Drive, Monifieth, Dundee DD5 4JF (the property)**

**The Parties:**

**Mr Douglas McBride, 5 Mortimer Drive, Monifieth, Dundee DD5 4JF (the homeowner)**

**H and H Properties UK Ltd, 71 Blackness Road, Dundee DD1 5PD (the property factor)**

**Certificate of Compliance with Property Factor Enforcement Order dated 17 August 2015 in terms of Section 19(3) of the Property Factors (Scotland) Act 2011**

**Committee members:** Sarah O'Neill (Chairperson), Elaine Munroe (Housing member), Michael Scott (Housing member).

**Decision of the committee**

The homeowner housing committee ('the committee'), having determined that the Property Factor Enforcement Order ('PFEO') relating to the property dated 17 August 2015 and issued on 18 August 2015 has been complied with, certifies that the factor has complied with the PFEO.

**Reasons for the decision**

1. On 18 August 2015, the committee issued a PFEO requiring the factor to:
  1. Within 28 days of the communication to the property factor of the PFEO:
    - a. Issue a formal written apology to the homeowner in respect of the property factor's failure to comply with its duties under sections 1, 1.1a D (m), 2.5, 3, 3.3 and 5.2 of the code of conduct for property factors.
    - b. Make payment to the homeowner of the sum of £100 in recognition of the stress and inconvenience caused to him by the property factor's failure to comply with its duties under the above mentioned sections of the code.

- c. Amend its written statement of services to include details of the timescales within which it will respond to enquiries and complaints received by letter or e-mail, in order to comply with sections 1.1a D (m) and 2.5 of the code of conduct for property factors
  - d. Provide documentary evidence to the committee of its compliance with the above by sending such evidence to the office of the Homeowner Housing Panel by recorded delivery post.
2. Within 3 months of the communication to the property factor of the PFEO:
  - a. Provide clear and accurate accounts to all homeowners within the development for the years 2011-12, 2012-13 and 2013-14, setting out a detailed financial breakdown of charges made and a description of the activities and works carried out which were charged for.
  - b. Provide documentary evidence to the committee of its compliance with the above by sending such evidence to the office of the Homeowner Housing Panel by recorded delivery post.
2. The property factor wrote to the committee by recorded delivery post on 27 August confirming that it had complied with all of the actions required by the PFEO. With its covering letter, the property factor enclosed the following documents:
  - a copy letter dated 23 July 2015 to the homeowner from George Godsman, Financial Consultant to the property factor, apologising for its failure to comply with sections 1, 1.1a D (m), 2.5, 3, 3.3 and 5.2 of the code of conduct for property factors; and enclosing 1) a cheque for £100 in recognition of the inconvenience caused to him; and 2) an amended written statement of services; include details of the timescales within which the property factor will respond to enquiries and complaints received by letter or e-mail, in order to comply with sections 1.1a D (m) and 2.5 of the code of conduct for property factors.
  - a copy of the cheque referred to above, made out to the homeowner, dated 23 July 2015.
  - a copy of the amended written statement of services referred to above.
  - copy statements of the property factor's annual accounts for the years 2011/12, 2012/13 and 2013/14, which the letter stated had been sent to all homeowners.
3. The panel wrote to both parties on 16 September, asking them to confirm by 2 October 2014 whether all actions set out in the PFEO had been complied with.

A response was received from the property factor on 12 October. This stated that the actions required by the PFEO had been completed. A reminder was sent to the homeowner by email on 14 October, and he replied the same day, confirming that the actions required by the PFEO had been completed.

4. Taking the parties' responses into account, the committee considered whether it was satisfied that the property factor had complied with the PFEO. With regard to part 1 of the PFEO, as noted in the committee's PFEO decision of 17 August 2015, the homeowner wrote to the panel on 27 July advising that he had received a letter of apology from the property factor, together with a cheque for £100 and an amended copy of its written statement of services. With regard to part 1 (c), the committee notes that the property factor has added a line at the end of section 8 of its written statement of services, stating that it will undertake to respond to emails/ letters of enquiries/ complaints within 10 working days of receipt. The committee is therefore satisfied that the property factor has complied with part 1 of the PFEO.
5. With regard to part 2 of the PFEO, the property factor sent to the committee with its letter of 27 August copies of annual accounts for the years 2011/12, 2012/13 and 2013/14. These appear to the committee to be clear, and to set out a detailed financial breakdown of charges made and a description of the activities and works carried out which were charged for. The property factor stated in its covering letter that these had been sent to all homeowners. Given that the homeowner has confirmed that the PFEO has been complied with, the committee is therefore satisfied that the property factor has complied with part 2 of the PFEO.
6. The committee is therefore satisfied that the property factor has complied with the terms of the PFEO. It therefore issues this certificate of compliance. No further action is therefore required by the property factor in terms of the PFEO.

### **Right of appeal**

The parties' attention is drawn to the terms of section 22 of the 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 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.

More information regarding appeals can be found in the information guide produced by the homeowner housing panel. This can be found on the panel's website at:

<http://hohp.scotland.gov.uk/prhp/2649.325.346.html>

Sarah O'neill

Chairperson Signature ...

Date... 20/10/15