



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

Reference: HOHP/PF/15/0054

Property at Flat 2/1, 16 Eastside, Kirkintilloch, G66 1PY ("the Property")

The Parties:-

**Miss Alison Barr, 124 Monkland Avenue, Kirkintilloch, Glasgow, G66 3BS ("the
Homeowner")**

and

Apex Property Factor, 46 Eastside, Kirkintilloch, Glasgow, G66 1QH ("the Factors")

**Certificate of Compliance with Property Factor Enforcement Order dated 13 April 2015
in terms of s 19(3) of the Property Factors (Scotland) Act 2011**

Committee Members:

Maurice O'Carroll (Chairman)
Elaine Munroe (Housing Member)

Decision of the Committee

The Homeowner Housing Committee, having determined that the Notice of Property Factor Enforcement Order ("PFEO") relating to the Property dated 9 December 2015, issued following a decision of the Committee of 9 November 2015 has been complied with, certifies that the Factor has complied with the PFEO.

Reasons for the decision

1. By decision dated 9 November 2015, the Committee determined that the Factors had breached their duties in terms of s 17(1)(b) of the 2011 Act in that they had failed to comply with sections 2.5, 3.3, 4.1, 4.6, 4.7 and 7.2 of the Code of Conduct for Property Factors as required by section 14(5) of that Act, all as further specified within the said decision. It issued a Notice of PFEO on the same date.

2. In terms of section 19(2) of the Act, the Committee allowed the parties an opportunity to give representations to it in relation to the Notice of the PFEO. By letter dated 4 December 2015, the Factors' solicitors made representations in response to the Committee's decision. The Committee took those representations into consideration

and issued a final PFEO on 9 December 2015. The terms of the PFEO required the Factor within 28 days of the date of the communication of it to:

- i. Make payment to the Homeowner of the sum of £250 in recognition of the time spent, distress and inconvenience that the Factors' breaches of the Code have caused to the Homeowner.
 - ii. Cancel the final invoice of 27 February 2015 and provide notification of that to the Homeowner. At the same time, issue a replacement final invoice to the Homeowner showing a final sum due to her of £27.80 being the reimbursement of her float of £50 under deduction of the sum of £22.20 being due in respect of all factoring services provided and outstanding as at 27 February 2015.
 - iii. Make further payment to the Homeowner of the sum of £27.80 being the refund of the float paid on 5 October 2012 under deduction of factoring charges of £22.20 properly due by her as at 27 February 2015.
 - iv. At its own expense, carry out all steps necessary to draft and register with the Registers of Scotland a non-statutory discharge or letter in unambiguous terms, discharging in full the alleged obligation underlying the extant Notice of Potential Liability registered against the Homeowner's Property.
 - v. Write a letter to The PRG Partnership, the Homeowner's solicitors, stating that the appropriate retention in respect of the sale of the Property is nil, the NOPL having been discharged, and requesting it to disregard the Factors' earlier letter of 13 August 2015 .
 - vi. Provide documentary evidence of compliance to the Homeowner Housing Panel with the above Orders within 7 days of having done so by recorded delivery post.
3. By letter dated 26 January 2016, the Homeowner wrote to the Committee confirming that she had received a cheque for £277.80 further to Orders (i) – (iii) above.
 4. By letter dated 3 February 2016, the Factors wrote to PRG Partnership, the Homeowner's solicitors, confirming that the retention on the sale of the Property was nil and reimbursing the sum of £580.33 erroneously retained. In that letter, the Factors also confirmed that a Discharge had been sent for recording in the Land Register in respect of the NOPL which had been incorrectly registered against the Property by them, all in compliance with Orders (iv) and (v) above.

5. By email dated 10 June 2016, the Factors sent a copy of the title deeds to the Property demonstrating that the NOPL complained of was no longer registered against the title to the Property.
6. In the circumstances, the Committee is satisfied that the Factors have complied with the terms of the PFEO. It therefore issues this certificate of compliance. No further action is therefore required by the Factors in terms of the PFEO.

Right of Appeal

The parties' attention is drawn to the terms of s 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 date 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>

Signed:

Chairperson

Date: 10 June 2016