



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

HOHP reference: HOHP/LM/13/0066

Re: 6/1 Coxfield and play area and land at Coxfield, Edinburgh ('the property')

The Parties:

Mr Ian Graham, 6/1 Coxfield, Edinburgh, EH11 2SY ('the homeowner')

James Gibb Residential Factors, 4 Atholl Place, Edinburgh, EH3 8HT ('the factor')

Certificate of Compliance with Property Factor Enforcement Order dated 3rd April 2014 in terms of Section 19(3) of the Property Factors (Scotland) Act 2011

Committee Members:-

Sarah O'Neill (Chairperson)

Robert Buchan (Surveyor member)

David Hughes Hallett (Housing member)

Decision of the committee

The homeowner housing committee, having determined that the Property Factor Enforcement Order ('PFEO') relating to the property dated 3rd April 2014 has been complied with, certifies that the factor has complied with the PFEO.

Reasons for decision

1. On 3rd April 2014, the committee issued a PFEO requiring the factor, within 28 days of the date of communication to the factor of the PFEO, to:

1. Issue a formal written apology to the applicant in respect of the respondent's failure to comply with its duties under sections 1.1a C (e) and 2.1 of the code.
2. Amend section 5.1 (management fees) of its written statement of services as follows:
 - Provide further information as to the process by which the annual review of the fee will be undertaken, including at what date in the year this will occur

- State that proper advance notice will be given to homeowners of any forthcoming increase in the fee before it takes effect, how much notice will be given, and how this notice will be communicated
 - Make clear that the management fee is charged quarterly in arrears
 - 3. Send to all homeowners within the Queenspark (Coxfield) development a copy of the amended written statement of services.
 - 4. Provide documentary evidence to the committee of its compliance with the Property Factor Enforcement Order by sending such evidence to the office of the Homeowner Housing Panel by recorded delivery post.
2. The factor wrote to the committee on 18 April 2014, enclosing its letter of apology to the homeowner, together with a copy of its proposed revisions to its written statement of services (WSS). By letter of 13 May 2014, the homeowner confirmed he had received the letter of apology. He also advised the committee that he did not consider the factor had completed the actions required in the PFEO, as the factor had not yet sent the amended WSS to owners, and had not provided documentary evidence to the committee of its compliance with the PFEO. The factor advised the committee by email of 16 May that the amended WSS had been uploaded to its client portal, but that it had not yet been issued to owners because 1) as part of an annual review of the WSS, it planned to make some further improvements to this and issue one revised version when available and 2) it was awaiting confirmation from the committee that it was satisfied that the changes which had been made to the WSS complied fully with its requirements.
3. Following confirmation from the committee that it was satisfied that the proposed changes would comply with the terms of the PFEO, the factor wrote to the committee on 6 June, stating that the actions required by the PFEO had been completed. The letter advised that all homeowners had been issued with a copy of the revised WSS. It advised that those homeowners who receive paper invoices received a copy with their latest invoice, and that those who receive electronic forms of communication received a copy in pdf format with their latest electronic invoice. The homeowner advised by letter of 13 June that he considered the factor had still not complied with the PFEO, as hard copies had not been sent to all homeowners. The committee notes that the PFEO did not require the amended WSS to be sent by hard copy. The homeowner also stated that the factor had not sent out Appendix 1 - which relates to routine maintenance contracts, and is referred to in the WSS - with the copies of the amended WSS. The factor confirmed in writing on 2 July that the appendix had been sent out to all homeowners.
4. The committee is therefore satisfied that the factor has complied with the

terms of the PFEO. It therefore issues this certificate of compliance. No further action is therefore required by the 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

Signed

Dated ...15/7/14.....

Chairperson