



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

Reference: HOHP/PF14/0058

**Re: Property at 15 Larchfield Neuk, Balerno, Edinburgh, EH14 7NL (collectively "the
Property")**

The Parties:-

**Mrs Yvonne Williamson, 15 Larchfield Neuk, Balerno, Edinburgh, EH14 7NL ("the
Homeowner")**

**Sheltered Housing Management Ltd, South Hawkhillock, Ardallie, Aberdeenshire, AB42
0TS ("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)
Ann MacDonald (Housing Member)

Decision of the Committee

The Homeowner Housing Committee, having determined that the Property Factor Enforcement Order as varied ("the PFEO") relating to the Property dated 14 December 2015, issued following a decision of the Committee of 24 October 2014 has been complied with, certifies that the Factor has complied with the PFEO.

Reasons for the decision

1. By decision dated 24 October 2014, the Committee determined that the Factors had breached its duties in terms of s 17(1)(b) of the 2011 Act in that it had failed to comply with sections 2.5, 3.3, 6.1 and 6.9 of the Code of Conduct for Property Factors as required by s 14(5) of that Act, all as further specified within that decision.

2. The Factors appealed the decision in the Sheriff Court. By interlocutor dated 11 August 2015, the Factor's appeal was dismissed. After canvassing the views of the parties, the Committee issued a Property Factor Enforcement Order dated 6 October 2015.

3. Having received a request for a variation of the Property Factor Enforcement Order in terms of section 21 of the 2011 Act, the Committee decided to issue a Varied Property Factor Enforcement Order ("the PFEO") on 14 December 2015. The PFEO as varied required the Factors to:
 1. Provide the Homeowner with a detailed financial breakdown of charges made and a description of the activities and works carried out which were charged for the year prior to their termination as Factors for the Development, which is to say, the accounting year covering 2013/2014 from 1 December 2013 to 30 November 2014. Said detailed financial breakdown is to be in accordance with the terms of section 3.3 of the Code of Practice for Property Factors as discussed in the decision of the Committee dated 24 October 2014.

In particular, and for the avoidance of doubt, the said detailed financial breakdown is to include as a minimum the following in relation to the applicable financial year referred to above:

 - (i) A statement of the sums received from the residents and how that money was spent on their behalf.
 - (ii) Said financial statement requires to provide a detailed breakdown of each of the following items:
 - (a) Repairs and Maintenance, showing the cost of all contractors by name and invoice amount;
 - (b) The Facilities Charge to show in detail all of the items of actual expenditure which it covered in the applicable year; and
 - (c) The Insurance Charge, to show the premium actually paid, when it was paid and separately, whether any commission was obtained by the Factor.
 2. 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.
4. By letter dated 25 January 2016, the Homeowners wrote to the Committee indicating that they did not consider that the terms of the PFEO had complied with. By email dated 2 February 2016 the Factors provided a detailed response in which they set out the reasons why they considered that the PFEO had been complied within insofar as that was practicable, providing reasons for the absence of full compliance.
5. Having considered the Factors' representations dated 2 February 2016, the Committee was satisfied that the Factors have complied with the terms of the PFEO insofar as practicable and that adequate reasons had been provided to explain any detailed failures to comply fully 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>

M O'Carroll

Signed:

Chairperson

Date: 5 February 2016