



## **Property Factor Enforcement Order**

of

**the Homeowner Housing Committee**

(Hereinafter referred to as "the Committee")

Under Section 19 (3) of the Property Factors (Scotland) Act 2011

Case Reference Number: HOHP/PF/14/0098

**Re : Property at 146 Bannermill Place, Aberdeen AB24 5EG ("the Property")**

**The Parties:-**

Alice Hepburn, 146 Bannermill Place, Aberdeen AB24 5EG ("the Applicant") represented by Robert Hepburn, 33 Charlotte Street, Helensburgh, West Dunbartonshire G84 7SE

Select Property Management Services (Aberdeen) Limited (company number SC402142), 28 Broad Street, Peterhead, Aberdeenshire AB42 1BY ("the Respondent")

### **NOTICE TO THE PARTIES**

Whereas in terms of their decision dated 6 March 2015, the Homeowner Housing Committee decided that the Respondent has failed to comply with the Property Factor Code of Conduct all as stated in said decision; the Committee make a property factor enforcement order in the following terms:

- (1) The Respondent shall within three weeks of the notification of this Order provide to the Applicant

- (a) full comparative details of the two quotations for the insurance policy in place for the Bannermill development, Aberdeen, of which the Property forms part, as at 3 November 2013 and
- (b) written reasons why the Respondent chose to place the insurance with Royal Sun Alliance rather than the other insurer who had provided the brokers CIS with a quotation for the insurance;
- (2) The Respondent shall within two weeks of the notification of this Order advise the Applicant in writing the balance on the Bannermill Residents' Association account on or about 30 September 2013;
- (3) The Respondent shall within two weeks of the notification of this Order advise the Applicant in writing of why its answer to question BB8 in Ms Stevens' e-mail to the Applicant of 15 November 2013 is contradicted by its answer in the e-mailed group communication of Ms Stevens to the Bannermill Owners Action Group of 13 February 2014.
- (4) The Respondent shall within two weeks of the notification of this Order provide the Applicant with a copy of all annual statements of account for the Bannermill development, of which the Property forms part, from 1 July 2011 to 30 June 2013 or such later date up to 3 November 2013.
- (5) The Respondent shall within two weeks of the notification of this Order provide the Applicant with a copy of the contract the Respondent entered into in the summer of 2011 bearing to appoint the Respondent as factor for the Bannermill development.
- (6) The Respondent shall within two weeks of the notification of this Order provide the Applicant with a written apology signed by its director or directors in the following terms:
- "The Respondent apologises unreservedly to the Applicant and her representative Mr Robert Hepburn for –
- (a) failing to provide the information or advice to the Applicant as set out in parts (1) to (5) of this Order and in particular the copies of the statements of account;
- (b) in taking over three months to advise them of the total factor's float monies collected and the total number of Bannermill owners who had not contributed the full £ 300 contribution requested,
- (c) giving a false or misleading reason for not immediately advising of the said factor's float monies and the total number of non-contributing owners,

- (d) giving a false or misleading reason for not advising the Applicant of the balance on the Bannermill Residents' Association account on or about 30 September 2013;
- (e) giving a false or misleading answer on 15 November 2013 to the Applicant's question BB8 which had been asked on or about 3 November 2013;
- (f) purportedly enclosing its statements of account in its e-mail of 15 November 2013 to the Applicant when they were not enclosed and thereafter seeking to excuse their non-production by claiming that they were being prepared or verified by an independent firm of accountants but providing no independent evidence that they were being so prepared;
- (g) producing a four page document bearing to have been signed on 1 July 2011 but with pages 1 to 3 of it having been substituted at a subsequent date, not disclosing this to the Applicant or Mr Hepburn and thereby misleading them.

### **Further Reasons**

These reasons are further to those in the decision of 13 March 2015. The Committee have taken account of the e-mail from the Applicant's representative dated 7 April 2015 indicting that no response has been received from the Respondent to the Notice of Proposal mentioned in the decision. The Committee have not received any communication from the Respondent in response to the Notice. Neither party has commented on the terms of the proposed Property Factor Enforcement Order. In all the circumstances the Committee adhere to the terms of their decision and make the Order.

In his e-mail the Applicant's representative also mentioned a notice given by the Registrar of Companies intimating the striking off of the Respondent from the Register of Companies at the expiry of 3 months from 10 April unless cause was shown to the contrary. While the Committee are concerned over this, it is not something over which they have any control. They do observe, however, that it is open to the Applicant to submit the terms of this Order and the decision of 13 March 2015 to the Registrar and bring to the attention of the Registrar the provisions of sections 23 and 24 of the Property Factors (Scotland) Act 2011.

The parties are given a right of appeal on a point of law against this decision and Order by means of a summary application to the Sheriff made within 21 days beginning with the date when this decision is made. All rights of appeal are under section 22(1) of the Act.

**The Respondent is reminded that should the Committee decide that that the Respondent has failed to comply with this Order, failure to comply with the Order without reasonable excuse is a criminal offence under section 24 of the Act rendering the Respondent liable on summary conviction to a fine not exceeding level 3 on the standard scale.**

Signed ..... 17 April 2015

David Bartos, Chairperson