



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

hohp Ref: HOHP/PF/13/0051

**Re: 6 Woodrow Court, 17 Woodrow Road, Pollokshields, Glasgow, G41
5PN**

The Parties:-

**Dr Subh Prasad residing at Western, Victoria Parade, Dunoon, PA23 7HU
("the Applicant")**

**Redpath Bruce, 103 West Regent Street, Glasgow, G2 2DQ ("the
Respondent")**

**Decision by a Committee of the Homeowner Housing Panel
In an Application under section 17 of the Property Factors (Scotland) Act
2011 ("the Act")**

Committee Members:

Patricia Pryce (Chairperson); Robert Buchan (Surveyor Member); Elaine Munroe (Housing Member).

This document should be read in association with our decision dated 27th July 2013.

In our decision, we proposed to make a property factor enforcement order.

We indicated that prior to making such an order, we would provide the parties with a period of fourteen days within which to make representations under s19 (2) (b) of the Act.

Our decision was intimated to the parties on 29th July 2013.

We have had regard to the following emails received at the office of the HOHP:

1. Email by the Respondent dated 7th August 2013.
2. Email by the Applicant dated 24th August 2013.

Although the email of the Applicant was received by the HOHP out with the fourteen day period, this was due to the decision of the Committee that the Applicant should be provided with the opportunity to consider the email by the Respondent. The Committee reached this decision out with the fourteen day period as the email of the Respondent consisted of eight pages of further

detailed submissions which required careful consideration by the Committee before making a decision on further procedure. In proceeding in this manner, we have had regard to Regulation 3 of the Homeowner Housing Panel (Applications and Decisions) (Scotland) Regulations 2012 which contains an overriding objective on the Committee to deal with this matter justly.

It would appear from the terms of the correspondence from the Respondent that the issues identified in our decision remain outstanding and that these remain to be resolved. It is not clear whether any steps have been taken by the Respondent to resolve these issues.

The correspondence from the Respondent of 7th August 2013 demonstrates that the Respondent remains apparently unable, or unwilling, to recognise that the Applicant wishes reassurance that the insurance for his property has been obtained at a competitive rate. While it is acknowledged that the Respondent has outlined the inadequacies of the Applicant's exercise to obtain a quote from the internet, the Respondent continues to fail to recognise that the concern of the Applicant can be easily addressed and resolved by providing to the Applicant the requisite information to allow the Applicant to verify, or otherwise, that the current insurance premium is indeed competitive. We, as a committee, have to question for what reason the Respondent would not provide the Applicant with such information. To date, we remain unaware of a single document having been produced to the Applicant by the Respondent which would enable the Applicant to undertake his own properly informed search for like for like insurance.

The Respondent further contends by the said email of 7th August 2013 that "...the exclusive purpose of the hearing is to determine whether the owner's application should be upheld. There having been no such determination, it is not competent to grant a Property Enforcement Order...". The hearing is to allow the parties to make representations, to question each other and to allow the members of the committee to hear the representations and to question the parties. The committee makes the determination, not the hearing.

The correspondence from the Applicant dated 24th August 2013 added nothing of a substantive nature to this matter, simply reiterating that, in his opinion, an enforcement order should be granted in the terms originally proposed by the Committee in our decision of 27th July 2013.

Having given full consideration to the abovementioned emails, we are of the opinion that we require to make a property factor enforcement order in the terms originally proposed by us.

Our decision is unanimous.

Reasons for Decision

We consider that, having decided that the Respondent has failed to comply with its duties under section 14 of the 2011 Act, we are obliged by Section 19(3) of the Act to make a property factor enforcement order.

Property Factor Enforcement Order

We hereby make the following property factor enforcement order:-

Within 28 days of the date of communication to the Respondent of the property factor enforcement order, the Respondent must:

1. Issue an apology to the Applicant in respect of the Respondent's failure to communicate adequately in terms of providing details for the basis of the choice of insurance, contrary to the Code.
2. Make a payment to the Applicant of £25 in recognition of the inconvenience caused to him.
3. Provide by recorded delivery post to all 32 homeowners at Woodrow Court specific details of the block insurance cover obtained by the Respondent including the sums covered both in respect of the block policy and the homeowners' share of this, specific details of how this policy was procured including full details of the claims history together with sufficient information to allow the homeowners to obtain for comparison their own insurance quotes on a like for like basis.
4. Provide documentary evidence to the Committee of the Respondent's compliance with the above Property Enforcement Factor Order by sending such evidence to the office of the Homeowner Housing Panel by recorded delivery post.

Failure to comply with an enforcement order may have serious consequences and may constitute an offence.

Appeals

Parties' attention is drawn to the terms of Section 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 day on which the decision appealed against is made."

Patricia Pryce

Signed.....

9th September 2013

Chairperson