



Notice of proposal to make a Property Factor Enforcement Order made under Section 19(2)(a) of the Property Factors (Scotland) Act 2011 ("the Act") following upon a Decision of the Homeowner Housing Committee in an application under Section 17(1) of the Act

Hohp ref: HOHP/PF/15/0013

Re: 5 Mortimer Drive, Monifieth, Dundee DD5 4JF (the property)

The Parties:

Mr Douglas McBride, 5 Mortimer Drive, Monifieth, Dundee DD5 4JF (the homeowner)

H and H Properties UK Ltd, 71 Blackness Road, Dundee DD1 5PD (the property factor)

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: Sarah O'Neill (Chairperson), Elaine Munroe (Housing member), Michael Scott (Housing member).

This notice should be read in conjunction with the Committee's Decision under Section 19 (1) (a) of the Act of the same date.

The Committee proposes to make the following Property Factor Enforcement Order ("PFEQ"):

1. Within 28 days of the communication to the property factor of this Property Factor Enforcement Order, the property factor must:
 - a. Issue a formal written apology to the homeowner in respect of the property factor's failure to comply with its duties under sections 1, 1.1a D (m), 2.5, 3, 3.3 and 5.2 of the code of conduct for property factors.
 - b. Make payment to the homeowner of the sum of £100 in recognition of the stress and inconvenience caused to him by the property factor's failure to comply with its duties under the above mentioned sections of the code.
 - c. Amend its written statement of services to include details of the timescales within which it will respond to enquiries and complaints received by letter or e-

mail, in order to comply with sections 1.1a D (m) and 2.5 of the code of conduct for property factors

- d. Provide documentary evidence to the committee of its compliance with the above by sending such evidence to the office of the Homeowner Housing Panel by recorded delivery post.
2. Within 3 months of the communication to the property factor of this Property Factor Enforcement Order, the property factor must:
 - a. Provide clear and accurate accounts to all homeowners within the development for the years 2011-12, 2012-13 and 2013-14, setting out a detailed financial breakdown of charges made and a description of the activities and works carried out which were charged for.
 - b. Provide documentary evidence to the committee of its compliance with the above by sending such evidence to the office of the Homeowner Housing Panel by recorded delivery post.

Section 19 of the 2011 Act provides as follows:

"... (2) In any case where the committee proposes to make a property factor enforcement order, they must before doing so...

- (a) *give notice of the proposal to the property factor, and*
- (b) *allow the parties an opportunity to make representations to them.*

(3) If the committee are satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the committee must make a property factor enforcement order..."

The intimation of the Committee's Decision and this notice of proposal to make a PFEO to the parties should be taken as notice for the purposes of section 19(2) (a) of the Act and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2) (b) of the Act reach the Homeowner Housing Panel's office by no later than **14 days** after the date that the Decision and this notice is intimated to them. If no representations are received within that timescale, then the Committee is likely to proceed to make a Property Factor Enforcement Order ("PFEO") without seeking further representations from the parties.

Failure to comply with a Property Factor Enforcement Order may have serious consequences and may constitute an offence.

Chairperson Signature ..

Date...16/7/15.....