



Property Factor Enforcement Order

Hohp Ref: HOHP/PF/15/0103 & 0104

Re:

Properties at Broomhill Court, Stirling, FK9 5AF (collectively "the Property")

The Parties:-

Mrs AG Smith, 16 Craiglea Road, Perth, PH1 1LA ("the applicant")

Hacking & Paterson Management Services, 1 Newton Terrace, Charing Cross, Glasgow, G3 7PL ("the respondent")

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

Committee Members:

Maurice O'Carroll (Chairman)
Tom Keenan (Housing Member)

This Notice should be read in conjunction with the Decision and Proposed Property Factor Enforcement Order both dated 1 June 2016, reference HOHP/PF/15/0103 & 0104

1. By decision dated 1 June 2016, the Committee determined that the Factors had breached their duties in terms of section 17(1)(a) of the 2011 Act in that the Factors have failed to carry out their property factor duties.
2. In accordance with s 19(3) of the 2011 Act, having been satisfied that the Factors have failed to carry out the property factor duties, the Committee required to make a Property Factor Enforcement Order. Before making an Order, to comply with s 19(2) of the Act, the Committee gave notice of the proposal to the Factors and allowed the parties an opportunity to make representations to the Committee.
3. By email dated 20 June 2016, the Factors made representations regarding the proposed Property Factor Enforcement Order. The Committee took those representations in to consideration in making the present Property Factor Enforcement Order. The Homeowner made no further representations.
4. The Committee noted that the representations submitted erroneously made comment on the decision made by the Committee, whereas s 19(2) of the Act

permits representations on the proposed PFEO. With that said, the Committee noted that first requirement of the proposed PFEO, to pay £250 compensation to the Homeowner in recognition of the factor's failure to comply with their duties, had already been complied with. That requirement therefore does not form part of the present PFEO.

5. In relation to the second requirement of the proposed PFEO, the Committee expressly noted that obtaining quotes for fire safety quotes do not form part of the factor's core services. It is for this reason that quotes require to be obtained on behalf of homeowners. It was also noted that this service had been accepted in the past by the factors as one which it would carry out on behalf of the owners of the Development. It was also expressly stated in the decision that it could be expected that the factors would be able to issue a tender for services in a form which would result in comparable quotes for those services being obtained. The current contractor is ASCO. The Committee understands that their contract runs annually from November each year.
6. Therefore, the Committee makes the following Property Factor Enforcement Order:

Prior to 30 September 2016 and annually thereafter, the respondent is required to:

Obtain quotations from three suitably qualified contractors (which may include the present contractor) to provide fire safety services at the development in which the Property is located. Said quotes are to be in respect of (i) wet/dry riser testing; (ii) emergency lighting testing; and (iii) checking of smoke vents; and communicate said quotes to the homeowners within the Development in which the Property is located immediately upon receipt, seeking from them a choice of contractor.

Insofar as reasonably practicable, said quotes are to be obtained in like terms from each contractor so that they may be readily compared by the homeowners within the Development and an informed choice for future contractor in relation to such services may be made. In the event of it not being possible to obtain a mandate for said services by a majority of homeowners in the Development, the view of the majority of homeowners who respond to the said quotations shall prevail in the choice of contractor for November 2016 onwards.

7. Appeals

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..."

Signed M O'Carroll
Chairperson

Date 6 July 2016