

Housing and Property Chamber

First-tier Tribunal for Scotland



Certificate of Compliance following upon a decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under section 17(1) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/LM/19/1376

Re: Hillpark Brae Development, Craigcrook Road, Edinburgh, EH4 7AP ("the Development")

The Parties:-

Mrs Irene Hamilton, 11 Hillpark Grove, Edinburgh, EH4 7AP ("the Homeowner")

Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD ("the Factor")

Tribunal Members

Ms Helen Forbes (Legal Member)

Mr Andrew Taylor (Ordinary Member)

Decision of the Tribunal

The Tribunal certifies that the Factor has complied with the Property Factor Enforcement Order ("PFOE") dated 20th August 2019 relating to the Property.

Reasons for Decision

1. Following an application by the Homeowner and a Hearing on 12th July 2019, the Tribunal determined that the Factor had failed to comply with the Section 14 duty in the Property Factors (Scotland) Act 2011("the Act") in respect of compliance with the Property Factor Code of Conduct ("the Code"). The Tribunal made a PFOE on 20th August 2019 in the following terms:

'The Property Factor is required to pay to the Homeowner within 21 days of intimation to them of the PFOE the sum of £350 from their own funds and at no cost to the development homeowners, in order to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor's failure to comply with the Property Factors Code of Conduct and to carry out its property factor duties.'

2. The Factor responded to correspondence from the Housing and Property Chamber by email on 4th September 2019, stating that payment had been made and that the PFEO had been complied with.
3. The Homeowner confirmed by email on 6th September 2019 that payment had been made by the Factor and that the PFEO had been complied with.
4. Accordingly, the Tribunal is satisfied that the PFEO has been complied with by the Factor. No further action is required by the Factor in terms of the PFEO which is now deemed to be completed.

Right of Appeal

In terms of section 46 of the Tribunals (Scotland) Act 2014, a party aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Helen Forbes

Legal Member

10th September 2019