

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

Decision: Property Factors (Scotland) Act 2011: Section 19 (3)

Applicants, Properties and Tribunal reference numbers:

Agnes McIlvride	Flat 7H Glenford Place, Ayr, Ayshire, Scotland, KA7 1LB	FTS/HPC/PF/18/3296
Myra Hessett	4D Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3309</u>
William Purdie	4E Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3310</u>
Alan Mora	4F Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3312</u>
William Adams	Flat 4G, Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3313</u>
Julian Mithoff	4H Glenford Place, Ayr, South Ayrshire, KA7 1LB	FTS/HPC/PF/18/3315
Myra Jones	4A Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3316</u>
John Struthers	7J Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3317</u>
Jacqueline McLean	4b Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3318</u>
Ian Stuart	6B Glenford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3338
Bruce McMaster		<u>FTS/HPC/PF/18/3339</u>

	5B Glenford Place, Ayr, South Ayrshire, KA7 1LB	
Anne McBride	6D Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3340</u>
Bogdan Tataru	5A Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3341</u>
Claire Cadger	6H Glenford Place, Ayr, South Ayrshire, KA7 1LB	<u>FTS/HPC/PF/18/3342</u>
Marina McLean		<u>FTS/HPC/PF/18/3343</u>
Alma Kinnaird	6G Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3344</u>
W Alan Galloway	6E Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3345</u>
Anne-Marie Conway	3G Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3346</u>
Gordon Phillips	1F Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3347</u>
Craig McVicar	3E Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3348</u>
Isabelle Grogg	3F Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3349</u>
Wellwood Grierson	- 5D Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3350</u>
Andrew McDowall	8A Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3351</u>
John Miller	9B Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3352</u>
Gordon Anderson	9C Glenford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3353</u>
Aileen Scott	9E Gleniford Place, Ayr, KA7 1LB	<u>FTS/HPC/PF/18/3354</u>

Gordon Lancaster & Magdalena Lancaster	9F Gleniford Place, Ayr, KA7 1LB 9A Gleniford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3357
Margaret Rodie	2G Gleniford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3358
Melanie Travis	2 Wexford Way, Ayr, KA7 1LA	FTS/HPC/PF/18/3359
Euphemia Holmes & Frederick Holmes	8 Wexford Way, Ayr, KA7 1LA	<u>FTS/HPC/PF/18/3361</u>
Malcolm Foster	12 Wexford Way, Carrick Quay, Ayr, KA7 1LA	FTS/HPC/PF/18/3363
Ian Hessett	3D Gleniford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3364
Alan Roseweir	3C Gleniford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3365
Angela Lafferty	3B Gleniford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3366
Sandra Ratcliffe	1H Gleniford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3367
Alan Roseweir	1G GlenfordPlace,Ayr, KA7 1LB	FTS/HPC/PF/18/3368
Rae Clark	1A Glenford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3370
Elaine Flannigan & Ronnie Bradley	1C Glenford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3371
Andrew Streets	2H Glenford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3355
Eric Armstrong	Flat 8P, Glenford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3314

Andrew McLean	Flat 7F, Glenford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3299
John Wotherspoon	Flat 4C, Glenford Place, Ayr, KA7 1LB	FTS/HPC/PF/18/3311

(the “Homeowners”)

**James Gibb Property Management Ltd
65 Greendyke Street, Glasgow, G1 5PX
("the Property Factor")**

Tribunal Members:

**Martin J. McAllister (Legal Member)
Andrew McFarlane (Ordinary Member)**

Decision

It was determined that a property factor enforcement order be made in the following terms:

The Property Factor, in failing to adequately maintain the fire safety systems in the development where the properties are situated is required to compensate the Homeowners for financial loss as follows: no sum requires to be paid as no financial loss has been proved.

It was determined that a certificate of compliance be issued.

Introduction

In this decision the Property Factors (Scotland) Act 2011 is referred to as "the 2011 Act" and the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors is referred to as "the Code."

Background

The tribunal considered an application by the homeowners submitted in terms of Section 17 of the Property Factors (Scotland) Act 2011 (The 2011 Act). There were a number of Hearings and procedural diets relating to the application. The tribunal issued a proposed property factor enforcement order and, following upon representations made by the Property Factor, set it aside on and issued a replacement proposed property factor enforcement order on 3rd October 2020. It issued a new proposed property factor enforcement order on that date. After a review, a substituted proposed property factor enforcement order was issued to parties on 6th December 2020.

In terms of Section 19(2) (b) of the 2011 Act, parties were given the opportunity to make representations on the proposed property factor enforcement order.

The Applicants made no representations and the Respondent's solicitor indicated that it was not intended to make any representations.

Reasons

The tribunal considered that, in view of no representations being made by either party, it was appropriate to make the property factor enforcement order as proposed.

The terms of the property factor enforcement order were such that no actions require to be taken by the Property Factor for compliance and it was therefore appropriate to issue a certificate of compliance.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Martin J. McAllister, Legal Member

12th January 2021