



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

**Reference: HOHP/PF/15/0122**

**Property: Flat 1/1, 26 Sword Street, Dennistoun, Glasgow G31 1TD ("the Property")**

**The Parties:-**

**Mr James Williamson, residing at the Property ("the Homeowner")**

**and**

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

**Certificate of Compliance with Property Factor Enforcement Order dated 13 April 2015  
in terms of s 19(3) of the Property Factors (Scotland) Act 2011**

**Committee Members:**

Maurice O'Carroll (Chairman)  
Sally Wainwright (Housing Member)

**Decision of the Committee**

The Homeowner Housing Committee, having determined that the Notice of Property Factor Enforcement Order ("PFEO") relating to the Property dated 30 December 2015, issued following a decision of the Committee of even date has been complied with, certifies that the Factor has complied with the PFEO.

**Reasons for the decision**

1. By decision dated 29 December 2015, the Committee determined that the Factors had breached its duties in terms of s 17(1)(b) of the 2011 Act in that it had failed to comply with sections 2.5 and 7.2 of the Code of Conduct for Property Factors all as further specified within the said decision, as required by s 14(5) of that Act. It also found that the Factors had failed to comply with their factor duties under s 17(5) of the Act in relation to apportionment of communal charges as required by the Deed of Conditions applicable to the Property. The Committee issued a Notice of PFEO on the same date.

2. Having allowed the parties an opportunity to give representations to the Committee in relation to the Notice of the PFEO, and having received none, the terms of the PFEO required the Factor within 28 days of the date of the communication of it to:
  - i. Make payment to the Homeowner of the sum of £250 in recognition of the trouble and inconvenience that the Factors' breaches of the Code and factor duties have caused to the Homeowner.
  - ii. Reimburse the management fees (including the VAT charged) paid by the Homeowner to the Factors during the two year period from June 2013 to the cessation of its services on 31 May 2015 in recognition of its failure to comply with its factor duties during that period.
  - iii. Reimburse the Homeowner the sum of £200 in respect of the over-payment of electricity charges over the said period.
  - iv. Reimburse the late payment fee of £98 added to the Homeowner's account and also the fee for £132 added in respect of the Notice of Potential Liability registered over the Homeowner's Property.
  - v. At its own expense, carry out all steps necessary to draft and register with the Registers of Scotland a non-statutory discharge or letter in unambiguous terms, discharging in full the alleged obligation underlying the extant Notice of Potential Liability registered against the Homeowner's Property.
  - vi. Provide the Homeowner with a final account showing the above payments and reimbursements as having been credited to him and at the same time make payment of any surplus sums due to him following upon such final account and
  - vii. Provide documentary evidence of compliance to the Homeowner Housing Panel with the above Orders within 7 days of having done so by recorded delivery post.
3. By letter dated 19 January 2016, the Factors wrote to the Committee confirming that they had sent two cheques on that date for £250 and £306.80, together with copies thereof to the Homeowner further to requirements (i)-(iv) of the above Order, after deduction of net balances on the Homeowner's account.
4. On 21 January 2016, the Factors supplied a copy discharge registered in the Land Register further to requirement (vi) of the above Order.
5. The Committee is satisfied that the Factors have complied with the terms of the PFEO. It therefore issues this certificate of compliance. No further action is therefore required by the Factors in terms of the PFEO.

### **Right of Appeal**

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.

More information regarding appeals can be found in the information guide produced by the Homeowner Housing Panel. This can be found on the Panel's website at:

<http://hohp.scotland.gov.uk/prhp/2649.325.346.html>

M O'Carroll

**Signed:**

Chairperson

**Date:** 30 January 2016