



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

Hohp Ref: HOHP/PF/14/0120

Re: **Property at Flat 3/1, 2 Moray Court, Rutherglen, Glasgow, G73 1BF**
(collectively “the Property”)

The Parties:-

Mr Martin McDonald, residing at the Property (“the Homeowner”)

**Rutherglen & Cambuslang Housing Association, 16 Farmeloan Road,
Rutherglen, Glasgow, G73 1DL (“the Factors”)**

**Certificate of Compliance with Property Factor Enforcement Order dated 5 January
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 Property Factor Enforcement Order (“PFEO”) relating to the Property dated 5 January 2015, issued following a decision of the Committee dated 9 December 2014, has been complied with, certifies that the Factor has complied with the PFEO.

Reasons for the decision

1. By decision dated 9 December 2014, 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, 3.3 and 7 of the Code of Conduct for Property Factors as required by s 14(5) of that Act. It issued a notice of PFEO on the same date.

2. Having allowed the parties an opportunity to give representations to the Committee, on 5 January 2015, the Committee issued a PFEO requiring the Factor within 28 days of the date of the communication to:

- i. Provide the Homeowner with a written apology for its failures to comply with the Code in respect of the breaches which are the subject matter of the application.
 - ii. Make payment to the Homeowner of the sum of £100 in recognition of the inconvenience and distress that the Factors' breaches of the Code have caused to the Homeowner.
 - iii. Reimburse the overpayment in service charges paid by the Homeowner to the Factors during the years 2012, 2013 and 2014.
 - iv. Provide the Homeowner with a revised Written Statement of Services comprising a single document which specifies in one place what services are provided under each applicable heading (whether as shared owner or as tenant) and what the Homeowner is being charged for those services. The Statement should provide clarity as to what range of services are being provided, what the charges are for them and what the Homeowner is receiving for his payment.
 - v. Produce a written statement to the Homeowner confirming to him that they have reviewed all charges made since 1 April 2012 and that he is not paying an amount in excess of that applied to a full owner or full tenant for the services he receives overall. In particular, the statement requires to demonstrate that there is no differentiation in the charges applied to the Homeowner when compared to either full owners or full tenants for the services provided, all as narrated in the Decision of 9 December 2014, and
 - vi. 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 email dated 6 February 2015, the Factors wrote to the Committee with a copy of its letter to the Homeowner dated 2 February 2015 indicating that it had issued an apology to the Homeowner, had paid the £100 compensation in respect of distress and inconvenience and had refunded overpaid factor fees in the sum of £117.50. It also confirmed that a revised Written Statement of Services had been issued to all homeowners to which it provided services, including the Homeowner, together with a written statement reconciling the payments made by sharing owners when compared to fully factored owners since April 2012.
4. By emails dated 18 February and 23 March 2015, the Homeowner wrote to the Committee raising additional queries regarding the compliance by the Factors with PFEO. These queries were put to the Factors by letters dated 4 March and 24 March 2015 from HOHP inviting comment. The Factors responded to those communications by letters dated 13 March and 7 April 2015 providing further detail

and confirmation that they had complied with the PFEO insofar as that was practicable. After further deliberation, the Committee considered that all of the additional queries raised by the Homeowner and HOHP had been answered.

5. The Committee is therefore 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>

Signed:

Chairperson

Date 13 April 2015