



Notice of Property Factor Enforcement Order

Hohp Ref: HOHP/PF/15/0022

Re:

Property at Flat 3/2, 22 Sword Street, Dennistoun, Glasgow G31 1TD ("the Property")

The Parties:-

Miss Nancy O'Neill, residing at the Property ("the Homeowner")

and

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

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)
David Godfrey (Surveyor Member)
Helen Barclay (Housing Member)

This Notice should be read in conjunction with the Decision of even date under reference HOHP/PF/15/0022

1. By decision of even date with this Notice, the Committee determined that the Factors had breached their duties in terms of s 17(1)(b) of the 2011 Act in that they had failed to comply with sections 2.5 and 6.1 of the Code of Conduct for Property Factors as required by s 14(5) of that Act.

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 must make a Property Factor Enforcement Order. Before making an Order, to comply with s 19(2) of the Act, the Committee before proposing an Order must give notice of the proposal to the factor and must allow the parties an opportunity to give representations to the Committee.

3. The intimation of this Notice of Property Factor Enforcement Order to the parties should be taken as notice for the purposes of section 19(2)(a) and the parties are hereby given notice that they should ensure that any written representations which they wish to make under s 19(2)(b) must reach the Homeowner Housing Panel's office by no later than 14 days after the date the decision is intimated to them.
4. If no representations are received within that timescale, then the committee will proceed to make a Property Factor Enforcement Order in the following terms without seeking further representations from the parties.
5. Therefore, the Committee propose to make the following Property Factor Enforcement Order:

Within 28 days of the communication to the respondent of the Property Factor Enforcement Order, the Factors must:

1. Reimburse the management fees paid by the Homeowner to the Factors during the six month period from 28 November 2014 to 27 May 2015 in recognition of its failure to comply with its factor duties during that period.
2. 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.

6. 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 4 August 2015