



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

hohp Ref: HOHP/PF/13/0012

**Re: Property at 3/2, 95 Oban Drive, Glasgow (collectively "the Property")**

**The Parties:-**

**Ms Linda MacDonald, 3/2, 95 Oban Drive, Glasgow ("the Applicant")**

**Grant & Wilson, 65 Greendyke Street, Glasgow, G1 5PX ("the Respondent")**

**Decision by a Committee of the Homeowner Housing Panel  
In an Application under section 17 of the Property Factors (Scotland) Act 2011 ("the Act")**

**Committee Members:**

John McHugh (Chairman); Robert Buchan (Surveyor Member); Elaine Munroe (Housing Member).

This document should be read in association with our decision dated 22 April 2013.

In our decision we indicated that we proposed to make a property factor enforcement order.

We indicated that prior to making a property factor enforcement order, we would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.

Our decision was intimated to the parties on 25 April 2013.

We have had regard to the following emails (and their attachments) received at the HOHP office:

- 1      Letter (with enclosures) of 12 April 2013 by Linda Thomson of the Respondent
- 2      Email (with attachments) of 15 April 2013 by the Applicant
- 3      Email of 25 April 2013 by Linda Thomson of the Respondent

Although the letter of 12 April and the email of 15 April arrived prior to the commencement of the fourteen day period, we have decided that we may consider their terms. We consider that we are entitled to do so since it was plainly intended by the parties that we should consider them in the current context and that no prejudice arises to any party by us doing so. In proceeding in this manner we have had regard to Regulation 3 of the Homeowner Housing Panel (Applications and Decisions)(Scotland) Regulations 2012 which contains an overriding objective upon the Committee to deal with this matter justly.

The correspondence received from the parties discloses that certain efforts have been made by the parties to advance the matters which formed the subject of the application although it does not disclose that the matters have yet been fully resolved.

Having given due consideration to the letter, the emails and their attachments, we are of the view that we are required to make a property factor enforcement order in the terms originally proposed by us.

Our decision is unanimous.

#### **REASONS FOR DECISION**

We consider that, having decided that there has been a failure to carry out the property factor's duties and the section 14 duty, we are obliged by section 19(3) of the Act to make a property factor enforcement order.

In its letter of 12 April 2013 the Respondent now submits that it did not receive the email of 20 December 2012. We consider that we may have no regard to that new assertion given the findings we have already made on that matter in our decision of 22 April 2013.

#### **PROPERTY FACTOR ENFORCEMENT ORDER**

We hereby make the following property factor enforcement order:

Within 28 days of the date of the communication to the Respondent of the property factor enforcement order, the Respondent must:

- 1 Issue an apology to the Applicant in respect of the Respondent's failure to communicate adequately with her, contrary to the provisions of the Code.
- 2 Make a payment to the Applicant in recognition of the inconvenience caused to her of £100.
- 3 Confirm to the Applicant how the amounts shown in the Quarterly Statements issued to her by the Respondents in the period 2011 to 2012 relate to the premiums shown in the Summary of Buildings Insurance Cover (Document HOHP-13) and provide clear supporting calculations.
- 4 At the sole cost of the Respondent, obtain an independent report regarding the condition of the render repair works carried out to the gable of Nos 93 and 95 Oban Drive in or around December 2009 and ensure that any defects found in the works are remedied at no cost to the proprietors of Nos 93 and 95 Oban Drive (either by such costs being met by the responsible contractor or by the Respondent).
- 5 Provide to the Applicant and to the other proprietors of No.95 Oban Drive by recorded delivery post the information requested by her in her email of 10 December 2012 regarding the outstanding common works to the roof space and guttering being: a third quotation for the works; the further specification requested regarding the quotations obtained and revised redecoration quotations.
- 6 Provide documentary evidence to the Committee of the Respondent's compliance with the above Property Factor Enforcement Order by sending such evidence to the office of the Homeowner Housing Panel by recorded delivery post.

**Failure to comply with a property factor enforcement order may have serious consequences and may constitute an offence.**

**APPEALS**

The parties' attention is drawn to the terms of section 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 day on which the decision appealed against is made..."

John McHugh

Signed .....

Date ..... 20 / 5 / 13 .....

**JOHN M MCHUGH**

**Chairperson**