



Property Factor Enforcement Order

Hohp Ref: HOHP/PF/15/0011

Re:

Properties at 4 Comelypark Street, 22 and 28 Sword Street, Dennistoun,
Glasgow G31 1TA (collectively "the Property")

The Parties:-

Mr Christopher Lord, 34A Cuthelton Street, Glasgow, G31 4RG ("the Homeowner")

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)
Irene Kitson (Housing Member)

**This Notice should be read in conjunction with the Decision and Proposed Property
Factor Enforcement Notice dated 27 July 2015 under reference HOHP/PF/15/0011**

1. By decision of 27 July 2015, 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 2.4, 2.5, 4.6, 6.1, 6.4, 6.9 and 7.1 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 required to make a Property Factor Enforcement Order. Before making an Order, to comply with s 19(2) of the Act, the Committee gave notice of the proposal to the Factors and allowed the parties an opportunity to make representations to the Committee.
3. By letter dated 6 August 2015, the Factors made representations regarding the proposed Property Factor Enforcement Order. The Committee took those

representations into consideration in making the present Property Factor Enforcement Order. The Homeowner made no further representations.

4. Therefore, the Committee now makes the following Property Factor Enforcement Order:

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

1. Make payment to the Homeowner of the sum of £250 in recognition of the time spent and inconvenience that the Factors' breaches of the Code have caused to the Homeowner.
2. Reimburse the factoring fees paid by the Homeowner to the Factors during the period from its date of registration of 7 December 2012 to the cessation of its services on 31 May 2015 in recognition of its failure to comply with its factor duties during that period.
3. Provide a full and complete statement of all debts outstanding in respect of the Development referred to in the said decision, detailing any sums received and the steps it has taken and is taking to recover any other outstanding sums and to make over any such sums received without any deduction to the present factors for the Development, Greenhome Property Management (other than sums properly due by the homeowners to the Factors as at 31 May 2015 in accordance with their Written Statement of Services for the Eastern Court Development).
4. Provide a written undertaking to take all reasonable steps to recover any outstanding sums due by any defaulting homeowners of the said Development (which arose during the course of the period in which they acted as Factors for the said Development and which are recovered pursuant to any legal proceedings whatsoever taken in their own name) and to make them over to the new factors forthwith upon receipt without any deductions being made (except as aforesaid in relation to requirement 3 above).
5. 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 11 August 2015