



Notice of Property Factor Enforcement Order

hohp Ref: HOHP/PF/14/0058

Re: Property at 15 Larchfield Neuk, Balerno, Edinburgh, EH14 7NL
(collectively "the Property")

The Parties:-

Mrs Yvonne Williamson, 15 Larchfield Neuk, Balerno, Edinburgh, EH14 7NL ("the Homeowner")

Sheltered Housing Management Ltd, South Hawkhilllock, Ardallie, Aberdeenshire, AB42 0TS ("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)
Ain MacDonald (Housing Member)

This Notice should be read in conjunction with the Decision of even date under reference HOHP/PF/14/0058

1. By decision of even date with this Notice, the Committee determined that the Factors had breached their duties in terms of section 17(1)(b) of the 2011 Act in that it had failed to comply with sections 3.3, 6.1 and 6.9 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 Factors 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 s 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 Factors of the Property Factor Enforcement Order, the Factors must:

1. Provide the Homeowner and residents of the Development with a detailed financial breakdown of charges made and a description of the activities and works carried out which are charged for in terms of section 3.3 of the Code of Practice for Property Factors over the years 2013-2014 and an undertaking to do so in all subsequent years. In particular, such a detailed financial breakdown is to include as a minimum the following:
 - (i) A statement of the sums received from the residents and how that money is spent on their behalf.
 - (ii) Said statement is to ensure that the invoices received tally with the budget made and the monthly amounts charged to the residents.
 - (iii) In particular, such a financial statement requires to provide a detailed breakdown of each of the following items:
 - (a) Repairs and Maintenance, showing the cost of all contractors by name and invoice amount;
 - (b) The Facilities Charge to show in detail all of the items of actual expenditure which it covers in any given year; and
 - (c) The Insurance Charge, to show the premium actually paid and when it was paid and separately, whether any commission has been obtained by the Factor by exhibiting the relevant invoice in a common area such as the lounge of the Development.
2. Carry out an inspection to examine all external communal areas within the Development in need of repair and maintenance to include gates, fences, communal woodwork and bin stores to ascertain works required to bring them up to a standard of repair and to agree the scope of the works and the tender process with the Homeowner, failing which the Committee and to provide a written report of such inspection within the said period of 28 days to the Committee and to the Homeowner.
3. Within 14 days of such an inspection report being produced: communicate with all Homeowners as to the exact nature of the works to be carried out and the competitive tender process to be carried out, given the expected cost of the works is over the limit set by the Factor in his written statement of service; advise of the said programme to be arranged so as to ensure that works will

be carried out by 31 May 2015 at the latest and inform the Homeowner of progress of such works, all as required by section 6.1 of the said Code.

4. At its own expense instruct the gardening contractor to remedy the defects in the gardening works as detailed in the decision accompanying this Notice and as confirmed following the meeting between the Homeowner and the Factors Sheltered Housing Manager following inspection on 14 July 2014. All such remedial works are to be carried to the satisfaction of the Homeowner, failing which the Committee.
5. Make payment to the Homeowner of the sum of £250 in recognition of the inconvenience and distress that the Factors' breaches of the Code have caused to the Homeowner.
6. 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: 24 October 2014