



Minute of Variation of Property Factor Enforcement Order made under Section 21 of the Property Factors (Scotland) Act 2011 following upon a Decision of the Homeowner Housing Committee in an application under Section 17 (1) of the Act

In Application

by

- 1. John and Dorcas Bainbridge, 52 Hawk Brae, Livingston, West Lothian EH54 6GE**
- 2. Patricia Quin, 100 Hawk Brae, Livingston, West Lothian EH54 6GF (“the Applicants”)**

Property Factor: Be-Factored Ltd, 2a North Kirklands, Eaglesham Road, Glasgow G76 0NT (“the Respondent”)

hohp Ref: HOHP/PF/15/0118 & 119

Re: 52 and 100 Hawk Brae, Livingston, West Lothian (“the Properties”)

Committee Members:

John McHugh (Chairman) and Susan Shone (Housing Member).

DECISION

The time for compliance with the property factor enforcement order will be extended until 23 May 2016.

Our decision is unanimous.

REASONS FOR DECISION

The Property Factor Enforcement Order (“PFEO”) was intimated to the parties on 8 March 2016.

When issuing the PFEO we had regard to an email by the Respondent dated 26 February 2016 in which it requested to be allowed 42 days for compliance having regard to the large volume of records which it required to deal with in order to comply with the PFEO and the PFEO reflected this request. The Respondent accordingly has until around 19 April 2016 to comply with the PFEO.

By email of 24 March 2016, the Respondent has intimated that it is proving time consuming to comply with the PFEO and that it has required to recover documents from storage. It has requested an (unspecified) extension of time to comply. The Respondent's request has been copied to the Applicants. By email of 4 April 2016, Ms Quin indicated her objection principally on the basis that she has considerable doubt that the Respondent has any intention of ever complying with the PFEO.

In the circumstances, given the Respondent's representations and the comparative lack of prejudice to any party in granting a relatively short continuation, the Committee considered it to be reasonable to grant an extension of the period for compliance with the PFEO until 23 May 2016.

Parties should note that in the circumstances of this case the Committee is very unlikely to grant any further extension of time.

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.."

Signed

Date 8 April 2016

JOHN M MCHUGH

Chairperson