



**PROPERTY AT FLAT 11 BLOCK 8, TAIT WYND, EDINBURGH EH15 2RJ**

**The Parties:-**

**The homeowner – Victoria Allan (“the applicant”)**

**The property factor – Charles White Ltd (“the respondents”)**

**SECOND VARIATION OF PROPERTY FACTOR ENFORCEMENT ORDER**

1. On 24 March 2014 Notice was given in terms of Section 19 of the 2011 Act, of the terms of a proposed Property Factor Enforcement Order and allowed parties an opportunity to make any written submissions in relation to the proposed Order. No representations have been received.
2. On 10 April 2014, a Property Factor Enforcement Order was subsequently issued to parties.
3. On 10 April 2014, the respondents lodged an Appeal by way of Summary Application to the Sheriff which sought to set aside the original Decision of the committee dated 13 March 2014.
4. On 22 July 2014, the respondents' Appeal was dismissed.
5. On 4 September 2014, having resumed consideration of the Reference following the above sundry procedure, the committee, of new, made a fresh Property Factor Enforcement Order which required compliance within 6 weeks. The 6 week time period for compliance expired on 16 October 2014.
6. On 20 October 2014 the committee varied the Property Factor Order previously made so as to ensure that full compliance could be made by the respondents due to earlier difficulties. A further 6 week period was allowed for the respondent's compliance in respect of all 6 components of the Order (as varied). Said variation of Property Factor Enforcement Order was issued on 27 October 2014. The 6 week time period for the respondents compliance in respect of the varied Property Factor Enforcement Order expired on 8 December 2014.

7. Following further information gathering the committee is now satisfied that the respondents have complied with all aspects of the Property Factor Enforcement Order, as varied, with the exception of item 2. The committee is satisfied however that there is good reason as to why said component of the Property Factor Enforcement Order, as varied, has not been complied with. Other than the defects which were required to be remedied by the respondents in respect of their principal obligations arising from the Property Factor Enforcement Order, as varied, other additional roof defects have caused additional water ingress to the applicant's property. The committee understands that these are in the course of being remedied and it would be inappropriate for the respondents to implement component 2 of the Property Factor Enforcement Order as previously varied prior to these additional separate works being completed.
8. In the circumstances the committee further varies the previously issued Property Factor Enforcement Order, as earlier varied, in terms of Section 21 of the Property Factors (Scotland) Act 2011 and that by extending the time period for compliance with component 2 of the earlier issued Property Enforcement Order as varied by a further 6 weeks from today's date.

The property factor should note that failure without reasonable excuse to comply with the (Varied) Property Factor Enforcement Order is a criminal offence in terms of Section 24 of the 2011 Act. Additionally Scottish Ministers can take any failure into account in respect of the future registration of the respondent on the register of property factors.

In terms of Section 22 of the 2011 Act, any Appeal is on a point of law only and requires to be made by Summary Application to the Sheriff. Any Appeal must be made within 21 days beginning with the day on which the Decision appealed against is made.

**Richard Mill**

Chairperson Signature

Date 21 January 2015