



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

hoHP Ref: HOHP/PF/14/0024

Re: Property at Flat 1/1, 183 Craighall Road, Glasgow, G4 9TN (collectively
"the Property")

The Parties:-

Mr Emmanuel Egbuka, 1/1, 183 Craighall Road, Glasgow, G4 9TN ("the Applicant")

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

**Certificate of Compliance with Property Factor Enforcement Order dated 6 May 2015 in
terms of s 19(3) of the Property Factors (Scotland) Act 2011**

Committee Members:

Maurice O'Carroll (Chairman) and Carolyn Hirst (Housing Member)

Decision of the Committee

The Homeowner Housing Committee, having determined that the Property Factor Enforcement Order ("PFEO") relating to the Property issued following a decision of the Committee dated 10 June 2014 and confirmed on 3 July 2014, as subsequently varied on 6 May 2015 in terms of section 21(1)(a) of the 2011 Act following upon a decision of Glasgow Sheriff court dated 30 April 2015 has been complied with, certifies that the Respondent has complied with the PFEO.

Reasons for the decision

1. By decision dated 10 June 2014, the Committee determined that the Respondent had breached its factors duties in terms of section 17(1)(a) of the 2011 Act. It also found that it had breached its duties in terms of 17(1)(b) of the 2011 Act in that it had failed to comply with sections 2.1, 2.5, 5.2 and 5.5 of the Code of Conduct for Property Factors as required by s 14(5) of that Act. It issued a notice of PFEO on the same date.
2. Having allowed the parties an opportunity to give representations to the Committee, on 3 July 2014, the Committee issued a PFEO in similar terms to the proposed PFEO requiring the Respondent within 28 days of the date of the communication to:

- i. Provide the Applicant with copies of all receipts and vouchings which underlie the charges contained in the quarterly invoices sent to the Homeowner on 23 August and 21 November, both 2012 under reference numbers 633165 and 644797 respectively.
 - ii. Provide the Applicant with a copy of the insurance claim form sent to the insurers of the common property on behalf of the Applicant in respect of water ingress damage to the Applicant's property during 2012, together with a response to that claim made by the common insurers under the applicable insurance policy. For the avoidance of doubt, the application and response require to be supplied in full and not by way of extracted excerpt.
 - iii. Ensure that it has a system in place (whether as part of its internal procedures, in co-operation with its appointed insurers or otherwise as necessary) whereby homeowners are able to pursue insurance claims directly themselves should they wish to, with the Respondent providing all of the necessary information to facilitate that course of action if desired pursuant to Section 5.4 of the Code.
 - iv. Make payment to the Applicant of the sum of £250 in recognition of the inconvenience and distress that the Respondent's breaches of the Code and factor's duties have caused to the Applicant.
 - v. Forthwith and no later than within 7 days make payment of the sum of £974 to the Applicant in respect of his insurance claim for the damage to his property during 2012 and
 - vi. 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.
3. The Factors appealed the terms of the PFEO in terms of section 22 of the 2011 Act. By decision dated 29 January 2015, Sheriff Swanson considered that requirements (iii) and (v) above were not lawful. In terms of her final interlocutor dated 30 April 2015, the Sheriff remitted the PFEO to the HOHP to reconsider its terms.
4. By decision dated 6 May 2015 in the exercise of its powers under section 21(1)(a) of the 2011 Act, the Committee varied the PFEO to take account of the Sheriff's decision by deleting requirements (iii) and (v) leaving the rest remaining for implementation by the Factors.
5. By email dated 1 June 2015, the Respondent wrote to the Committee with vouching of documents produced in order to comply with requirements (i) and (ii) of the PFEO as varied, together with confirmation that it had made payment of a

cheque in the sum of £250 to the Homeowner's agents as per requirement (iv). Although the PFEO stipulated that the cheque required to be paid to the Homeowner, the Committee was content that it appropriately sent to his agents, given that litigation was ongoing and direct contact with another solicitor's client is not appropriate in those circumstances.

6. The Committee is therefore satisfied that the Respondent has complied with the terms of the PFEO as varied following the decision of Sheriff Swanson. It therefore issues this certificate of compliance. No further action is therefore required by the respondent in terms of the PFEO.

Right of Appeal

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.

More information regarding appeals can be found in the information guide produced by the Homeowner Housing Panel. This can be found on the Panel's website at:

<http://hohp.scotland.gov.uk/prhp/2649.325.346.html>

Signed

Chairperson

Date 9 June 2015