



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/IV44/155/10

Re: Property at Torr Sitheig, Teangue, Sleat, Isle of Skye, IV44 8RE ("the Property")

Title No: ALL and WHOLE the subjects known as and forming Torr Sitheig, Sleat, Isle of Skye, IV44 8RE forming part and portion of the Estate of Eilean Iarmain being the subjects more particularly described in Disposition in favour of Sir Iain Andrew Noble recorded in the General Register of Sasines for the County of Inverness on 31st July 1974

The Parties:-

THE EXECUTORS OF THE ESTATE OF THE LATE SIR IAIN ANDREW NOBLE residing formerly at Eilean Iarmain, Isle of Skye, IV43 8QR being Lady Noble, Christopher Mackenzie, James Galbraith, Nigel Pollock and Robin Malcolm all c/o Messrs Gillespie MacAndrew LLP, 5 Atholl Crescent, Edinburgh, EH3 8EJ (represented by the factors for the Eilean Iarmain Estate, Mr Christopher Mackenzie) ("the Landlord")

WILLIAM CORBETT residing at Tor, Sitheig, Teangue, Sleat, Isle of Skye, IV44 8RE ("the Tenant")

NOTICE TO THE EXECUTORS OF THE ESTATE OF THE LATE SIR IAIN NOBLE RESIDING FORMERLY AT EILEAN IARMAIN, ISLE OF SKYE, IV43 8QR BEING LADY NOBLE, CHRISTOPHER MACKENZIE, JAMES GALBRAITH, NIGEL POLLOCK AND ROBIN MALCOLM ("the Landlord")

Whereas in terms of their decision dated 19th April 2011, the Private Rented Housing Committee determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the landlord has failed to ensure that:-

- (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (c) The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;
- (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
- (e) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

In particular the Private Rented Housing Committee requires the landlord:-

- (a) To carry out such steps as are necessary to eradicate the rising damp within the walls and floors of the Property;
- (b) To repair or replace any defective floorings within the Property;
- (c) To carry out such repair or replacement works as are necessary to render the front door, windows and skylights within the Property properly wind and watertight and capable of being opened and shut properly.

- (d) Repair or replace the defective wall and roof linings within the Property.
- (e) Carry out such works as are necessary to render the exterior and roof of the Property wind and watertight and generally to meet the repairing standard.
- (f) To install suitable banisters and railings for the stairs leading to the first floor and to repair any broken stair treads.
- (g) To carry out such works as are necessary to render the fireplace and surrounds together with the flues, chimney breasts and stacks compliant with the repairing standard.
- (h) To demolish the bathroom extension at the Property and to replace with a suitable replacement building and to install appropriate bathroom fitments.
- (i) To carry out such works as are necessary to repair the rainwater disposal system.
- (j) To repair or replace the lean-to garage at the Property.
- (k) To install a hardwired interlinked smoke detection system within the Property sufficient to meet current regulations.
- (l) To provide an electrical safety certificate from a suitably qualified electrician confirming that the Property is compliant with current regulations upon completion of the various works referred to in this Repairing Standard Enforcement Order.
- (m) After completion of the above works to carry out such redecoration as is required to decorate the Property to an appropriate standard.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 8 months from the date of service of this Notice.

A landlord or a tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 19th April 2011 before this witness:-

L Johnston _____ witness

E Miller _____ Chairman

Lindsay Johnston
 Secretary
 Thorntons Law LLP
 Whitehall House
 33 Yeaman Shore
 Dundee
 DD1 4BJ



**Statement of decision of the Private Rented Housing
Committee under Section 24 (1) of the Housing
(Scotland) Act 2006**

prhp Ref: PRHP/IV44/155/10

Re: Property at Torr Sitheig, Teangue, Sleat, Isle of Skye, IV44 8RE ("the Property")

The Parties:-

WILLIAM CORBETT residing at Torr Sitheig, Teangue, Sleat, Isle of Skye, IV44 8RE ("the Tenant")

THE EXECUTORS OF THE ESTATE OF THE LATE SIR IAIN ANDREW NOBLE lately residing at Ardkinglas and Eilean Iarmain, Baronet, Fearnan Eilean Iarmain, and An t-Eilean Sgitheanach, Isle of Skye the Executors being Lady Noble, Christopher Mackenzie, James Galbraith, Nigel Pollock and Robin Malcolm all c/o Gillespie MacAndrew LLP, 5 Atholl Crescent, Edinburgh, EH3 8EJ, (represented by Fhe factor for the Eilean Iarmain Estate, Mr Christopher Mackenzie) ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by both the Landlord and the Tenant at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 4th November 2010 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
 - (c) The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;
 - (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;

- (e) Any furnishings provided by the Landlords under the tenancy are capable of being used safely for the purpose for which they are designed;
- (f) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. By letter dated 26th January 2011 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
 4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
 5. Following service of the Notice of Referral the Tenant made no further representations to the Committee other than their original application dated 4th November 2010. The Landlord made no written representations to the Committee.
 6. The Private Rented Housing Committee, consisting of Mr E K Miller, Chairman and Legal Member and Mr R Buchan, Surveyor Member inspected the Property on the afternoon of 4th April 2011. The Tenant and the Landlord's representative were present during the inspection.
 7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at the Gaelic College, Isle of Skye and heard from both the Tenant and the Landlord's factor. The Landlord was represented by the Estate Factor Mr Christopher Mackenzie. The Tenant represented himself but was accompanied by a friend Ms Heather Dodgson.
 8. The Tenant had given a commentary on the various repairs issues whilst showing the Committee around the Property. The Tenant also had various submissions regarding the rental payable on the Property and the historical position. However, these were not relevant for the purposes of the question of whether the Property met the repairing standard or not.
 9. The Landlord's Factor submitted that it was accepted that the Property did not meet the repairing standard and that it fell well short of this. The Landlord's Factor indicated that he would be guided by the Committee on what works were required to meet the repairing standard.

Summary of the issues

10. The issues to be determined are:-
- (1) Whether the access road leading to the Property met the repairing standard.
 - (2) Whether the septic tank at the Property was in proper working order and met the repairing standard.
 - (3) Whether there was damp in the Property.
 - (4) Whether the Property was wind and watertight.
 - (5) Whether the fireplaces within the Property were adequate.
 - (6) Whether the staircase, wiring and insulation within the Property were adequate.
 - (7) Whether the bathroom met the repairing standard.

Reasons for the decision

11. The Committee based its decision primarily on the evidence it obtained during the inspection of the Property. The Committee were of the view that the Property was in very poor condition with numerous defects. It was barely habitable and required a complete overhaul to bring it up to the repairing standard.

Looking at the specific issues, the Committee examined the access road to the Property. It was raining heavily during the course of the inspection and whilst the access road was not in the best of condition it was still passable with relative ease. The Committee were satisfied that this met the repairing standard.

During the course of the Hearing both parties agreed that although the Tenant had complained about the septic tank, it had been emptied and was in working order. Accordingly the Committee were satisfied that the septic tank met the repairing standard.

During the course of the inspection the Committee carried out various damp meter readings on the ground floor floors and ground floor walls. There was evidence of significant damp at various points. The Committee were of the view that there was rising damp penetrating into the Property. This would need to be eradicated by the Landlord.

The Committee inspected the front door to the Property along with the windows and skylights. All of these were in exceptionally poor condition and would require to be repaired or replaced. Generally the Committee were of the view that a number of these were beyond economic repair and whilst they were prepared to leave the option of repair or replacement open to the Landlord, they were of the view that replacement would be the more effective option.

The Committee inspected the upper floor walls and ceilings where wall linings had been inserted. The Committee were of the view that these were defective and would need to be repaired or replaced.

The Committee inspected the exterior of the Property. There were various cracks apparent on the gable ends of the Property and several slipped or missing slates from the roof. The Committee were of the view that the Landlord would require out such works as were necessary to the roof and exterior walls of the Property to render it wind and watertight.

The Committee inspected the stairs leading to the first floor. A number of the stair treads were cracked or broken and there was also no banister leading to the first floor. This left the side of the stairs open to the ground floor. This represented a significant health and safety hazard.

The Committee inspected the fireplaces at the Property. These were in reasonable condition generally although the cement surround around the fireplaces were badly damaged and crumbling and these would require to be repaired or replaced.

The Committee inspected the bathroom. This comprised a very poor quality lean-to extension. This was riddled with damp and fell well below the repairing standard both internally and externally. It had a tin roof with various leaks. The Committee were of the view that the bathroom extension was beyond its economic life and was not suitable for repair being below a standard that would render it fit for human habitation. The Committee were of the view that the whole bathroom extension would require to be demolished and a suitable replacement built and fitted out by the Landlord.

The Committee inspected the downpipes and gutters forming the rainwater disposal system at the Property. Whilst generally this was in reasonable condition there were one

or two defective areas and these would require to be repaired or replaced as appropriate by the Landlord.

The Committee noted that there was no smoke detection system within the Property. A hardwired interlinked smoke detection system would require to be installed sufficient to comply with the current regulations.

The Committee noted that due to the extensive works that were being carried out and previous rodent infestation, there would require to be a check carried out on the electrical system on completion of the works. An electrical safety certificate from a suitably qualified electrician would require to be exhibited to the Committee confirming the electrical system met the appropriate standard.

The Committee examined the lean-to garage at the side of the Property. This was in very poor condition particularly in relation to the roof and rear wall. Such repairs necessary to render it wind and watertight would require to be carried out or alternatively a replacement installed.

In light of the significant works required to bring the Property up to the repairing standard, the Committee discussed in some detail the amount of time required to comply with the Repairing Standard Enforcement Order. The Committee were aware that the Estate Factor was in a difficult position as Confirmation was currently being sought by the Estate's solicitor and until this was obtained funds were tight. In this particular case there may also be a requirement to obtain building warrant and possibly planning permission in relation to the replacement of the bathroom extension. Accordingly the Committee were of the view that a significant period of time would require to be given to the Landlord to comply with the Repairing Standard Enforcement Order. The Committee were of the view that 8 months from service of the Repairing Standard Enforcement Order on the Landlord would be appropriate.

Decision

12. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
13. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
14. The decision of the Committee was unanimous.

Right of Appeal

15. A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

16. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed E Miller Date 19/11/2021
Chairperson