



Property Factor Enforcement Order

Hohp Ref: HOHP/PF/15/0054

Re:

Property at Flat 2/1, 16 Eastside, Kirkintilloch, G66 1PY ("the Property")

The Parties:-

Miss Alison Barr, 124 Monkland Avenue, Kirkintilloch, Glasgow, G66 3BS ("the Homeowner")

and

Apex Property Factor, 46 Eastside, Kirkintilloch, Glasgow, G66 1QH ("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)
Elaine Munroe (Housing Member)

This Notice should be read in conjunction with the Committee's Decision of 9 November 2015 under reference HOHP/PF/15/0054

1. By decision of 9 November 2015, the Committee determined that the Factors had breached their duties in terms of section 17(1)(b) of the 2011 Act in that they had failed to comply with Sections 2.5, 3.3, 4.1, 4.6, 4.7 and 7.2 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 required to make a Property Factor Enforcement Order ("PFEO"). In compliance with section 19(2) of the Act, the Committee required to give notice of the proposed PFEO to the factor and to allow the parties an opportunity to give representations to the Committee. It did so on the same date that the said decision was issued to the parties and allowed the parties 28 days to comment upon the terms of the proposed PFEO.

3. By letter dated 4 December 2015, the Factors' solicitors made representations in response to the Committee's decision. The Committee took those representations into consideration. The Homeowner made no further representations.

4. Therefore, the Committee makes the following PFEO:

Within 14 days of the communication to the Factors of the present PFEO, the Factors must:

- i. Make payment to the Homeowner of the sum of £250 in recognition of the time spent, distress and inconvenience that the Factors' breaches of the Code have caused to the Homeowner.
- ii. Cancel the final invoice of 27 February 2015 and provide notification of that to the Homeowner. At the same time, issue a replacement final invoice to the Homeowner showing a final sum due to her of £27.80 being the reimbursement of her float of £50 under deduction of the sum of £22.20 being due in respect of all factoring services provided and outstanding as at 27 February 2015.
- iii. Make further payment to the Homeowner of the sum of £27.80 being the refund of the float paid on 5 October 2012 under deduction of factoring charges of £22.20 properly due by her as at 27 February 2015.
- iv. At its own expense, carry out all steps necessary to draft and register with the Registers of Scotland a non-statutory discharge or letter in unambiguous terms, discharging in full the alleged obligation underlying the extant Notice of Potential Liability registered against the Homeowner's Property.
- v. Write a letter to The PRG Partnership, the Homeowner's solicitors, stating that the appropriate retention in respect of the sale of the Property is nil, the NOPL having been discharged, and requesting it to disregard the Factors' earlier letter of 13 August 2015.
- 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.

Appeals

5. 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..."

M O'Carroll

Signed

M O'Carroll
Chairperson

Date 9 December 2015