



Proposal regarding the Making of a Property Factor Enforcement Order

**Following Upon a
Decision of the Homeowner Housing Committee
In an Application under section 17 of the Property Factors (Scotland) Act 2011
by**

Aylmer Millen, 30/5 Eyre Crescent, Edinburgh EH3 5EU (“the Applicant”)

**Property Factor: James Gibb Residential Factors, 4 Atholl Place, Edinburgh EH3
8HT (“the Respondent”)**

hohp Ref: HOHP/PF/15/0090

**Re: Property at 30/5 Eyre Crescent, Edinburgh EH3 5EU
 (“the Property”)**

Committee Members:

John McHugh (Chairman); Sara Hesp (Surveyor Member).

This document should be read in conjunction with the Committee’s Decision of the same date.

The Committee proposes to make the following Property Factor Enforcement Order (“PFEO”):

“Within 28 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must ensure that it puts in place adequate measures to ensure that records are kept of all documents provided to third parties in the course of inviting tenders for works in relation to the Development such that it will be able to comply with its duties under Paragraph 6.6 of the Code of Conduct for Property Factors.”

Section 19 of the 2011 Act provides as follows:

“(2)In any case where the committee proposes to make a property factor enforcement order, they must before doing so--

(a) give notice of the proposal to the property factor, and

(b)allow the parties an opportunity to make representations to them.

(3)If the committee are satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the committee must make a property factor enforcement order...”

The intimation of the Committee’s Decision and this proposed PFEO to the parties should be taken as notice for the purposes of section 19(2)(a) and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2)(b) reach the Homeowner Housing Panel’s office by no later than 14 days after the date that the Decision and this proposed PFEO is intimated to them. If no representations are received within that timescale, then the Committee is likely to proceed to make a property factor enforcement order without seeking further representations from the parties.

Failure to comply with a property factor enforcement order may have serious consequences and may constitute an offence.



JOHN M MCHUGH

CHAIRMAN

Date: 3 October 2015