

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

Certificate of Compliance following upon a decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under Section 17(1) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/LM/19/2134

**Loch Tay Highland Lodges, Milton Morenish Estate, Killin FK21 8TY
("the Property")**

The Parties:-

**Mrs Eleanor Morrison, 12 Donmouth Terrace, Bridge of Don, Aberdeen
AB23 8DN
("the Homeowner")**

**Loch Tay Highland Lodge Park Limited, Loch Tay Highland Lodges,
Milton Morenish Estate, Killin FK21 8TY
("the Factor")**

Tribunal Members

**Graham Harding (Legal Member)
David Godfrey (Ordinary Member)**

Decision

The Tribunal has determined that the Factor has complied in full with the terms of the Property Factor Enforcement Order ("PFEО") issued on 24 February 2020 therefore no further action is required.

The decision is unanimous.

Statement of Reasons

1. By decision issued on 29 December 2019, the Tribunal determined that the Factor had failed to carry out its property factor's duties and was in breach of sections 1.1bAb, 1.1bBc, 1.1bCd, 1.1bCf, 1.1bCg, 1.1bCh, 1.1bDI, 1.1bDm, 2.1, 2.4, 3.2, 3.5a, 4.1, 5.9, 6.1, 6.1, 6.4 and 7.1 of the Property Factors (Scotland) Act 2011 Code of Conduct ("the Code").
2. The Tribunal issued a Notice of Proposed PFEО together with the decision on 31 December 2019 and invited representations within 14 days of the Notice being received by the parties.

3. By emails dated 10 and 17 January 2020 the Factor requested the Tribunal review its decision and proposed PFE0.
4. The Tribunal considered the Factor's request for a review and by its decision dated 11 February 2020 refused the application for review as being totally without merit.
5. The Tribunal issued a PFE0 on 24 February 2020.
6. By emails dated 10 and 16 March the Factor submitted a revised draft Written Statement of Services purporting to be in compliance with the terms of the PFE0.
7. By decision dated 8 April 2020 the Tribunal determined that the draft Written Statement of Services did not comply with the terms of the PFE0.
8. By letter dated 11 June the Factor's solicitors, BTO Glasgow submitted a further draft Written Statement of Services.
9. The Homeowner submitted comments on the draft Written Statement of Services by email dated 19 June 2020.
10. By email dated 25 June the Factor's representatives submitted further correspondence to the Tribunal.
11. By Notice of Variation of the PFE0 dated 30 June 2020 the Tribunal extended the timescale for completion of the PFE0 to 24 July 2020.
12. By letter dated 17 July 2020 the Factor's representatives submitted a further revised draft of the Written Statement of Services.
13. By email dated 20 July 2020 the Homeowner submitted further comment on the draft Written Statement of Services.
14. By emails dated 24 July 2020 both the Homeowner and the Factor's representatives submitted further comments to the Tribunal.
15. By email dated 5 August 2020 the Factor's representatives submitted an Order Compliance Response Form confirming that subject to the Tribunal being satisfied with the terms of the Written Statement of Services the actions required in the PFE0 had been completed.
16. The Tribunal is aware that the Homeowner remains dissatisfied with the plan of the area to be factored but is otherwise content with the terms of the Written Statement of Services. However, the Tribunal having considered the plan and having taken account of the Homeowner's concerns is satisfied that the plan is adequate for the purpose for which it is intended.

17. The Tribunal having carefully considered matters and in particular the breaches of its property factors duties and the Code as determined by the Tribunal in its decision and being satisfied that the PFEO has been complied with by the Factor has determined that no further action is required.

Right of Appeal

18. In terms of Section 46 of the Tribunals (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal within 30 days of the date the decision was sent to them.

Graham Harding
Legal Member and Chairperson

10 August 2020