

Housing and Property Chamber

First-tier Tribunal for Scotland



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

in

Application under section 17 of the Property Factors (Scotland) Act 2011

by

Sandra Dickson, 1 Myre Dale, Bonnyrigg EH19 3NW (“the Applicant”)

Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh EH12 5HD (“the Respondent”)

Reference No: FTS/HPC/PF/20/2395

**Re: Property at GF2, Chilton, Gracefield Court, Musselburgh EH21 6LL
 (“the Property”)**

Tribunal Members:

John McHugh (Chairman) and Mike Links (Ordinary (Surveyor) Member).

DECISION

We are of the view that we should make a property factor enforcement order in the terms originally proposed by us.

Our decision is unanimous.

REASONS FOR DECISION

In our decision of 25 January 2022 we indicated that we proposed to make a property factor enforcement order (“PFEO”).

We indicated that prior to making a property factor enforcement order, we would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.

Our decision was intimated to the parties on 26 January 2022.

We have had regard to a letter by the Respondent dated 8 February 2022 in which the Respondent has outlined the steps which it says it has already taken to comply with the proposed PFEO.

In addition, the Tribunal has dealt with an application by the Applicant for review of the Decision which was refused on 24 February 2022.

No representations have been received from the Applicant on the content of the Proposed PFEO.

We consider that, having decided that there has been a failure to carry out the section 14 duty, it is appropriate in terms of section 19(3) of the Act to make a property factor enforcement order.

Parties will in due course be invited to comment upon whether they consider that the PFEO has been complied with. The Respondent is clearly of the view that there has already been such compliance and it will therefore be entitled at that stage, if it wishes, simply to refer the Tribunal to the terms of its letter of 8 February 2022.

Property Factor Enforcement Order

We hereby make the following Property Factor Enforcement Order ("PFEO"):

Within 31 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must:

Confirm to the office of the Tribunal in writing that it has implemented appropriate safeguards to ensure that the Development contingency fund may not be used other than with appropriate authority of the owners.

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

APPEALS

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 from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Signed

Date 5 April 2022

JOHN M MCHUGH

Chairperson