



**Decision of the Homeowner Housing Committee issued under the
Homeowner Housing Panel (Applications and Decisions) (Scotland)
Regulations 2012**

PROPERTY FACTOR ENFORCEMENT ORDER

HOHP Reference: HOHP/PF/13/0001, HOHP/PF/13/00010 and
HOHP/PF/13/00011

Re: Property at 50, 52 and 54 Leven Road, Royale Court, Hamilton, ML3 7WS
(collectively described as "the Property")

The Parties:-

COLIN PARK residing at 2 Denbeath Court, Ferniegair, Hamilton, ML3 7TR ("the Homeowner")

HACKING & PATERSON MANAGEMENT SERVICES, Property Factors, 1 Newton Terrace, Charing Cross, Glasgow, G3 7PL ("the Factor")

WHEREAS

In terms of a decision dated 18 June 2013 (the Decision), the Homeowner Housing Committee determined that the Factor had failed to comply with the property factor's duties as defined by the Property Factors (Scotland) Act 2011 (the Act). The Committee also determined that the Factor had failed to comply with the Code of Conduct for Property Factors (the Code). The reasons for the Committee's determination are set out in full in the Decision.

Within the Decision the Committee indicated that it intended to impose a Property Factory Enforcement Order ("PFEO") on the Factor and set out the proposed conditions of the PFEO that the Committee were considering making.

In terms of Section 19(2)(b) of the Property Factors (Scotland) Act 2001, the Committee indicated that prior to making a PFEO they would provide both parties with a period of 14 days from date of service of the Decision upon them within which to make representations as to the terms of the proposed PFEO.

Following service of the Decision no representations were made by either party in relation to the terms of the proposed PFEO.

Decision

The Committee considered whether to impose the PFEO as proposed in the Decision. Given the lack of any representations from either Party the Committee did not see any reason to refrain from now issuing the PFEO as set out in the Decision and for the reasons contained therein. Accordingly, the Committee unanimously determined to impose this PFEO on the Factor as follows:-

Property Factor Enforcement Order

Within 28 days of service of this PFEO on the Factor, the Factor must:

1. Issue a written apology to the Homeowner in respect of the Factor's breaches of both Part 2.1 of the Code and the breaches of the property factor's duties within the Act.
2. Make a payment to the Homeowner of £200 in recognition of the inconvenience caused to the Homeowner.
3. Ensure that the Homeowners account with the Factors is adjusted by the removal of the 3 x £100 debits previously added to the Homeowners account on 28 November 2012 as a result of the increase in the float. Further, to remove any administrative charges or penalties added to the Homeowners account arising from the non-payment by the Homeowner of the increased float level
4. Amend the relevant sections of the Terms of Service to reflect the correct position, as set out in the Decision, in relation to the float and the termination of the factoring arrangements.
5. Provide documentary evidence to the Committee of the Factor's compliance with this PFEO by sending such evidence to the office of the Panel by recorded delivery post

Failure to comply with this PFEO may have serious consequences and constitute a criminal offence.

Right of Appeal

The parties' attention is drawn to the terms of Section 21 of the 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 day on which the decision appealed against is made..”

Ewan Miller

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Chairman

..... 7 / 8 / 2013
Date