



NOTICE OF A DECISION TO VARY
A Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/TD14/16/11

Re: All and Whole that cottage known as Huldie Cottage, Ayton Castle Estate, Ayton, TD14 5RD being part and portion of the subjects more particularly described and disposed in the Disposition by Grainger Properties Limited (In Members' Voluntary Liquidation) and the Liquidators thereof (with consent) in favour of David Ian Liddell-Grainger dated Twenty First day of December Nineteen Hundred and Seventy and recorded in the Division of the General Register of Sasines applicable to the County of Berwick on the First day of February Nineteen Hundred and Seventy one ("the Property").

The Parties:-

MISS ALEXANDRINA WHITEHEAD, residing at Huldie Cottage, Ayton Castle Estate, Eyemouth, Berwickshire TD14 5RD ("the Tenant")

and

LADY CHRISTINE DE LA RUE, residing at Ayton Castle, Ayton, Eyemouth, Berwickshire and DAVID HENRY LIDDELL-GRAINGER, residing at Ayton Castle, Ayton, Eyemouth, Berwickshire as Executors Nominated of the late David Ian Liddell-Grainger who resided latterly at Ayton Castle, Ayton, Eyemouth, Berwickshire and who died on 12th March 2007 ("the Landlords")

NOTICE to LADY CHRISTINE DE LA RUE, residing at Ayton Castle, Ayton, Eyemouth, Berwickshire and DAVID HENRY LIDDELL-GRAINGER, residing at Ayton Castle, Ayton, Eyemouth, Berwickshire as Executors Nominated of the late David Ian Liddell-Grainger who resided latterly at Ayton Castle, Ayton, Eyemouth, Berwickshire and who died on 12th March 2007 ("the Landlords")

The Private Rented Housing Committee having determined on 1st April 2011 that the Repairing Standard Enforcement Order relative to the property should be varied, the said Repairing Standard Enforcement Order is hereby varied with effect from the date of service of this Notice in the following respects:-

The period allowed for the completion of the work required by the order is extended to 8th August 2011.

Subsection 25(3) of the Housing (Scotland) Act 2006 applies in this case.

A landlord or a tenant aggrieved by this decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Where such an appeal is made, the effect of the variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the variation will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page(s) are executed by Andrew Stuart Cowan, Solicitor, 7 West George Street, Glasgow G2 1BA, Chairperson of the Private Rented Housing Committee at Glasgow on 12th July 2011 before this witness:-

A Cowan

C A Millar

_____ witness

_____ chairman

Carol Anne Millar
Legal Executive
7 West George Street
Glasgow
G2 1BA



Determination by Private Rented Housing Committee

Statement of decision of the Private Rented Housing Committee under Section 25 of the Housing (Scotland) Act 2006

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Re: All and Whole that cottage known as Huldie Cottage, Ayton Castle Estate, Ayton, TD14 5RD being part and portion of the subjects more particularly described and disposed in the Disposition by Grainger Properties Limited (In Members' Voluntary Liquidation) and the Liquidators thereof (with consent) in favour of David Ian Liddell-Grainger dated Twenty First day of December Nineteen Hundred and Seventy and recorded in the Division of the General Register of Sasines applicable to the County of Berwick on the First day of February Nineteen Hundred and Seventy one ("the Property").

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Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords had complied with the Repairing Standard Enforcement Order in relation to the property concerned and taking full account of the submissions made by the parties since the date of the issue of the Repairing Standard Enforcement Order, determined to exercise their powers in terms of Section 25 of the Act to vary the terms of RSEO to allow the Landlords until 8th August 2011 to complete all works required by the RSEO.

Background

- 1 On 1st April 2010 the Committee issued a Determination which provided that the Landlords had failed to comply with the duty imposed by Section 14 (1) of The Housing (Scotland) Act

2006 ("the Act"). On the same date the Committee issued a Repairing Standard Enforcement Order ("RSEO") in respect of the property.

- 2 The Committee ordered that the works specified in the RSEO were to be carried out and completed within 6 weeks from the date of service of the Order upon the Landlords.
- 3 By letter dated 10th May 2011 the solicitors acting for the Landlords wrote to the Private Rented Housing Committee and requested that the Committee allow a further period of time for the works required to the property in terms of the RSEO to be completed. At that time the Landlords' agents indicated that the Landlords had encountered difficulty in completing the works in view of, what the Landlords considered to be, a short timescale given by the Private Rented Housing Committee to complete the works and the intervening multiple public holidays, and the fact that the Tenant required 3 days notice when access would be required to carry out the works.
- 4 On 17th May 2011 the Surveyor Member of the Private Rented Housing Committee re-inspected the subjects. A report dated 17th May 2011 was prepared by the Surveyor Member of the Committee and a copy made available to both the Landlords and the Tenant. In terms of the report prepared by the surveyor member of the Committee it was noted that while certain parts of the works required in terms of the RSEO had been completed other parts of the works required had not been attended to or completed.
- 5 A copy of the Surveyor Member's report was sent to both the Landlords and the Tenant by letter dated 19th May 2011. At that time both the Landlords and the Tenant were asked to confirm:-
 - (a) Whether they agreed or disagreed with the surveyor's report, and
 - (b) (in the event the Committee decided the Landlords had failed to comply with the RSEO) whether the Tenant wished the Committee to consider making a rent relief order in respect of the property.
- 6 By letter dated 25th May 2011 the Landlords' solicitors (Messrs Turcan Connell) wrote to the Private Rented Housing Committee. They confirmed that they agreed with the findings of the Surveyor Members report. They indicated that the Landlords had encountered significant difficulties in obtaining access to the property to allow tradesmen to carry out the works. They confirmed that all works required by the RSEO had been instructed by the Landlords. They confirmed that the necessary work was ongoing at the property, but that, *inter alia*, restricted access arrangements had delayed the completion of the necessary works. They requested a further period of 6 weeks to complete the necessary works required by the RSEO.
- 7 By letter received by the Private Rented Housing Committee on 7th June 2011 the Tenant indicated that she accepted the findings of the surveyor's report. The Tenant submitted that the delay in completion of the work at the property was primarily because the Landlords had not commenced works until 12th May 2011.
- 8 A copy of the Tenant's response was exhibited to the Landlords and the Landlords' solicitors. The Landlords' solicitors again wrote to the Private Rented Housing Committee by letter dated 13th June 2011.
- 9 The Landlords' solicitors indicated that the Landlords had instructed the solicitors to raise proceedings for recovery of possession of the subjects. Any such instruction is not of relevance to the question before the Private Rented Housing Committee as to whether or not the Landlords have complied with the terms of the RSEO.
- 10 The Landlords' solicitors again reiterated their request for further time to complete the works required by the RSEO. The Landlords' solicitors indicated they did not consider that a Rent Relief Order was appropriate in all the circumstances of the case.

Determination and Reasons

- 11 The Committee considered all the written evidence which was available from both the Landlords and the Tenant and were able to consider the terms of the surveyor member's report dated 17th May 2011.
- 12 The Committee noted that some progress had been made by the Landlords towards completion of the works required by the RSEO. The Committee further noted that works were ongoing by the Landlords at the property. A priced schedule of the proposed works from a contractor was exhibited to the Committee. Given the extent of the works which were required (and which included *inter alia* substantial works to address the issue of dampness in the downstairs bedroom of the property) the Committee accepted that it was appropriate for the Landlords to be given more time to complete the works required in terms of the RSEO. In doing so, the Committee noted that the Landlords works at the property were ongoing and that the Landlords had given a commitment to complete the works.
- 13 In all the circumstances the Committee decided that the RSEO should be varied to allow the Landlords until 8th August to complete all works as required by the RSEO.

Decision

- 14 The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords had complied with the Repairing Standard Enforcement Order in relation to the property concerned and taking full account of the submissions made by the parties since the date of the issue of the Repairing Standard Enforcement Order, determined to exercise their powers in terms of Section 25 of the Act to vary the terms of RSEO to allow the Landlords until 8th August 2011 to complete all works required by the RSEO.
- 15 The Committee proceeded to make a variation to the RSEO.
- 16 The decision of the Committee was unanimous.

Right of Appeal

- 17 A Landlord or Tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of Section 63

- 18 Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

A Cowan

Signed
Chairperson

Date: 12th July 2011

C A Millar

.....Witness

Carol Anne Millar
7 West George Street
Glasgow G2 1BA