

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 (“the Act”)

Reference numbers: FTS/HPC/LM/23/0079 FTS/HPC/LM/23/0081

Re: Land at Dinart Street, Glasgow and Property at Flat 0/1, 95, Dinart Street, Glasgow, G33 2DS (“the Property”)

The Parties:

Ms Marlene Hay, residing at Flat 0/1, 95, Dinart Street, Glasgow, G33 2DS, (“the Homeowner”)

Lowther Homes, having a place of business at Wheatley House, 25 Cochrane Street, Glasgow G1 1HL (“the Property Factor”)

Tribunal Members

Karen Moore (Chairperson) Mary Lyden (Ordinary Member)

Decision of the Tribunal

The Tribunal having determined that the Property Factor Enforcement Order as varied (“PFEO”) relating to the Property dated 11 April 2024 has been complied with, hereby certifies that the Property Factor has complied with the PFEO.

Reasons for Decision

1. By decision dated 26 June 2023, the Tribunal determined that the Factor had failed to comply with the Section 14 duty in terms of the Act in respect of compliance with the Property Factor Code of Conduct (“the Code”).

2. As required by the Act, the Tribunal issued a PFEO after giving parties an opportunity to make representations on the terms of a proposed PFEO. The PFEO was in the following terms: *No later than 8 August 2023 the Property Factor must at its own cost and expense*

1. *Provide the Homeowner and the Tribunal with hard copies of the Written Statement of Services for the Property, their Debt Recovery procedure and their Complaints procedure;*

2. *Provide the Homeowner and the Tribunal with a named property manager or contact for the Property with whom the Homeowner can communicate directly;*
3. *Provide the Homeowner and the Tribunal with their schedule for routine garden maintenance and grass cutting for the current year April 2023 to March 2024 and confirm whether or not the schedule has been complied with to date;*
4. *Provide the Homeowner and the Tribunal with their proposals for carrying out the drain repair which was purported to have been carried out previously and carry out this repair at their own cost;*
5. *Compensate the Homeowner in the sum of £250.00 by a direct payment and not by a credit to her common charges account for the inconvenience caused to her by the Property Factor's actions;*
6. *Refund to the Homeowner all of the management fees paid by her to the Property Factor since the Property Factor took over factoring of the Property in October 2020 to date;*
7. *Credit the Homeowner's common charges account with the sums withheld by her so that the account is not in debit*
8. *Credit the other Homeowners co-owners who have paid for the purported drain repair the sums paid by them in respect of that common charge and*
9. *Evidence to the Tribunal that items 4- 8 above have been carried out.*

3. Following a Hearing of Compliance, the PFEO was varied to allow the Property Factor further time to comply. By emails dated 12 and 26 September 2024, the Homeowner and the Property Factor agreed that the PFEO had been complied with. Accordingly, the Tribunal is satisfied that the PFEO has been complied with by the Property Factor.

Appeal

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.

Karen Moore,

Chairperson

14 October 2024