

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/PF/22/0871
FTS/HPC/PF/22/0874
FTS/HPC/PF/22/0932
FTS/HPC/PF/22/0933
FTS/HPC/PF/22/2390**

Re: Properties at Lauderdale Mansions, 44 Lauderdale Gardens and 47 Novar Drive, Hyndland Glasgow (“the Property”)

Parties:

**Mrs Pauline Bourhill, Apartment 3/2, 44 Lauderdale Gardens, Lauderdale Mansions, Hyndland, Glasgow G12 9QT
Professor Sheila McLean, 47 Novar Drive, Hyndland, Glasgow G12 9UB
Mr Robert Friel and Mrs Marion Friel, Apartment 3/1 47 Novar Drive, Hyndland, Glasgow G12 9UB
Mr Mark McManus and Mrs Nadine McManus, 46 Lauderdale Gardens, Hyndland, Glasgow G12 9QT (“the Applicants”)**

James Gibb Residential Factors, 65 Greendyke Street, Glasgow G1 5PX (“the Respondents”)

Tribunal Member:

**Graham Harding (Legal Member)
Kingsley Bruce (Ordinary Member)**

Decision

The Tribunal has determined that the Factor has complied in full with the terms of the Property Factor Enforcement Order (“PFEO”) issued on 20 April 2023 therefore no further action is required.

The decision is unanimous.

Statement of Reasons

1. By decision issued on 9 February 2023 and corrected on 28 February 2023, the Tribunal determined that the Factor had failed to carry out its duties under section 14(5) of the 2011 Act in that it did not comply with sections 2.7, 6.6 and 6.12 of the 2021 Code.
2. The Tribunal issued a Notice of Proposed PFEO together with the decision on 9 February 2023 and invited representations within 14 days of the Notice being received by the parties.
3. Following correspondence received from one of the Applicants the Tribunal issued a corrected decision on 28 February 2023.
4. The Tribunal issued a PFEO in the same terms as the proposed PFEO on 20 April 2023.
5. Following further queries from the Applicants and the Respondents as regards the terms of the PFEO the Tribunal clarified the meaning of an independent HVAC engineer.
6. Following further correspondence received from both the Applicants and the Respondents, by email dated 8 May 2024 the Respondents submitted a report from Henderson Warnock, Mechanical & Electrical Consulting Engineers in partial satisfaction of the PFEO.
7. Following further correspondence from the Applicants dated 23 June 2024 and the Respondents dated 8 July 2024 the Tribunal received confirmation that a meeting of owners had been arranged to take place on 23 July 2024 in further compliance with the terms of the PFEO.
8. The Tribunal having considered matters and being satisfied that the PFEO has been complied with by the Respondent has determined that no further action is required.

Right of Appeal

9. 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

5 August 2024