



**DECISION AND STATEMENT OF REASONS OF MARTIN J. MCALLISTER,  
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED  
POWERS OF THE CHAMBER PRESIDENT**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property  
Chamber Rules of Procedure 2017 ("the Rules")**

**in connection with**

**38 Brodie Drive, Baillieston, Glasgow, G69 6FB ("the Property")**

**Case Reference: FTS/PF/25/4862**

**Amy Dong ("the Applicant")**

1. The Applicant applied to the Tribunal on 12 November 2025 in terms of Section 17 of the Property Factor (Scotland) Act 2011 ("the 2011 Act").
2. The Applicant was asked to provide clarification on the application. She responded indicating that her complaints were not in connection with her own property factor but with a property factor which managed an adjoining estate. The crux of her concerns was in relation to high growing trees/ hedge and damage caused to her property.

**DECISION**

3. The Legal Member considered the application in terms of Rule 5. Rule 5 provides: - (1) An application is held to have been made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules 43, 47 to 50, 55, 59, 61, 65 to 70, 72, 75 to 91, 93 to 95, 98 to 101, 103 or 105 to 111, as appropriate. (2) The Chamber President or another member of the First-tier

Tribunal, under the delegated powers of the Chamber President, must determine whether an application has been lodged in the required manner by assessing whether all mandatory requirements for lodgment have been met. (3) If it is determined that an application has not been lodged in the prescribed manner, the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, may request further documents and the application is to be held to be made on the date that the First-tier Tribunal receives the last of any outstanding documents necessary to meet the requirement manner for lodgment. “

- 4. After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1) (c) of the Rules. Rule 8 (1) (c) states that an application must be rejected if the Tribunal has “good reason to believe that it would not be appropriate to accept the application.”**

#### **REASONS FOR DECISION**

5. The Application is in terms of Section 17 of the 2011 Act and Rule 43.
6. The Legal Member had regard to Sections 5 and 17 of the Act:
- 5.** In this Act, “homeowner” means—
- (a) an owner of land used to any extent for residential purposes the common parts of which are managed by a property factor, or
  - (b) an owner of residential property adjoining or neighbouring land which is—
    - (i) managed or maintained by a property factor, and
    - (ii) available for use by the owner.

**17 (1)** A homeowner may apply to the First-tier Tribunal for determination of whether a property factor has failed—

- (a) to carry out the property factor's duties,

(b) to ensure compliance with the property factor code of conduct as required by section 14(5) (the “section 14 duty”).

7. The Applicant has failed to demonstrate that, in relation to the area of land in question, she is a homeowner as defined in the Act. She is not the owner of it and has not shown that it is land which is available for her use.
8. The homeowner has no contractual relationship with the Property Factor.
9. The Legal Member therefore determines that the application cannot be accepted. The application is rejected on that basis.

### **What you should do now**

If you accept the Legal Member’s decision, there is no need to reply.

If you disagree with this decision –

An applicant aggrieved by the decision of the Chamber President, or any Legal Member acting under delegated powers, 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. Information about the appeal procedure can be forwarded to you on request.

Martin J. McAllister, Legal Member  
30 April 2026