



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

HOHP reference: HOHP/PF/15/0003

Re: Property at Flat 8, 112 Hillpark Grove, Edinburgh, EH14 7EF ("the property")

**The Parties:**

Mr Michael Sturgeon, Flat 8, 112 Hillpark Grove, Edinburgh, EH14 7EF ("the homeowner")

Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD ("the factor")

**Certificate of Compliance with Property Factor Enforcement Order dated 29th May 2015 in terms of Section 19(3) of the Property Factors (Scotland) Act 2011 ("the Act").**

1. That, in terms of its decision of 29th May 2015, the committee found that the property factors had failed to comply with the Property Factors code of conduct and had failed to meet the property factors' duties as required by the Act, all as stated in the committee's decision. The committee made a Property Factor Enforcement Order ("PFEO") in the following terms:
  1. *Within 28 days of notification of this order, the property factors must:*
  2. *Issue a written apology to the homeowner for their failure to comply with section 2.5 of the code of conduct and for their failure to meet the property factors duties as required by the Act.*
  3. *Make a payment to the homeowner of £50 in recognition of the inconvenience which the homeowner has experienced and by way of compensation for the failure to provide an adequate service between July and December 2014.*
  4. *Failure to comply with a PFEO may have serious consequences and constitute a criminal offence.*
2. That, by email of 24<sup>th</sup> August 2015 to the HOHP, the property factors attached a copy letter which they had sent to the homeowner on the same date. With the letter was a photocopy of a cheque for the sum of £50 made payable to the homeowner. The letter stated,

*"As per the Property Factor Enforcement Order (PFEO), dated 12<sup>th</sup> August 2015, we recognise that there has been a failure to comply with section 2.5 of the code of conduct and a failure to meet the property factors duties as requested by the act, we hereby apologise for any inconvenience caused.*

*I enclose a cheque for £50 in recognition of the inconvenience which you may have experienced with the services provided to you by Charles White Limited between July and December 2014."*
3. Section 19 (3) of the Act provides that,

*"if the committee are satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the committee must make a property factor enforcement order."*

4. Section 21(1) of the Act provides that,

*"The homeowner housing committee which made a property factor enforcement order may, at any time—*

*(a) vary the order in such manner as they consider reasonable, or*

*(b) where they consider that the action required by the order is no longer necessary, revoke it."*

5. The committee accepts that there has been a failure on the property factors to comply with the Property Factors code of conduct and to meet the property factors' duties, all as stated in the committee's decision. However the terms of any PFEO issued at this time would be in precisely the same terms as the draft PFEO of 29<sup>th</sup> May 2015. The committee is satisfied that, by letter of 24<sup>th</sup> August 2015, the property factors have now satisfied the terms of that order. Against this background, the committee is satisfied that the actions required in the PFEO have been completed and rely upon the terms of section 21 (1) to revoke the PFEO.

#### **Right of Appeal**

6. The parties' attention is drawn to the terms of section 22 of the Act regarding the right to appeal and the time limits which apply.

7. Section 22 provides that,

*"(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."*

8. More information regarding appeals can be found in the information guide produced by the Homeowner Housing Panel. This can be found on the Panel's website,  
<http://hohp.scotland.gov.uk/prhp/2649.325.346.html>

#### **Committee Members:-**

**Simone Sweeney (Chairperson)**

**Ian Murning (Surveyor Member)**

Simone Sweeney

Signed ..

Chairperson

Dated 30.09.2015