



**Decision of the Home Owner Housing Committee issued under the Home Owner Housing Panel (Applications and Decisions) (Scotland) Regulations 2012**

HOHP Reference: HOHP/PF14/0018

**THE PARTIES**

Mr Michael Sturgeon, residing at Flat 8, 112 Hillpark Grove, Edinburgh, EH4 7EF ("the applicant")

And

Charles White Limited, 2 Morningside Road, Edinburgh, EH10 4BY ("the respondent")

**DECISION BY THE COMMITTEE OF THE HOMEOWNER HOUSING PANEL IN AN APPLICATION UNDER SECTION 17 OF THE PROPERTY FACTORS (SCOTLAND) ACT 2011**

The Committee having conducted a hearing into the application made by the applicant and having allowed parties time to discuss matters and having heard parties, determined that the hearing should be adjourned in terms of Regulation 17(6) of the Homeowner Housing Panel (Applications and Decisions) (Scotland) Regulations 2012 and that a continued hearing should take place on 3<sup>rd</sup> September 2014 unless the parties intimate to the committee that they have resolved all matters.

**COMMITTEE MEMBERS**

James Bauld (Chairperson)  
David Godfrey (Surveyor Member)  
Elaine Munroe (Housing Member)

**BACKGROUND**

1. By application dated 4<sup>th</sup> February 2014, the applicant applied to the Homeowner Housing Panel for a determination as to whether the respondent had failed to comply with the property factors' duties in terms of the Property Factors (Scotland) Act 2011 and whether the respondent had failed to comply with the terms of the Code of Conduct for Property Factors which has been issued in terms of section 14 of that Act.
2. The application was referred to a Homeowner Housing Committee for a hearing and intimation was made to the parties that a hearing would take place on 17<sup>th</sup> July 2014 within George House, Edinburgh.

**THE HEARING**

3. The hearing took place on 17<sup>th</sup> July 2014.
4. The applicant attended the hearing in person. The respondents were represented by Sara Wilson, team leader and by Jamie Ramsay.

5. The committee explained to the parties that in terms of the relevant regulations the overriding objective of the committee was to deal with the proceedings justly. It was explained to the parties that the committee would seek informality and flexibility in the proceedings. The parties were asked whether they would be willing to have initial discussions between themselves prior to the committee listening to evidence or making a determination. After some discussion the parties agreed that they would have informal discussions. The parties were provided with a room within which they could hold private discussions and were invited by the committee to use whatever time they required.
6. The parties spent approximately forty minutes in informal discussions. Afterwards the committee then proceeded to hold a hearing.
7. The parties indicated that the complaint with regard to the written statement of services had now been resolved. A new one was being issued.
8. The parties indicated that the complaint regarding insurance had also been resolved. The respondents indicated they would not charge the applicant for the insurance for the period from 29<sup>th</sup> April 2013 to 10<sup>th</sup> May 2014 and that they would remove the commission from the charge from 11<sup>th</sup> February 2014 to 21<sup>st</sup> October 2014.
9. The parties accepted that the stair cleaning which formed part of the application was now being done. It was accepted that the contract had been re-tendered. It was then explained by the parties that they accepted that there were still underlying snagging issues which required to be resolved which related to their handover of this block of flats from the developer to the respondents. The applicant indicated that he was agreeable to the respondents being given a period of time to resolve the snagging issues.
10. The respondents agreed that there were a variety of matters which still required to be resolved and that they would undertake to carry out a variety of works. The respondents indicated that they had gone through a period of staff turnover and that may have created the problem with dealing with the snagging works in the communal areas.
11. Having listened to the parties, the committee suggested to the parties that the hearing should be adjourned to allow the parties to continue to discuss matters and to continue to work towards a full resolution of the complaint. The applicant indicated that if the respondents would agree to refund the insurance commission to all the other householders in the block then he would regard the matter as fully resolved. The committee pointed out to both parties that the committee had no powers to make any such order. The committee could only make an order in relation to the particular parties.
12. After some further discussion it was agreed that the parties would allow the hearing to be adjourned to a later date and 3<sup>rd</sup> September 2014 was identified as an appropriate date. The committee indicated to the parties that they should continue to discuss matters and that if they managed to completely resolve the issues prior to 31<sup>st</sup> August they should simply intimate that to the committee and the committee would issue a final determination disposing of the application. If matters have not been resolved then a further hearing will be set to take place on 3<sup>rd</sup> September 2014 at a time and at a venue to be arranged.

## DECISION

13. The committee accordingly decided to adjourn the hearing until 3<sup>rd</sup> September 2014 pending further communication from both parties. The committee made no formal determination with regard to any part of the application relating to any alleged breach of the property factors duties or the code of conduct. The committee left all questions regarding such findings open for determination at the adjourned hearing.

## Appeals

14. The parties attention is drawn to the terms of section 22 of the Act regarding the right to appeal and the time limit for doing so. That section provides:

- (1) An appeal on a point of law may only be made by summary application to the Sheriff against a decision made by the Home Owner Housing Panel or a Home Owner Housing Committee.
- (2) An appeal under subsection (1) must be made within a period of 21 days beginning with the day on which the decision appealed against is made.

Jim Bauld

Signed.....  
Chairperson

Witness.....

Date..... 7 August 2014

Date..... 7/8/14

Certified a true copy

Legal Member

~~Home Owner~~ Housing Panel

Date: 7 August 2014