



**Certificate of Compliance with Property Factor Enforcement Order dated 13 December 2015 in terms of Section 19(3) of the Property Factors (Scotland) Act 2011 issued under the Homeowner Housing Panel (Applications and Decisions) (Scotland) Regulations 2012**

**hohp Ref: HOHP PF/14/0094**

**The Property: 0/1, 35 Montague Street, Glasgow G4 9HU**

**The Parties: –**

**MGM Consultancy Ltd, registered under the Companies Acts and having its Registered Office, formerly at 16, Comely Park, Dunfermline KY12 7HU, and now at 16, Dollarbeg Park, Dollar, Clackmannanshire, FK14 7LT (“the homeowners”)**

**and**

**Walker Sandford Property Management Ltd, registered under the Companies Acts, having its Registered Office at c/o Clements, Chartered Accountants, 39 St Vincent Street, Glasgow G1 2ER and having a place of business at St George’s Buildings, 5 St Vincent Place, Glasgow G1 2DH (“the factors”) per Ms Antonia Grieve, HBJ-Gateley Solicitors, Exchange Tower, 19 Canning Street, Edinburgh EH3 8EH.**

**Committee Members:** David Preston (Chairman); and Mike Links (Surveyor Member).

**Decision:**

The Committee granted a Certificate of Compliance with the PFEO.

**Reasons:**

1. In terms of the Property Factor Enforcement Order (hereinafter referred to as “PFEO”) dated 13 December 2015 the Factor was directed to:
  - a. Issue to all proprietors in the block at 35 Montague Street, a full letter of explanation of the whole circumstances surrounding the common repair to the half landing, to assist the homeowners, if so advised, to seek to recover the respective shares of the cost of the common repair work and associated costs. The letter should explain: how the situation was

discovered; that the homeowner was facilitating access to the common area through their property to minimise costs; that the homeowners were anxious to regain the use of their property as quickly as possible; that the failure to provide alternative quotes at the time the quote from Aegis was sent to them was that of the factors and not any attempt by the homeowner to place the contract with a preferred contractor; details of the quotation received from Archd McCorquodale & Son Ltd dated 12 May 2014; and an explanation that the actual cost of the work was lower than the only other quote which the factors could obtain.

- b. Issue to the homeowners an apology for the lack of professionalism in dealing with their correspondence throughout and the lack of adequate response to their concerns.
  - c. Pay to the homeowners from their own funds the sum of £1,000 by way of compensation for the loss and inconvenience caused to them through the need for Ms Markey and others to spend considerable time in corresponding with the factors and pursuing the application throughout the period, thereby diverting Ms Markey from her normal duties for the business and including any additional, albeit unidentified costs of agents employed by them.
2. In consequence of the Committee not being satisfied that the letter sent by the factors on 7 January 2016 provided the full explanation of the whole circumstances as required by the PFEO, by Minute of Variation dated 23 February 2016 the factors were required to send a further letter to the other proprietors to provide the full explanation called for in the PFEO.
  3. By letter dated 16 March 2016, sent by email on that date from HBJ Gateley on behalf of the factors, the Committee was provided with copy letters dated 9 March 2016 addressed to the other proprietors of the tenement.
  4. Ms Markey stated in an email dated 29 March 2016 that she did not feel that the letter covers the homeowners' situation. However she was not specific about her concerns.
  5. The Committee was satisfied that, notwithstanding the views of Ms Markey, that the letter did provide a full explanation of the situation.
  6. The letter makes it clear that while the factors' procedures for undertaking common repairs to the tenement were not followed by the homeowners, that does not in itself absolve the other homeowners from their responsibilities to pay for necessary common repairs to the building and that it is open to the homeowners to recover such shares from them if they so decide.
  7. The Committee was accordingly satisfied that the Factor had complied with the terms of the PFEO.

**Appeals:**

8. 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. It provides:

*"...(1) an appeal on a point of law only may be made by summary application to the Sheriff against the decision of the President of the Homeowner Housing Panel or 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..."*

06-Apr-16

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CHAIRMAN

Signed by: DAVID MICHAEL PRESTON