



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

**Hohp Ref: HOHP/PF/14/0140**

**Re:**

**Property at Flat 1/1, 11 Rhindmuir Gate, Baillieston, Glasgow, G69 6EW  
("the Property")**

**The Parties:-**

**Mr Desmond Mowat, residing at the Property ("the Homeowner")**

**First Stop Properties Limited, trading as Pfams, 37 Cadzow Street, Hamilton, ML3 6EE  
("the Factors")**

**Certificate of Compliance with Property Factor Enforcement Order dated 19 August  
2015 in terms of s 19(3) of the Property Factors (Scotland) Act 2011**

**Committee Members:**

Maurice O'Carroll (Chairman)  
Elaine Munroe (Housing Member)

**Decision of the Committee**

The Homeowner Housing Committee, having determined that the Property Factor Enforcement Order ("PFEO") relating to the Property dated 19 August 2015, issued following a decision of the Committee dated 31 July 2015, has been complied with, certifies that the Factor has complied with the PFEO.

**Reasons for the decision**

1. By decision dated 31 July 2015, the Committee determined that the Factors had breached its duties in terms of s 17(1)(b) of the 2011 Act in that it had failed to comply with sections 3.3, 4.6, 4.8, 4.9, 6.1 and 6.4 of the Code of Conduct for Property Factors all as further specified within the said decision, as required by s 14(5) of that Act. It issued a Notice of PFEO on the same date.
2. Having allowed the parties an opportunity to give representations to the Committee, on 20 August 2015, the Committee issued a PFEO requiring the Factor within 28 days of the date of the communication to:

- i. Make payment to the Homeowner of the sum of £250 in recognition of the time spent, distress and inconvenience that the Factors' breaches of the Code have caused to the Homeowner.
  - ii. Reimburse the management fees (equating to £10 per month) paid by the Homeowner to the Factors during the period from its date of registration of 8 January 2013 to the cessation of its services on 30 September 2014 in recognition of its failure to comply with its factor duties during that period.
  - iii. Reimburse to the Homeowner the whole sum of £132 being the charge levied in terms of invoice number PF18524 dated 25 July 2014 in respect of the Notice of Potential Liability registered against the Property contrary to the requirements of the Code.
  - iv. At its own expense, carry out all steps necessary to draft and register with the Registers of Scotland a non-statutory discharge or letter in unambiguous terms discharging in full the alleged obligation underlying the extant Notice of Potential Liability registered against the Homeowner's Property.
  - v. Once the payments above mentioned have been set off against the factoring debt due to the Factors, provide the Homeowner with a refund of all debt repayments made further to the factoring debt payment plan referred to in the said decision from the date of the hearing, 9 July 2015. Said payment to be made in full and free of any deductions made in respect of collection charges or any other expenses.
  - vi. Following compliance with the above requirement, provide the Homeowner with an account statement showing all debt arrears to have been cleared and the resulting amount to be paid to him following upon implementation of the foregoing in terms of this PFEO and to make such payment.
  - vii. Provide documentary evidence of compliance to the Homeowner Housing Panel with the above Orders within 7 days of having done so by recorded delivery post.
3. By letter dated 18 September 2015, the Factors wrote to the Committee confirming that they had sent a cheque for £70.16 to the Homeowner, being the amount due after deduction of the amounts required by items (i), (ii), (iii) and (v) of the PFEO. The letter also set out a full statement of account pursuant to item (vi) of the PFEO and a copy of the form of Discharge of the Notice of Potential Liability over the Property registered on 16 May 2014 as required by item (iv) of the PFEO.
4. The Committee is accordingly satisfied that the Factors have complied with the terms of the PFEO. It therefore issues this certificate of compliance. No further action is therefore required by the Factors in terms of the PFEO.

## **Right of Appeal**

The parties' attention is drawn to the terms of s 22 of the 2011 Act regarding their 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 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 date on which the decision appealed against is made.

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 at:

<http://hohp.scotland.gov.uk/prhp/2649.325.346.html>

Maurice O'Carroll

**Signed:**

Chairperson

**Date:** 22 October 2015