



**Property Factor Enforcement Order of the Homeowner Housing Committee
("the committee") under section 19(3) of the Property Factors (Scotland) Act
2011 ("the Act")**

HOHP reference: HOHP/PF/13/0331

Re: Property at 17 Eden Bank, Arbroath Road, Dundee, DD4 6EN ("the property")

The Parties:

Mr Fraser Smith, 17 Eden Bank, Arbroath Road, Dundee, DD4 6EN ("the homeowner")

H & H Properties, 71 Blackness Road, Dundee, DD1 5PD ("the factor")

NOTICE TO THE PARTIES

In terms of its decision of 10th September 2014, 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 makes a Property Factor Enforcement Order 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 sections 1, 2.2, 2.3, 2.4, 2.5, 3.3, 4.4, 4.6, 4.7 5, 6.1, 6.2, 6.4, 7.1 and 7.2 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 £576 in recognition of the inconvenience which the homeowner has experienced and by way of compensation for a failure to provide an adequate service between November 2012 and March 2014. The homeowner paid £45 per month to the factors to manage and maintain the development. On the basis of the evidence before them the committee was satisfied that the factors had failed to provide full factoring services between date on which they became registered with the Scottish Ministers in November 2012 and February 2014 when the factors provided the homeowner with a written statement of the services they provided. The committee is of the view that the homeowner should be reimbursed for 80% of the sums which he has paid.
4. Provide to the homeowner details of current arrangements for dealing with out of hours emergencies including how to contact out of hours contractors.
5. Provide to the homeowner a clear statement of how service delivery and charges will be affected if one or more homeowner does not fulfil their obligations.

6. Failure to comply with a PFEO may have serious consequences and constitute a criminal offence.

Right of Appeal

7. The parties' attention is drawn to section 22 of the Act which sets out parties' right of appeal against this decision and the time periods for doing so. It 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."

Simone Sweeney

Chairperson Signat

Date

21/10/2014