



Notice of proposal to make a Property Factor Enforcement Order made under Section 19(2)(a) of the Property Factors (Scotland) Act 2011 (“the Act”) following upon a Decision of the Homeowner Housing Committee in an application under Section 17(1) of the Act

Hohp ref: HOHP/PF/14/0144

Re: 100 Hawk Brae, Livingston EH54 6GF (the property)

The Parties:

Miss Patricia Quin, 100 Hawk Brae, Livingston EH54 6GF (‘the homeowner’)

Be Factored Ltd (formerly Property 2 Ltd), 2a North Kirklands, Eaglesham Road, Glasgow G76 0NT (‘the factor’)

Committee members: Sarah O’Neill (Chairperson), Elizabeth Dickson (Housing member)

This notice should be read in conjunction with the Committee’s Decision under Section 19 (1) (a) of the Act of the same date.

The Committee proposes to make the following Property Factor Enforcement Order (“PFEO”):

1. Within 28 days of the communication to the factor of this Property Factor Enforcement Order, the factor must:
 - a. Issue a formal written apology to the homeowner in respect of the factor’s failure to comply with its duties under sections 2.1, 4.6 and 5.2 of the code of conduct for property factors.
 - b. Make payment to the homeowner of the sum of £100 in recognition of the stress and inconvenience caused to her by a) the respondent’s failure to comply with its duties under the above mentioned sections of the code, and b) its failure to resolve the problem with the common electricity within a reasonable time.
 - c. Amend Part C (paragraph headed ‘Float Payments’) of its written statement of services for the development to reflect the fact that the factor does not have the right to increase the amount of the float if required (although it can request an additional float payment).

- d. Provide documentary evidence to the committee of its compliance with the above by sending such evidence to the office of the Homeowner Housing Panel by recorded delivery post.
2. Within 3 months of the communication to the factor of this Property Factor Enforcement Order, the factor must:
 - a. Provide written statements to all homeowners within the development, setting out the balance due to them or owed by them in respect of the communal electricity which owners within the homeowner's stair paid between 2006 and the date when the meter within that stair was registered.
 - b. Provide documentary evidence to the committee of its compliance with the above by sending such evidence to the office of the Homeowner Housing Panel by recorded delivery post.

Section 19 of the 2011 Act provides as follows:

"... (2) In any case where the committee proposes to make a property factor enforcement order, they must before doing so...

(a) give notice of the proposal to the property factor, and

(b) allow the parties an opportunity to make representations to them.

(3) 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..."

The intimation of the Committee's Decision and this notice of proposal to make a PFEO to the parties should be taken as notice for the purposes of section 19(2) (a) of the Act and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2) (b) of the Act reach the Homeowner Housing Panel's office by no later than **14 days** after the date that the Decision and this notice is intimated to them. If no representations are received within that timescale, then the Committee is likely to proceed to make a Property Factor Enforcement Order ("PFEO") without seeking further representations from the parties.

Failure to comply with a Property Factor Enforcement Order may have serious consequences and may constitute an offence.

Chairperson Signature :

Date.....30/3/15.....