

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

Proposed Property Factor Enforcement Order (“PFEO”): Property Factors (Scotland) Act 2011 Section 19(2)

Chamber Ref: FTS/HPC/PF/20/1783

**3/2 32/34 Bank Street Glasgow G12 8ND
 (“the Property”)**

The Parties:-

**Mr Stephen Fenelon, 5 Bath Square, Ardrossan KA22 8DP
 (“the Homeowner”)**

**J. B. & G. Forsyth Property Management Services, 213 West George Street,
 Glasgow G2 2LW
 (“the Factor”)**

Tribunal Members:

Graham Harding (Legal Member)

Angus Anderson (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal’s Decision of the same date.

The First-tier Tribunal proposes to make the following Property Factor Enforcement Order (“PFEO”):

- (1) Within a period of one month the Factor must produce a policy on the frequency with which property revaluations will be undertaken for the purposes of buildings insurance and inform the Homeowner and all other owners in the Development and also advise them that the frequency will be adjusted if instructed by the appropriate majority of homeowners in the Development. The Factor must at the same time provide the Tribunal with a copy of said policy.
- (2) The Factor will within a period of one month arrange for a reputable firm of surveyors to provide a re-building cost of the development for building insurance purposes and if the Development is under-insured arrange for the insurers to amend the policy accordingly. The cost of any such valuation must be met by the Factor from its own funds.
- (3) Within one month the Factor will provide the Tribunal with a written undertaking that prior to the renewal of the Development building insurance the Factor will arrange for the buildings to be insured as a whole in the joint names of the owners and confirm that the premium will be divided equally

between the owners in accordance with the terms of the Deed of Conditions burdening the Development.

- (4) Within one month the Factor will provide the Tribunal with a written undertaking that prior to the renewal of the building insurance the Factor will attempt to obtain majority consent for the appointment of the insurers at renewal. The Factor must allow sufficient time for alternative quotes to be obtained in the event of majority consent not being obtained.
- (5) Within one month the Factor will provide the Tribunal with a written undertaking that on any future renewal beyond the next renewal the Factor will attempt to obtain majority consent of the owners if a change of insurer is proposed. The Factor must allow sufficient time for alternative quotes to be obtained in the event of majority consent not being forthcoming.

Section 19 of the 2011 Act provides as follows:

"(2) In any case where the First-tier Tribunal proposes to make a property factor enforcement order, it 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 it.

(3) If the First-tier Tribunal is 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 First-tier Tribunal must make a property factor enforcement order."

The intimation of the First-tier Tribunal's Decision and this proposed PFEO to the parties should be taken as notice for the purposes of section 19(2)(a) and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2)(b) reach the First-tier Tribunal by no later than 14 days after the date that the Decision and this proposed PFEO is sent to them by the First-tier Tribunal. If no representations are received within that timescale, then the First-tier Tribunal is likely to proceed to make a property factor enforcement order without seeking further representations from the parties.

Failure to comply with a PFEO has serious consequences and may constitute an offence.

Graham Harding

Legal Member and Chair

18 February 2021

Date

