

# Housing and Property Chamber

## First-tier Tribunal for Scotland



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

Decision: Property Factors (Scotland) Act 2011: Section 19 (3)

Applicants, Properties and Tribunal reference numbers:

<b>Agnes McIlvride</b>	<b>Flat 7H Glenford Place, Ayr, Ayrshire, Scotland, KA7 1LB</b>	<b>FTS/HPC/PF/18/3296</b>
<b>Myra Hessett</b>	<b>4D Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3309</u></b>
<b>William Purdie</b>	<b>4E Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3310</u></b>
<b>Alan Mora</b>	<b>4F Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3312</u></b>
<b>William Adams</b>	<b>Flat 4G, Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3313</u></b>
<b>Julian Mithoff</b>	<b>4H Glenford Place, Ayr, South Ayrshire, KA7 1LB</b>	<b>FTS/HPC/PF/18/3315</b>
<b>Myra Jones</b>	<b>4A Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3316</u></b>
<b>John Struthers</b>	<b>7J Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3317</u></b>
<b>Jacqueline McLean</b>	<b>4b Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3318</u></b>
<b>Ian Stuart</b>	<b>6B Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3338</b>
<b>Bruce McMaster</b>		<b><u>FTS/HPC/PF/18/3339</u></b>

	<b>5B Glenford Place, Ayr, South Ayrshire, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3340</u></b>
<b>Anne McBride</b>		
	<b>6D Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3341</u></b>
<b>Bogdan Tataru</b>		
	<b>5A Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3342</u></b>
<b>Claire Cadger</b>		
	<b>6H Glenford Place, Ayr, South Ayrshire, KA7 1LB</b>	
<b>Marina McLean</b>		<b><u>FTS/HPC/PF/18/3343</u></b>
	<b>6G Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3344</u></b>
<b>Alma Kinnaird</b>		
	<b>6E Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3345</u></b>
<b>W Alan Galloway</b>		
	<b>3G Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3346</u></b>
<b>Anne-Marie Conway</b>		
	<b>1F Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3347</u></b>
<b>Gordon Phillips</b>		
	<b>3E Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3348</u></b>
<b>Craig McVicar</b>		
	<b>3F Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3349</u></b>
<b>Isabelle Grogg</b>		
	<b>- 5D Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3350</u></b>
<b>Wellwood Grierson</b>		
	<b>8A Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3351</u></b>
<b>Andrew McDowall</b>		
	<b>9B Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3352</u></b>
<b>John Miller</b>		
	<b>9C Glenford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3353</u></b>
<b>Gordon Anderson</b>		
	<b>9E Gleniford Place, Ayr, KA7 1LB</b>	<b><u>FTS/HPC/PF/18/3354</u></b>
<b>Aileen Scott</b>		

<b>Gordon Lancaster &amp; Magdalena Lancaster</b>	<b>9F Gleniford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3357</b>
<b>Margaret Rodie</b>	<b>9A Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3358</b>
<b>Melanie Travis</b>	<b>2G Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3359</b>
<b>Euphemia Holmes &amp; Frederick Holmes</b>	<b>2 Wexford Way, Ayr, KA7 1LA</b>	<b><u>FTS/HPC/PF/18/3361</u></b>
<b>Malcolm Foster</b>	<b>8 Wexford Way, Ayr, KA7 1LA</b>	<b>FTS/HPC/PF/18/3363</b>
<b>Ian Hessett</b>	<b>12 Wexford Way, Carrick Quay, Ayr, KA7 1LA</b>	<b>FTS/HPC/PF/18/3364</b>
<b>Alan Roseweir</b>	<b>3D Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3365</b>
<b>Angela Lafferty</b>	<b>3C Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3366</b>
<b>Sandra Ratcliffe</b>	<b>3B Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3367</b>
<b>Alan Roseweir</b>	<b>1H Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3368</b>
	<b>1G GlenfordPlace,Ayr, KA7 1LB</b>	
<b>Rae Clark</b>	<b>1A Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3370</b>
<b>Elaine Flannigan &amp; Ronnie Bradley</b>	<b>1C Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3371</b>
<b>Andrew Streets</b>	<b>2H Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3355</b>
<b>Eric Armstrong</b>	<b>Flat 8P, Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3314</b>

<b>Andrew McLean</b>	<b>Flat 7F, Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3299</b>
<b>John Wotherspoon</b>	<b>Flat 4C, Glenford Place, Ayr, KA7 1LB</b>	<b>FTS/HPC/PF/18/3311</b>

**(the “Homeowners”)**

**James Gibb Property Management Ltd  
65 Greendyke Street, Glasgow, G1 5PX  
 (“the Property Factor”)**

**Tribunal Members:**

**Martin J. McAllister (Legal Member)**

**Andrew McFarlane (Ordinary Member)**

## **Decision**

**It was determined that a property factor enforcement order be made in the following terms:**

**The Property Factor, in failing to adequately maintain the fire safety systems in the development where the properties are situated is required to compensate the Homeowners for financial loss as follows: no sum requires to be paid as no financial loss has been proved.**

**It was determined that a certificate of compliance be issued.**

## **Introduction**

In this decision the Property Factors (Scotland) Act 2011 is referred to as "the 2011 Act" and the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors is referred to as "the Code."

## **Background**

The tribunal considered an application by the homeowners submitted in terms of Section 17 of the Property Factors (Scotland) Act 2011 (The 2011 Act). There were a number of Hearings and procedural diets relating to the application. The tribunal issued a proposed property factor enforcement order and, following upon representations made by the Property Factor, set it aside on and issued a replacement proposed property factor enforcement order on 3<sup>rd</sup> October 2020. It issued a new proposed property factor enforcement order on that date. After a review, a substituted proposed property factor enforcement order was issued to parties on 6<sup>th</sup> December 2020.

In terms of Section 19(2) (b) of the 2011 Act, parties were given the opportunity to make representations on the proposed property factor enforcement order.

The Applicants made no representations and the Respondent's solicitor indicated that it was not intended to make any representations.

## **Reasons**

The tribunal considered that, in view of no representations being made by either party, it was appropriate to make the property factor enforcement order as proposed.

The terms of the property factor enforcement order were such that no actions require to be taken by the Property Factor for compliance and it was therefore appropriate to issue a certificate of compliance.

**In terms of section 46 of the Tribunals (Scotland) Act 2014, a party aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

Martin J. McAllister, Legal Member

12<sup>th</sup> January 2021