



## Statement of decision of the Private Rented Housing Committee under Section 25 of the Housing (Scotland) Act 2006

prhp Ref: PRHP/RP/13/0094

Re : Property at 59 Shieldhill Road, Carluke ML8 5AL ("the Property")

The Parties:-

Robert Stirrat, 59 Shieldhill Road, Carluke ML8 5AL ("the Tenant") and

The Scottish Veterans' Garden City Association (Inc), a Registered Scottish Charity (No. SC003174) and a company limited by guarantee and having its Registered Office at New Haig House, Logie Green Road, Edinburgh EH7 4HQ ("the Landlord")

### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the terms of the Repairing Standard Enforcement Order in respect of the Property made on 1 August 2014, determined that the Landlord had failed to comply with the terms of the Order and that, in terms of section 25 of the Housing (Scotland) act 2006, the Order should be varied.

### Background

1. By application dated 18 September 2013 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
  - (a) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,
  - (b) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.
3. By letter dated 20 May 2014 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant (by letters dated 17 June, 22 and 25 July 2014), made written representations to the Committee. The Landlord (by e-mail dated 22 May 2014), made written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 1 August 2014. The Tenant and the Landlord were present during the inspection. The

Committee comprised George Clark (Chairman), Andrew Taylor (surveyor member) and Irene Kitson (housing member)

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Carluke Community Centre. Having heard evidence from both the Tenant and from the Landlord, the Committee issued a Repairing Standard Enforcement Order, requiring the Landlord (a) to carry out such works as are necessary to the plinth of the demolished external cellar to the rear of the Property as are necessary to restore it to a safe condition, including the installation of suitable safety railings between the plinth and the rear garden ground and (b) to exhibit to the Committee in respect of the Electrical Installation Condition Report for the Property dated 17 December 2013, a clean audit certificate from The National Inspection Council for Electrical Installation Contracting (NICEIC) of that report, following its inspection of the Property on 14 January 2014, or a letter from that body confirming that its audit of that report was satisfactory in all respects.
8. The Committee subsequently received from the Landlord's agent, South Lanarkshire Council a NICEIC Audit Report dated January 2014 and a supporting e-mail from NIEIC dated 15 August 2014, confirming that the audit covered the Property and that the electrical inspection of the Property had been carried out in a satisfactory manner.
9. The surveyor member of the Committee re-inspected the Property on 15 October 2014 and reported that work to the plinth to the rear of the Property had been carried out, restoring the plinth itself to safe condition. A tubular steel barrier had been erected on the plinth, but the barrier, as erected, did not constitute a suitable safety railing for a domestic property, as the gaps between the horizontal elements of the barrier were such that a child might pass through the gaps.

#### **Summary of the issues**

10. The issue to be determined was whether the Landlord had carried out the work required by the Repairing Standard Enforcement Order issued on 1 August 2014.

#### **Reasons for the decision**

11. The Committee was content with the documentation provided by the Landlord's agent in respect of the electrical installation at the Property and, therefore, determined that the Landlord had complied with the portion of the Order relating to the electrical installation. As regards the work done to the plinth, however, the Committee was not satisfied that the work had been carried out in such a way that the safety barrier constituted a suitable safety railing for a domestic property, as the gaps between its horizontal elements were not narrow enough to prevent the possibility of a child passing through the barrier and falling into the garden ground below the level of the plinth. The Committee determined, therefore, to vary the Order to specify the particular standard with which the barrier should comply.

#### **Decision**

12. The Committee accordingly determined that the Landlord had failed to comply with the terms of the Repairing Standard Enforcement Order made on 1 August 2014.
13. The Committee proceeded to make a Variation of the Repairing Standard Enforcement Order in terms of Section 25 of the Act.
14. The decision of the Committee was unanimous.

**Right of Appeal**

15. A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

**Effect of section 63**

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

Signed ..... **George Clark** ..... Date... 15/10/2014 .....  
Chairperson



**Notice of Decision to Vary a  
Repairing Standard Enforcement Order  
by the Private Rented Housing Committee**

prhp Ref: prhp/RP/13/0094

**Re : Property at 59 Shieldhill Road, Carluke ML8 5AL ("the Property")**

**Sasine Description:** ALL and WHOLE that dwellinghouse with garden ground attached, known as 59 Shieldhill Road, Carluke, in the County of Lanark, erected on All and Whole that area of ground, part of the Farm and Lands of Upper Shieldhill, and extending to two hundred and five decimal or one-thousandth parts of an acre or thereby more particularly described in and disposed by Feu Charter by Thomas Young in favour of Scottish Garden City Housing Society Limited, dated 28 January and recorded in the Division of the General Register of Sasines applicable to the County of Lanark 21<sup>st</sup> February, both 1958.

**The Parties:-**

**The Scottish Veterans' Garden City Association (Inc), a charity registered in Scotland (SC003174) and a company limited by Guarantee, having its Registered Office at New Haig House, Logie Green Road, Edinburgh EH7 4HQ ("the Landlord"); and**

**Robert Stirrat, 59 Shieldhill Road, Carluke ML8 5AL ("the Tenant")**

**NOTICE TO THE SCOTTISH VETERANS' GARDEN ASSOCIATION (INC) ("the Landlord")**

The Private Rented Housing Panel having determined on 15 October 2014 that the Repairing Standard Enforcement Order relative to the Property made on 1 August 2014 should be varied under Section 25 of the Housing (Scotland) Act 2006, the said Repairing Standard Enforcement Order is hereby varied with effect from the date of service of this Notice in the following respects:-

The Landlord is required to provide a safe barrier to the plinth of the demolished external cellar to the rear of the Property in accordance with the Scottish Government, Building Standards, Technical Handbook – Domestic 2013, Section 4.0, Paragraph 4.4 Pedestrian Barriers, taking particular cognisance of Paragraph 4.4.2, which states that "In and around a domestic building gaps in any protective barrier should not be large enough to permit a child to pass through".

The Private Rented Housing Committee order that the works specified in this Variation must be carried out and completed within the period of four weeks from the date of service of this Notice.

**A landlord or a tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.**

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

In witness whereof these presents typewritten on this page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade on 15 October 2014 before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

**Valerie Clark**

— witness

**George Clark**

— chairman