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Our Reference: Legal.Lit/FA/Lit/0808

27 June 2018

Mr Kevin McLoughlin  
Senior Coroner  
Coroner's Office and Court  
71 Northgate  
Wakefield  
WF1 3BS

8102 NAC 87

19/17/55/250 Wd. 8.5.2018

Dear Mr McLoughlin

**Response to Report to Prevent Future Deaths – Regulation 28 of Coroners (Investigations) Regulations 2013**

Further to your letter of 6 June 2018 to [REDACTED] of Radcliffe Investments Limited ("Radcliffe Investments") and [REDACTED] letter to you of 12 June 2018, I am writing to you on behalf of Radcliffe Investments having carried out an investigation into this matter.

We are very sorry to hear of the tragic incident that took place at 34 Whingate Mill last year. We thank you for drawing this matter to our attention and I do apologise that your initial letters were not passed to our legal department or a member of the senior management team as they should have been. Please be assured that further training has been provided to our teams in order to address this.

**Background**

Our client, Radcliffe Investments, acquired the freehold interest in Whingate Mill on 1 August 2017, which comprises 39 residential apartments held by leaseholders on long leases and which was converted in around 2017. The leases are made between 3 contractual parties including the landlord, leaseholder and a management company, Mill 39 (Management) Limited ("Mill 39"). Pursuant to the terms of the long leases, Mill 39 is contractually responsible for the maintenance of the structure, exterior and common parts of the development, including the windows. We should point out that our client was not made aware of the tragic incident at the time of acquisition and was unaware until your letter notified us.

**Actions Taken**

Since receiving your communications, Radcliffe Investments, through us, its agent, has taken the following steps in order to ascertain further information about the development and facilitate remedial actions.

As far as we were aware, Estata Property Management ("Estata") had been appointed by Mill 39 as property managers to carry out its maintenance obligations at the development as set out in the leases.



In order to immediately address the points in your report, we sought to get in contact with the directors of Mill 39, [REDACTED]. We subsequently discovered from records at Companies House that, in fact, the company dissolved on 19 December 2017. We now understand from Estata that the former directors have instructed solicitors, Milners, to reinstate Mill 39.

Our head of our Property Management, Philip Butnick, made contact with Estata on 13 June and spoke at length with [REDACTED] development manager to investigate further. [REDACTED] confirmed that he was unaware of the incident until he received a letter from you. He told us that he was drafting a response to you and contacting various letting agents, who act for leaseholders who do not live in the apartments but sublet them, in order to gain access to inspect all windows as soon as possible. [REDACTED] confirmed that he would arrange for the installation or repair of restrictors where necessary. Philip requested a copy of the most recent fire risk assessment and health and safety report from Estata which he reviewed that evening, on receipt, and observed that there were no references to the windows.

[REDACTED] also spoke with the former director of Mill 39, [REDACTED], that evening. [REDACTED] told [REDACTED] that he had been involved with the renovation / conversion of the development having retained 2 of the apartments himself. [REDACTED] also confirmed that he had been aware of the tragic incident and that [REDACTED] of Leeds City Council Building Control had been dealing with your inquiry. [REDACTED] also explained that following the incident the developer had visited to inspect all of the windows to verify that where restrictors were required they had been installed although we have not carried out our own physical inspection in order to verify this.

[REDACTED] subsequently spoke with Estata at length on 14 June, 18 June, 19 June, 21 June and 22 June 2018, and has continually impressed upon the urgency to ensure that Estata take all necessary steps and prioritise the facilitation of access to all apartments in order to check the presence and operation of window restrictors as a matter of urgency.

Having carefully considered your report [REDACTED] requested that an urgent survey of all windows at the development be carried out by Estata to check for restrictors and for them to be fitted wherever they were either not present or found to be faulty. As at the time of writing this letter, Estata have confirmed that it has completed its survey of all of the windows at the development and in a number of instances restrictors are missing or broken. [REDACTED] asked Estata not to delay the remedial works pending completion of all surveys and that it should immediately install any missing restrictors and replace those found to be broken or faulty.

[REDACTED] has also requested that, once the works are complete, annual health & safety checks are made by Estata to verify the restrictors remain installed and functioning correctly to ensure such incidents do not occur in future and will continue to liaise with Estata on a regular basis until such time that he is satisfied that all apartments have been surveyed and restrictors which operate properly are fitted throughout. [REDACTED] has also asked that windows located in the common parts of the property be inspected by Estata on a 6 monthly basis.

### **Action Proposed to Be Taken**

By way of summary, the following further actions are now proposed in respect of the development:

1. Following completion of the window surveys on 22 June by Estata new or replacement restrictors are to be fitted to all windows above ground floor level where restrictors are missing or defective. We have been told by Estata that this will be dealt with as a matter of urgency by a reputable contractor appointed to carry out the works. [REDACTED] will follow this up and seek confirmation from Estata that the works have been completed and a fresh health and safety report carried out. [REDACTED] has pointed out to Estata that under the

terms of the leases the windows form part of the common parts and need to be inspected as part of any health and safety report carried out.

2. Mill 39 is to be reinstated by its former directors – [REDACTED] has been advised by Estata that Milners solicitors have provided the necessary paperwork to the directors of Mill 39 to enable the company to be reinstated. Philip will be seeking regular updates on the progress of the reinstatement application.
3. As part of our investigations we have found that the majority of the apartments at the development are sublet via letting agencies. Estata have notified us that they will ask the letting agencies to inspect the properties at regular intervals and notify them of any issues with the windows (or indeed any other safety issues).
4. Radcliffe Investments will also be writing to all leaseholders at the development to remind them that they should notify the landlord of any subletting arrangements and register details of their subtenant with us so that there is a record of occupancy assisting Estata with the day to day management of the development and to ensure that leaseholders' tenants understand they should notify Estata immediately regarding all defects or issues.

Please do not hesitate to contact me directly should you require our client to take any further action or require any further assistance.

Yours sincerely

AP 

**For and on behalf of Estates & Management Ltd**

Contact:

[REDACTED]  
Head of Legal  
[REDACTED]

1919/17-SJ/REG (KM) Karen.  
-I 8.5.18



Kevin McLoughlin  
Coroner's Office and Court  
71 Northgate  
Wakefield  
WF1 3BS

RE: KM/KLA/1919/17

Monday, 25 June 2018

RE: Whingate Mills, Leeds

Dear Kevin,

Further to your letter, 7th June 2018. I can confirm receipt of the Regulation 28 Report.  
The following actions have been undertaken:

- Initial survey of flats. This identified that restrictors are installed on some windows and are functioning correctly. Flats have been identified where restrictors are missing. We will install restrictors where necessary utilising service charge monies held.
- Letters sent to every leaseholder of apartments at Whingate Mills notifying them of the report and request for a full survey to be carried out. Where restrictors are not present, these will be installed using service charge monies.
- Contact made with all letting agents active at Whingate Mills notifying them of the report and request that they remind the residents of the importance of the restrictor, to report any faults which may develop and also ensure the restrictors are checked during change of tenancies.
- Contact with the developer of Whingate Mills, Structured Homes Limited to notify them of the report.
- Amendments made to our Health and Safety Risk Assessments to undertake annual inspections of apartments to check the restrictors are functioning correctly.

Yours sincerely



Development Manager

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