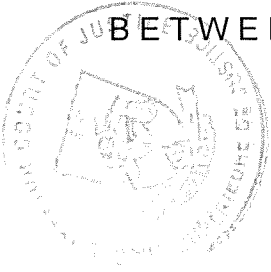


**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) FRIDAY, THE 19TH
JUSTICE *NEWBOULD*) DAY OF AUGUST, 2016
)



BETWEEN:

EMMANUEL VILLAGE RESIDENCE INC.

Applicant

- and -

ATTORNEY GENERAL OF ONTARIO

Applicant

- and -

1250 WEBER STREET EAST, KITCHENER, ONTARIO OR THE PROCEEDS OF THE
SALE THEREOF (IN REM)

Respondent

**ORDER
(Appointment of Representative Counsel)**

THIS MOTION made by Emmanuel Village Residence Inc. ("EVR") for an order:

- a. if necessary, abridging the time for service and filing of this notice of motion and the motion record and dispensing with further service thereof; and
- b. appointing a representative of the EVH Residents (as defined below) for the limited scope and purpose of advising the EVH Residents of the impact of the pending sale of EVR including the impact of the approval and vesting motion scheduled for August 31, 2016, if successful; and

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of EVR, including the Notice of Motion, the Affidavit of Judith Ann Hunking, sworn August 17, 2016 and the Exhibits thereto, and the responding motion record of the Attorney General for Ontario ("**AGO**") and on hearing the submissions of counsel for EVR, proposed counsel for the EVH Residents, and counsel for the Receiver, counsel for the AGO, counsel for the Purchaser, and Counsel for HMT Holdings Inc., no one else appearing, although duly served,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. The following terms shall have the meanings ascribed thereto:
- a. "EVH Residents" means the individuals who have entered into a Right to Occupy Agreement Emmanuel Village Homes (Kitchener) Inc. ("**EVH**");
 - b. "Opt-Out Individuals" has the meaning set out in paragraph 10 hereof;
 - c. "Representative Counsel" has the meaning set out in paragraph 4 hereof;
and
 - d. "Representative" has the meaning set out in paragraph 3 hereof.

REPRESENTATION OF EVH RESIDENTS

3. **THIS COURT ORDERS** that Nancy Lageer (the "**Representative**") is hereby appointed as representative of all EVH Residents in these Proceedings (excluding Opt-Out Individuals, if any), with the scope and purpose of such appointment relating to advising on all matters affecting the interests of the EVH Residents in the sale of EVR, which is the subject of an approval and vesting motion scheduled for August 31, 2016 (the "**Purpose**").

4. **THIS COURT ORDERS** that Oldfield, Greaves, D'Agostino ("**Representative Counsel**") is hereby appointed as representative counsel of the Representative in these Proceedings in relation to the Purpose.

5. **THIS COURT ORDERS** that EVR shall provide to Representative Counsel, without charge, the following information, documents and data (the "**Information**"):

- a. the names and unit addresses of all of the EVH Residents (excluding Opt-Out Individuals, if any, who have opted out prior to delivery of the Information); and
- b. upon request of Representative Counsel, such documents and data as may be relevant to the Purpose, including documents and data pertaining to the EVH Residents and that, in so doing, EVR is not required to obtain express consent from such EVH Residents authorizing disclosure of the Information to Representative Counsel for the Purpose and, further, in accordance with section 7(3) of the *Personal Information Protection and Electronic Documents Act*, this Order shall be sufficient to authorize the disclosure of the Information without the knowledge or consent of the individual EVH Residents for the Purpose.

6. **THIS COURT ORDERS** that Representative Counsel may, with prior approval of the Receiver and EVR or by further order of this Court, retain such other advisors and assistants as may be necessary in connection with its duties as Representative Counsel in relation to the Purpose.

7. **THIS COURT ORDERS** that Representative Counsel shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by EVR as part of the costs of these Proceedings, both before and after the making of this Order in respect of these Proceedings. The Receiver is hereby authorized to pay the accounts of Representative Counsel. In the event of any disagreement regarding such fees and disbursements, such disagreement may be remitted to this Court for determination.

8. **THIS COURT ORDERS** that the Representative Counsel shall be entitled to the benefit of the Administration Charge, on the terms set out in paragraphs 27-29 of the Order of Justice Penny, dated June 24, 2016, as security for their professional fees and disbursements incurred at the standard rates and charges of Representative Counsel, both before and after the making of this Order with respect to and incidental to the appointment of Representative Counsel.

9. **THIS COURT ORDERS** that the Representative or Representative Counsel on her behalf is authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body and other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto.

10. **THIS COURT ORDERS** that, with the exception of Opt-Out Individuals, the Representative shall ^{advise} ~~represent~~ all EVH Residents in these Proceedings, which persons shall be bound by the actions of the Representative and Representative Counsel in these proceedings. ZT.

11. **THIS COURT ORDERS** that service on Representative Counsel shall be deemed effective service on all of the EVH Residents, excluding Opt-Out Individuals, if any.

NOTICE AND OPT-OUT PROCEDURE

12. **THIS COURT ORDERS** that notice of the granting of this Order, substantially in the form attached hereto as Schedule "A" shall be delivered to each of the EVH Residents at their unit address.

13. **THIS COURT ORDERS** that any individual who does not wish to be represented by the Representative and Representative Counsel in these Proceedings shall, ^{by no later than 12:00} ~~within 5~~ ^{OR} ~~business days~~ ^{August 29, 2020}, notify the Receiver, EVR and Representative Counsel, in writing, that he or she is opting out of representation by the Representative and Representative Counsel (an "**Opt-Out Notice**"), and shall thereafter not be bound by the actions of the Representative or Representative Counsel and shall represent himself or herself or be represented by any counsel that he or she may retain exclusively at his or her own expense in these Proceedings (any such persons who deliver an Opt-Out Notice in compliance with the terms of this paragraph, "**Opt-Out Individuals**").

PROTECTIONS AND AUTHORITY TO SEEK ADVICE AND DIRECTIONS

14. **THIS COURT ORDERS** that the Representative and Representative Counsel shall have no liability as a result of their appointment or the fulfillment of their duties in carrying out the provisions of this Order and any subsequent Orders in these Proceedings, save and except for any gross negligence or wilful misconduct on their part.

15. **THIS COURT ORDERS** that the Representative and Representative Counsel shall be at liberty and are authorized at any time to apply to this Court, on proper notice to the Receiver, for advice and directions in the performance or variation of their powers

and duties and, in the event of any disagreement over whether the Representative and Representative Counsel can act on a certain matter applicable to the EVH Residents, such disagreement may be remitted to this Court for determination.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

AUG 19 2016

PER / PAR: 

EMMANUEL VILLAGE
RESIDENCE INC.

ATTORNEY GENERAL OF
ONTARIO

and

and 1250 WEBER STREET EAST

Court File No: CV-16-11424-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

ORDER

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