



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE  
JUSTICE NEWBOULD

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TUESDAY, THE 6<sup>th</sup>  
DAY OF SEPTEMBER, 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**

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

- a. varying the Order of Justice Penny, dated June 24, 2016, to increase the first priority administration charge by \$350,000, to an aggregate of \$700,000 as described in more detail, below; and
- b. varying the Order of Justice Pattillo, dated July 27, 2016, to increase the permitted encumbrance securing the administration charge from \$350,000 to \$700,000;

- c. varying the Order of Justice Penny, dated June 24, 2016 to require DLA Piper (Canada) LLP and Madorin, Snyder LLP to pass their accounts in accordance with paragraph 26; and
- d. sealing the transcript of the cross-examination of Judith Ann Hunking, given on August 24, 2016, the exhibits thereto, and the answers to undertakings arising from that cross-examination (the "**Confidential Information**") pending the closing of the sale transaction.

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

**ON READING** the affidavit of Judith Ann Hunking, sworn August 19, 2016, the Third Report and the Confidential Report, and on hearing the submissions of counsel for the Company, the Receiver, the Purchaser, Sure Mortgage Capital Inc., Plaintiffs in Court File No. CV-10-8597-00CL, and the Attorney General of Ontario ("**AGO**"), no one appearing for any other person on the service list, although properly served as appears from the affidavit of Jennifer Whincup sworn August 23, 2016 filed,

#### **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.

#### **ADMINISTRATION CHARGE**

2. **THIS COURT ORDERS** that paragraph 27 of the order of Justice Penny, dated June 24, 2016 (the "**Appointment Order**") in these proceedings is varied such that the Administration Charge (as defined therein) shall not exceed an aggregate amount of \$700,000.

3. **THIS COURT ORDERS** that paragraph 29(b) of the Appointment Order is varied such that the remainder of the Administration charge (as defined therein), being \$500,000, shall be fully subordinate to Encumbrances (as defined therein) in favour of

HMT Holdings Inc., but shall rank in priority to all other Encumbrances in favour of any person.

4. **THIS COURT ORDERS** that paragraph 4 of the Order of Justice Pattillo, dated July 27, 2016, in these proceedings, is varied to change "a maximum principal amount of \$350,000" to "a maximum principal amount of \$700,000", in accordance with the increase to the Administration Charge.

#### **PASSING OF ACCOUNTS**

5. **THIS COURT ORDERS** that paragraph 26 of the Appointment Order in these proceedings is varied to replace "the Receiver and its counsel" with "the Professional Group", such that DLA Piper (Canada) LLP and Madorin, Snyder LLP shall be required to pass their accounts from time to time in accordance with this paragraph.

#### **SEALING ORDER**

6. **THIS COURT ORDERS** the sealing of the Confidential Information from the public record pending the closing of a sale transaction or further order of this Honourable Court.

  
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LE / DANS LE REGISTRE NO:

SEP 26 2016

PER / PAR:



EMMANUEL - and ATTORNEY GENERAL - and 1250 WEBER STREET EAST, KITCHENER, Court File No. CV-16-11424-00CL  
VILLAGE OF ONTARIO - - ONTARIO OR THE PROCEEDS OF THE SALE  
RESIDENCE INC. - - THEREOF (IN REM)  
Applicant Applicant Respondent

**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER  
(September 6, 2016)**

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