

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

EMMANUEL VILLAGE RESIDENCE INC.

Applicant

and

EMMANUEL VILLAGE RESIDENCE INC.

Respondent

Application under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

**SUPPLEMENTARY APPLICATION RECORD**

June 16, 2016

**DLA PIPER (CANADA) LLP**  
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Lawyers for HMT Holdings Inc.

**AND TO: SURE MORTGAGE CAPITAL INC.**  
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Toronto, ON M5J 2S9

*info@suremortgage.ca*

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**Jonathan Bell**  
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Fax: 416-863-1716

Plaintiffs in Court File No. CV-10-8597-00CL

AND TO: **MINISTRY OF NATIONAL REVENUE**  
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The Exchange Tower  
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Diane Winters / Peter Zevenhuizen  
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Fax: 416-973-0810

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AND TO: **MINISTRY OF FINANCE**  
Legal Services Branch  
6th Floor, 33 King Street West  
Oshawa ON L1H 8H5

**KEVIN O'HARA**  
*kevin.ohara@ontario.ca*

Tel: 905-433-6934  
Fax: 905-436-4510

AND TO: **RETIREMENT HOMES REGULATORY AUTHORITY**

Office of the Registrar  
160 Eglinton Avenue East, Fifth Floor  
Toronto, ON M4P 3B5

Tel: 416-487-1223

Fax: 416-440-3570

AND TO: **BANK OF NOVA SCOTIA**

Standard Live Building  
120 King Street West, 5<sup>th</sup> Floor  
Hamilton, ON L8P 4V2

Secured Party

AND TO: **RCAP LEASING INC.**

5575 North Service Road, Suite 300  
Burlington, ON L7L 6M1

Secured Party

# INDEX

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**BETWEEN:**

**EMMANUEL VILLAGE RESIDENCE INC.**

**Applicant**

**and**

**EMMANUEL VILLAGE RESIDENCE INC.**

**Respondent**

Application under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

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TAB 1

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

EMMANUEL VILLAGE RESIDENCE INC.

Applicant

and

EMMANUEL VILLAGE RESIDENCE INC.

Respondent

Application under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended

**SUPPLEMENTARY AFFIDAVIT OF JUDITH ANN HUNKING  
(Sworn June 16, 2016)**

I, Judith Ann Hunking, of the regional Municipality of Waterloo, in the province of Ontario, MAKE OATH AND SAY:

1. I am the manager of Emmanuel Village Residence Inc. (“EVR”) and the wife of Bryan Hunking (“Bryan”), who is the President of EVR and the sole shareholder of 1553748 Ontario Inc., which owns all of the shares of EVR, and, as such, have knowledge of the matters contained in this affidavit. Where I do not have such personal knowledge, I have identified the source of my information and believe the information to be true.
2. All capitalized terms in my affidavit that are not defined shall have the same meaning as in my affidavit sworn June 9, 2016.



3. I swear this affidavit further to my affidavit of June 9, 2016, included in EVR's motion record returnable June 20, 2013, in support of EVR's application to appoint BDO Canada Limited as receiver for the limited purpose of overseeing and completing a going concern sale of the Business and Property.

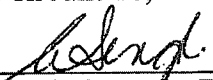
**The Demand from Harbour**


4. On or about March 30, 2016, shortly after the RHRA issued the License Order, I received a demand letter from Harbour's lawyer, Seth Zuk at Torkin Manes LLP (the "**Demand Letter**"). The Demand Letter also included a copy of a Notice of Intention to Enforce Security ("**Notice of Intention**"). Attached as **Exhibit "A"** is a copy of the Demand Letter enclosing the Notice of Intention.

5. The Demand Letter outlines that as a result of the License Order, and the impending revocation of EVR's License, EVR's indebtedness to Harbour was immediately due and payable. As of March 30, 2016, the total indebtedness due to Harbour was \$13,538,605.97 (the "**Indebtedness**").

6. The Notice of Intention includes a provision that Harbour must wait 10 days from the sending of the notice to enforce its security. That 10 day period expired in on or about April 11, 2016.

**SWORN BEFORE ME** at the regional municipality of Waterloo in the Province of Ontario on June 16, 2016

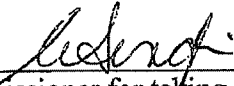
  
\_\_\_\_\_  
Commissioner for Taking Affidavits  
(or as may be)

  
\_\_\_\_\_  
JUDITH ANN HUNKING

CHARMAINE SINGH, a Commissioner, etc.,  
Province of Ontario, for Madarin, Snyder LLP,  
Barristers and Solicitors,  
Expires July 9, 2018.

TAB A

This is Exhibit "A"  
to the Affidavit of  
**Judith Ann Hunking**  
sworn June 16, 2016



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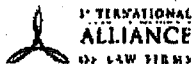
a commissioner for taking affidavits, etc.

**CHARMAINE SINGH, a Commissioner, etc.,  
Province of Ontario, for Madrin, Snyder LLP,  
Barristers and Solicitors.  
Expires July 9, 2018.**

Torkin Manes LLP  
Barristers & Solicitors  
151 Yonge Street, Suite 1500  
Toronto, Ontario M5C 2W7  
  
Tel: 416-863-1188  
Fax: 416-863-0305  
www.torkinmanes.com

Seth Zuk  
Direct Dial: 416-775-8822  
Direct Fax: 416-863-0305  
szuk@torkinmanes.com  
  
Our File No: 17349.0188  
  
Associated worldwide with

**Torkin | Manes**  
Barristers & Solicitors



March 30, 2016

**VIA REGISTERED MAIL**

Emmanuel Village Residence Inc. ✓  
1250 Weber Street East  
Kitchener, Ontario  
N2A 4E1

Brian Hunking  
212 Arthur Street South  
Elmira, Ontario  
N3B 2P1

Judith Hunking  
212 Arthur Street South  
Elmira, Ontario  
N3B 2P1

Dear Sirs/Mesdames:

**Re: Emmanuel Village Residence Inc. (the "Company")  
Indebtedness to HMT Holdings Inc.**

---

We are the solicitors for HMT Holdings Inc. (the "Creditor") in this matter and write to you with respect to your indebtedness to the Creditor as set out below (the "Indebtedness").

You are in default of your obligations to the Creditor under the terms of your loan and security agreements with the Creditor as a result of the Retirement Homes Regulation Authority having issued an order, effective July 4, 2016, which revokes the Company's licence to operate Emmanuel Village Retirement Residence as a retirement home. The Creditor therefore declares the entire Indebtedness due and payable.

The Company is indebted to the Creditor, which as of and including March 30, 2016, is the aggregate of the following amounts:

Page 2

**Torkin | Manes**  
Barristers & Solicitors

**HMC Loan #1433**

PRINCIPAL OUTSTANDING, AS OF MARCH 30/16:	\$13,387,936.00
INTEREST ACCRUED FROM MARCH 1/16 TO MARCH 30/16	75,169.97
EXTENSION FEE	\$ 75,000.00
STATEMENT FEE	\$ 500.00
<b>TOTAL INDEBTEDNESS</b>	<b>\$13,538,605.97</b>

The above amount does not include legal fees incurred and to be incurred.

Additional interest will continue to accrue on the principal balance from the date hereof at the rates provided for in the loan documents you have with the Creditor. The exact amount of interest accrued to any proposed date of payment may be obtained from the Creditor.

The Indebtedness is secured by the following security:

1. General Security Agreement, dated June 20, 2014;
2. Charge/Mortgage in the amount of \$13,675,000.00 registered against title as instrument number WR821198 on June 12, 2014, to the property legally described as Lots 75-81, Plan 322, Twp of Waterloo; Part Lots 38-43, 51-56, 74, and 82-85, Plan 322, Twp of Waterloo; Part Lot 2, Plan 963, Kitchener; Part Lot 141 Streets & Lanes, Kitchener; Part Lot 142 Streets & Lanes, Kitchener (formerly Pt Herman Av & Pt Auburn Av Pl 322, closed by 210008) Parts 1-7, Plan 58R13759; Kitchener, and municipally known as 1250 Weber Street East, Kitchener, Ontario (collectively, the "Property");
3. General Assignment of Rents registered against title to the Property as instrument number WR821199 on June 12, 2014;
4. Guarantee and Assignment and Postponement of Claim from Bryan Hunking dated June 10, 2014; and
5. Guarantee and Assignment and Postponement of Claim from Judith Hunking signed on February 18, 2016.

On behalf of the Creditor, we hereby declare that the Indebtedness is now immediately due and payable, including any part thereof which is not by its terms, payable until demand is made.

Please be advised that unless payment or arrangements satisfactory to the Creditor for payment of the Indebtedness are made immediately, the Creditor will take such further steps as it deems necessary to recover the Indebtedness.

We are enclosing with this letter a Notice of Intention to Enforce Security in accordance with the provisions of Section 244(1) of the *Bankruptcy and Insolvency Act*. Please note the *Bankruptcy*

**Torkin | Manes**  
Barristers & Solicitors

*and Insolvency Act* provides that a debtor can waive the statutory 10 day period by consenting to a waiver in writing. We have enclosed a waiver of the 10 day period for your consideration and, if you so elect, you can execute same and return it to our office.

We expressly reserve the Creditor's right to proceed without further notice to you with the enforcement of its right at any time if the Creditor becomes aware of any circumstances which might impair its position.

Govern yourself accordingly.

Yours truly,

**TORKIN MANES LLP**

Per:

Seth Zuk  
SZ/jma

c. Harbour Mortgage Corp.

**NOTICE OF INTENTION TO ENFORCE SECURITY  
UNDER SECTION 244 (1) OF THE *BANKRUPTCY AND INSOLVENCY ACT***

**(Statutory Form 115, SOR/92-579, s. 40)**

**TO:** Emmanuel Village Residence Inc.  
1250 Weber Street East  
Kitchener, Ontario  
N2A 4E1  
an "Insolvent Person"

**AND TO:** Brian Hunking  
212 Arthur Street South  
Elmira, Ontario  
N3B 2P1  
a "Guarantor"

**AND TO:** Judith Hunking  
212 Arthur Street South  
Elmira, Ontario  
N3B 2P1  
a "Guarantor"

**TAKE NOTICE THAT:**

- 1. HMT Holdings Inc., a secured creditor, intends to enforce its security on the Insolvent Person's property described below:

All property, undertaking and assets, including all equipment, fixtures, improvements, inventory, accounts receivable, customer lists, goodwill and other intangible property, including without limitation the real property legally described as 75-81, Plan 322, Twp of Waterloo; Part Lots 38-43, 51-56, 74, and 82-85, Plan 322, Twp of Waterloo; Part Lot 2, Plan 963, Kitchener; Part Lot 141 Streets & Lanes, Kitchener; Part Lot 142 Streets & Lanes, Kitchener (formerly Pt Herman Av & Pt Auburn Av Pl 322, closed by 210008) Parts 1-7, Plan 58R13759; Kitchener, and municipally known as 1250 Weber Street East, Kitchener, Ontario (collectively, the "Property")

- 2. The indebtedness is secured by the following security that is to be enforced:
  - (a) General Security Agreement, dated June 10, 2014;
  - (b) Charge/Mortgage in the amount of \$13,675,000.00 registered against title to the Property as instrument number WR821198 on June 12, 2014;
  - (c) General Assignment of Rents registered against title to the Property as instrument number WR821199 on June 12, 2014;

- (d) Guarantee and Assignment and Postponement of Claim from Bryan Hunking dated June 10, 2014; and
  - (e) Guarantee and Assignment and Postponement of Claim from Judith Hunking signed on February 18, 2016.
3. The total amount of indebtedness is **\$13,538,605.97**, as of March 30, 2016, together with interest accruing at a per diem rate of **\$2,505.67** per day.
  4. The secured creditor will not have the right to enforce the security until after the expiry of the 10-day period following the sending of this notice, unless the insolvent person consents to an earlier enforcement.

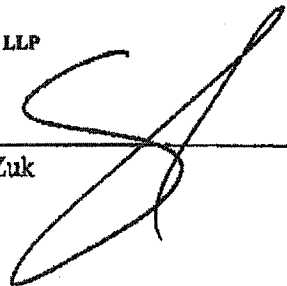
Dated at Toronto, this 30<sup>th</sup> day of March, 2016.

**HMT HOLDINGS INC.**  
**C/O HARBOUR MORTGAGE CORP.**  
 By its Solicitors  
**TORKIN MANES LLP**

Per:

\_\_\_\_\_

Seth Zuk





EMMANUEL VILLAGE  
RESIDENCE INC.

and

EMMANUEL VILLAGE  
RESIDENCE INC.

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

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Proceeding commenced at Toronto

**SUPPLEMENTARY AFFIDAVIT OF  
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EMMANUEL VILLAGE  
RESIDENCE INC.

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PROCEEDING COMMENCED AT  
TORONTO

**SUPPLEMENTARY APPLICATION RECORD**

**DLA Piper (Canada) LLP**  
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