



SUPERIOR COURT OF JUSTICE

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-20-00644241-00CL

DATE: MARCH 27 2023

NO. ON LIST: 3

TITLE OF PROCEEDING: VASTIS et al v. KOMMATAS et al

BEFORE: JUSTICE CONWAY

PARTICIPANT INFORMATION

For Plaintiff:

Name of Person Appearing	Name of Party	Contact Info
KEVIN FISHER	Counsel for the Plaintiffs, George Vastis and Helen Vastis	kfisher@grllp.com
JAMES BEESLEY		jbeesley@grllp.com

For Defendant:

Name of Person Appearing	Name of Party	Contact Info
JAMES WORTZMAN	Counsel for the Defendant, Christos Kommatas	jwortzman@teplitskyllp.com
CATHERINE ALLEN		callen@teplitskyllp.com

For Other:

Name of Person Appearing	Name of Party	Contact Info
DOMENICO MAGISANO	Counsel for the Liquidator, The Fuller Landau Group Inc. (moving party)	dmagisano@lernalers.ca
SPENCER JONES		sjones@lernalers.ca
ANTHONY CIANFARANI (observing)	Counsel for Circle K.	acianfarani@blg.com

ENDORSEMENT OF JUSTICE CONWAY:

- [1] **All defined terms used in this Endorsement shall, unless otherwise defined, have the meanings ascribed to them in the Factum of the Liquidator dated March 24, 2023.**
- [2] This matter has a long history. Justice Dietrich, after a lengthy trial, ordered the winding up of the Companies and appointed the Liquidator to do so.
- [3] The Liquidator brings a motion today for various relief. It seeks approval of the Listing Agreement for the Acton Property, approval of the Lease, and direction for the Accountant to finalize the 2022 financial statements.
- [4] Mr. Fisher, for the plaintiffs, said that he was not opposing the Listing Agreement in terms of who the broker should be but wanted to conduct another appraisal of the Acton Property before the price is filled into the Listing Agreement. In essence, he is opposing the Listing Agreement. He filed no materials or evidence to support his request that another appraisal would be useful at this time, other than to say that the appraisals (one from each of the plaintiff and defendant) are a year old and there is news about the Greenbelt that may affect the value of the Acton Property.
- [5] The Liquidator commissioned six prospective realtors and evaluated their proposals for price, commission, and prospect of sale recovery. I have reviewed the Confidential Appendix 1 that sets out this information. I am satisfied that the Listing Agreement should be approved based on the Liquidator's comprehensive analysis. Obtaining another appraisal at this point will only slow things down. The market will speak once the Acton Property is exposed to the market. Further, Mr. Fisher will be able to make submissions to the court if and when a transaction for the Acton Property comes before the court for approval. I approve the Listing Agreement.
- [6] The draft order provides that the Accountant is to finalize the Companies' 2022 financial statements and submit their tax filings for that year. Mr. Wortzman advised the court that his client has some issues with respect to the financial statements and the information on which they rely. My order today is without prejudice to Mr. Wortzman's rights to question or object to the 2022 financial statements at a later date.
- [7] Finally, Mr. Wortzman seeks a motion date for production of information in the MKW file. That is not properly before me today. He shall arrange a scheduling appointment through the CL office on notice to all interested parties.
- [8] Order to go as signed by me and attached to this Endorsement. This order is effective from today's date and is enforceable without the need for entry and filing.
- [9] The order includes a sealing order for Confidential Appendix 1 to the Liquidator's First Report. I am satisfied that this is commercially sensitive information and that its disclosure could prejudice the stakeholders pending the closing of any transaction for the Acton Property. It meets the public interest test in the *Sierra Club/Sherman Estates* cases. **Counsel for the Liquidator is directed to file a hard copy of Confidential Appendix 1 with the Commercial List office under seal, together with a copy of the order and this endorsement.**

A handwritten signature in blue ink, appearing to read "Conway J.", is located at the bottom left of the page.