

COURT FILE NO.: 07-CL-7044
DATE: 20090716

**SUPERIOR COURT OF JUSTICE – ONTARIO
(COMMERCIAL LIST)**

**IN THE MATTER OF AN APPLICATION UNDER SECTION 116(1)6 OF THE SOCIAL
HOUSING REFORM ACT, 2000, S.O. 2000, c. 27**

**RE: THE REGIONAL MUNICIPALITY OF YORK (Applicant) – and –
THORNHILL GREEN CO-OPERATIVE HOMES INC. (Respondent)**

BEFORE: MORAWETZ J.

**COUNSEL: Douglas O. Smith, Roger Jaipargas, and Brendan Y. B. Wong, for the
Applicant, The Regional Municipality of York**

**Murray Klippenstein and Basil Alexander, for the Respondent, Thornhill
Green Co-Operative Homes Inc. and CHF Canada**

**Mervyn D. Abramowitz and L. Viet Nguyen for the Receiver, Mintz and
Partners Ltd.**

COSTS ENDORSEMENT

[1] The Region seeks costs of \$27,908 as against both Thornhill Green and CHF Canada (“CHFC”) in respect of my endorsement of August 29, 2008.

[2] In response, Thornhill Green and CHFC submit that a costs award of \$10,000 is more appropriate.

[3] I have considered the submissions filed by the parties and I have also taken into account the facts enumerated under Rule 57, including the time spent, the results achieved and the complexity of the matter. In addition, I have also taken into account the principles set forth by the Court of Appeal in *Boucher v. Public Accountants Council for the Province of Ontario* (2004), 71 O.R. (3rd) 291 (C.A.), specifically that the overall objective of fixing costs is to fix an amount that is fair and reasonable for an unsuccessful party to pay in the particular circumstances, rather than an amount fixed by actual costs incurred by the successful litigant.

[4] I have concluded that costs should be awarded in favour of the Region on a partial-indemnity basis. I also accept the submissions of the Region that costs should be awarded as against both Thornhill Green and CHFC.

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[5] In my view, the response of the Region to the motion for injunctive relief was necessary and appropriate. However, I am also of the view that the hourly rates claimed exceed appropriate hourly rates for a partial-indemnity costs award and, further, the number of hours claimed is excessive.

[6] Costs are awarded in favour of the Region on a partial-indemnity basis in the amount of \$15,000 inclusive of GST and disbursements, payable by Thornhill Green and CHFC.


MORAWETZ J.

DATE: July 16, 2009