

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(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***

**AND SECTION 101 OF THE *COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43***

B E T W E E N:

**THE REGIONAL MUNICIPALITY OF YORK**

Applicant

and

**THORNHILL GREEN CO-OPERATIVE HOMES INC.**

Respondent

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**MOTION RECORD**

**Returnable September 23, 2008 at 9:00 a.m.**

**Before the Honourable Mr. Justice Morawetz By Conference Telephone**

**(Respondent's Motion to Commence and Continue an Application for  
Judicial Review in Divisional Court)**

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**IN THE MATTER OF AN APPLICATION UNDER SECTION 116(1) 6  
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B E T W E E N:

**THE REGIONAL MUNICIPALITY OF YORK**

Applicant

and

**THORNHILL GREEN CO-OPERATIVE HOMES INC.**

Respondent

**NOTICE OF MOTION  
(Respondent's Motion to Commence and Continue an  
Application for Judicial Review in Divisional Court)**

**THE RESPONDENT, THORNHILL GREEN CO-OPERATIVE HOMES INC.**

(**“THORNHILL GREEN CO-OP”**), will make a motion to the Court on Tuesday, September 23, 2008 at 9:00 am, or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario, M5G 1R7.

**PROPOSED METHOD OF HEARING:** The motion is to be heard:

- in writing because it is \_\_\_\_\_ ;
- in writing as an opposed motion
- orally. [**BEFORE THE HONOURABLE MR. JUSTICE MORAWETZ BY  
CONFERENCE TELEPHONE**]

**THE MOTION IS FOR:**

1. An Order that the Board of Directors of Thornhill Green Co-op is granted leave, pursuant to s. 12 of the Order of the Honourable Madam Justice Pepall dated June 26, 2007, and is empowered and authorized to commence and continue a proceeding by Thornhill Green Co-op for judicial review of certain actions and decisions of the Regional Municipality of York and Housing York Inc. regarding Thornhill Green Co-op, including by issuing a Notice of Application for Judicial Review in the form found at Tab 2 of the moving parties' Motion Record for an interlocutory injunction (subject to the amendments in the Schedule "A" attached to this Notice of Motion);
2. An Order that, for greater certainty, the Co-operative Housing Federation of Canada is granted leave to commence and continue, with Thornhill Green Co-op, the same proceeding for judicial review of certain actions and decisions of the Regional Municipality of York and Housing York Inc. regarding Thornhill Green Co-op, including by issuing the same Notice of Application for Judicial Review mentioned above;
3. An Order that the Order of the Honourable Madam Justice Pepall dated June 26, 2007 is varied, pursuant to s. 33 of that Order, to the extent necessary to give effect to this Order.
4. An Order that the time for service of the Notice of Motion and the Motion Record is hereby abridged and, if necessary, that such service is validated so that this motion is properly returnable before this Honourable Court and hereby dispenses with further service thereof; and
5. Such further and other relief as counsel may request and that seems just to this Honourable Court.

**THE GROUNDS FOR THE MOTION ARE:**

1. The Board of Directors of Thornhill Green Co-op and the Co-operative Housing Federation of Canada intend to judicially review certain actions and decisions by the Regional Municipality of York and Housing York Inc. regarding Thornhill Green Co-operative Homes Inc. for various reasons. Pursuant to the endorsement of the Honourable Mr. Justice Campbell dated July 4, 2008, Thornhill Green Co-op and the Co-operative Housing Federation of Canada provided this Honourable Court with an (Intended) Notice of Application for Judicial Review as part of their motion materials for an interlocutory injunction heard on July 18, 2008, which was decided on August 29, 2008 and is currently the subject of a motion to be set aside or varied by a panel of Divisional Court.
2. However, the Order of the Honourable Madam Justice Pepall dated June 26, 2007 requires the Receiver's consent or leave from this Court in order for Thornhill Green Co-op to commence or continue a proceeding by Thornhill Green Co-op or in respect of its property.
3. This motion accordingly seeks leave from this Court for the Board of Directors of Thornhill Green Co-op to be empowered and authorized to commence and continue a proceeding by Thornhill Green Co-op for judicial review of certain actions and decisions by the Regional Municipality of York and Housing York Inc. regarding Thornhill Green Co-op (as already dealt with as part of the motion for an injunction described above). In the event that the judicial review proceeding is considered "in respect of ... the Property" of Thornhill Green Co-op, the motion also seeks, for greater certainty, leave for the Co-operative Housing Federation of Canada to also commence and continue the same judicial review proceeding.
4. Such further and other grounds as counsel may advise and this Honourable Court may accept.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1. The affidavit of Susan F.J. Daniel affirmed July 1, 2008, and the exhibits attached thereto [filed as part of the Respondent's Cross-Motion Record to Discharge the Receiver at Tab 2];
2. The affidavit of Nicholas Gazzard affirmed June 11, 2008, and the exhibits attached thereto [filed as part of the Respondent's Cross-Motion Record to Discharge the Receiver at Tab 3];
3. The affidavit #2 of Nicholas Gazzard affirmed July 2, 2008, and the exhibits attached thereto [filed as part of the Respondent's Cross-Motion Record to Discharge the Receiver at Tab 4];
4. The affidavit of Diane Miles affirmed June 30, 2008, and the exhibits attached thereto [filed as part of the Respondent's Cross-Motion Record to Discharge the Receiver at Tab 5];
5. The affidavit of Andrea Bradley affirmed July 9, 2008, and the exhibits attached thereto [filed as part of the Respondent's Motion Record for an Interlocutory Injunction at Tab 4];
6. The materials filed by the Region and the Receiver in this court file; and

7. Such further and other documentary evidence as counsel may wish to use and this Honourable Court may accept.

September 21, 2008

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**Solicitors for the Regional Municipality of York**

**AND TO: KRONIS, ROTSZTAIN, MARGLES, CAPPEL**  
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**Mervyn D. Abramowitz, LSUC No. 28325R**  
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**Solicitors for the Receiver, Mintz & Partners Limited**

**AND TO: MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING**  
777 Bay Street, 2<sup>nd</sup> Floor  
Toronto, Ontario M5G 2E5  
Attention: Rosalind Lerman  
Director – Housing Finance Branch

**AND TO: RBC FINANCIAL GROUP**  
14<sup>th</sup> Floor, North Tower  
Royal Bank Plaza  
200 Bay Street  
Toronto, Ontario M5J 2J5  
  
Attention: Elizabeth J. Herrema, Senior Counsel

**AND TO: KUBOTA CANADA INC.**  
5900 14<sup>th</sup> Avenue  
Markham, Ontario L3S 4K4

**SCHEDULE "A" – Amendments to Notice of Application for Judicial Review**

Page 1, Title

- The word "(Intended)" is removed

Page 10, Paragraph 15

- The date "July 18, 2008" is updated to "October 23, 2008"

Page 24, Paragraph 74 regarding Document Evidence

- Sub-paragraph (e) – The date "July 9," is corrected to "July 9, 2008"
- Sub-paragraph (h) – "in this matter" is corrected to "in Court File No. 07 – CL – 7044"

Court File No. 07 – CL – 7044

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

<b>THE HONOURABLE MR.</b>	)	<b>TUESDAY, THE 23<sup>rd</sup> DAY</b>
<b>JUSTICE MORAWETZ</b>	)	<b>OF SEPTEMBER, 2008</b>

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

**AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43**

**B E T W E E N:**

**THE REGIONAL MUNICIPALITY OF YORK**

Applicant

**and**

**THORNHILL GREEN CO-OPERATIVE HOMES INC.**

Respondent

**ORDER**

**(Leave to Commence and Continue an Application  
for Judicial Review in Divisional Court)**

**THIS MOTION**, made by the Respondent, Thornhill Green Co-Operative Homes Inc. (“Thornhill Green Co-op”), for leave to commence or continue a proceeding for judicial review of certain actions and decisions of the Regional Municipality of York and Housing York Inc., was heard this day, at 330 University Avenue, Toronto, Ontario, by conference telephone.

**ON READING** the Notice of Motion dated September 21, 2008 and on hearing the submissions of the lawyers for Thornhill Green, the Regional Municipality of York, and Mintz & Partners Limited (the “Receiver”), appearing by conference telephone,

1. **THIS COURT ORDERS** that the Board of Directors of Thornhill Green Co-op is granted leave, pursuant to s. 12 of the Order of the Honourable Madam Justice Pepall dated June 26, 2007, and is empowered and authorized to commence and continue a proceeding by Thornhill Green Co-op for judicial review of certain actions and decisions of the Regional Municipality of York and Housing York Inc. regarding Thornhill Green Co-op, including by issuing a Notice of Application for Judicial Review in the form found at Tab 2 of the moving parties’ Motion Record for an interlocutory injunction (subject to the amendments in the Schedule “A” attached to the Notice of Motion dated September 21, 2008).
  2. **THIS COURT ORDERS** that, for greater certainty, the Co-operative Housing Federation of Canada is granted leave to commence and continue, with Thornhill Green Co-op, the same proceeding for judicial review of certain actions and decisions of the Regional Municipality of York and Housing York Inc. regarding Thornhill Green Co-op, including by issuing the same Notice of Application for Judicial Review mentioned above.
  3. **THIS COURT ORDERS** that the Order of the Honourable Madam Justice Pepall dated June 26, 2007 is varied, pursuant to s. 33 of that Order, to the extent necessary to give effect to this Order.
  4. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and, if necessary, that such service is validated so that this motion is properly returnable before this Honourable Court and hereby dispenses with further service thereof.
-

**THE REGIONAL MUNICIPALITY OF YORK** v.  
Applicant

**THORNHILL GREEN CO-OPERATIVE HOMES INC.**  
Respondent

Court File No. 07 – CL – 7044

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

Proceeding commenced at Toronto

**MOTION RECORD**  
**Returnable September 23, 2008**

**Respondent's Motion to Commence and  
Continue an Application for Judicial  
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