

Dec 13 113

Mr. Prophet & Mr. Murray for
Prople

Mr. Holden for Receiver

Mr. MacLellan for Trisura

Mr. Baichoo for Unimac

SNOW 238 3431 Ontario
Inc.

Mr. Baichoo seeks an
adjournment of this motion
to approve additional
unit settlements. He tells
me he was retained
by 236 3431 Ontario Inc
last night. 238 holds
the 2nd mortgage as apparent
assignee of Morrison who
in turn was the assignee
of IWK, the second mortgagee
at the time of the initial

Nov 11 1911.

Receivship order. I took
received notice of the
original application.
In fact, it had appointed
its own receiver under
its security. That receiver
was replaced in this proceeding.
I took also held or held
a 5th mortgage. Mr. Baichow
represented it on at least
one appearance before me.

238 now suggests it
has had no notice of
these proceedings & now
wishes to participate &
take some kind of position
on regarding the proposed
settlements that have been

Dec 19/13 pg 3

scheduled to be heard today. It seems to me that 238 bears responsibility for doing due diligence. Its predecessors in title were fully aware of these proceedings. They advised they did not wish to participate. It is hardly incumbent on the receiver or on people to continue to search title & see if any mortgages have been assigned. 238 should be in no different position than

Dec 1915

pg 4

its assignors, who had ample opportunity to put a motion to the court. 238's adjournment request is denied.

I will deal with the approval of the additional settled units. Mr. Macbellan reminds the court again of the outstanding lien claim of his client. That claim is being adjudicated in a lien action. The outcome of that action ~~will be~~ may have a bearing on the ultimate priorities here.

Units 801, 802, 804, 809, 811, 1001,
1003, 1007, 1107, 1109 & 1111

These units are held
by directors, who, I am
satisfied are in no different
position than the A.L.U.s.

They were directors in name
only & took none of the
decisions John Lyon
participated in. They
should be treated no
differently than the A.L.U.s.
whose settlements I
have already approved.

The settlements of
the above-noted units
are based on the same
principles as the A.L.U.
settlements. The Receiver

Dec 13/17. P 10

The ALL settlements
said they were reasonable
& in the interests of
all stakeholders. That
must apply equally
to these proposed
settlements.

On this basis, these
settlements are approved.

Mugungwa Homes Units
#205 + 207.

As to Unit 205 I am
satisfied it is held by
a bona fide charity which
invested funds in it in
the same way as the ALLs.
The settlement of this unit
is on the same basis as
the ALLs' settlements. For

Dec 13
2013 p. 7

The same reasons as set out above, the settlement re unit 205 is approved.

Univac asserts a claim to 207, so I will deal with that unit when I address the other Univac units.

Units 203 + 903.

These units are registered to Mr. Berg, the principal of Assured Care Consulting Inc (ACC) & ~~the~~ to ACC. They are used as offices. ACC is manager of the nursing home facility

Nov 17 2013 P8

in the case of Sharon project. Again the same formula + process was used to arrive at the settlement amounts ^{for these} ~~units~~. In this case, funds Acc advanced to cover payroll for nursing staff has been credited to Acc. This is appropriate & represents a true obligation of Rose of Sharon that Acc assumed.

For the same reasons as set out above the settlements re units 203 + 903 are approved.

pg

Non-settling units requiring
declaration of priority:

Units 902, 201, 204, 208, 208,

209, 210, 211, 212, 213, 214,

311, 701, 901, 910, 1103 +

703.

~~Although~~ No one has
appeared in relation to
these units. No one
opposes the relief sought.
They have had notice of
the relief sought, apart
from the unit holder
for #701 who cannot
be located, even ~~though~~
though significant efforts
have been made to do
so.

Dec 13
2013. P10

Order to go as requested
regarding Peoples priority
Order these units.

Dec 17
2013. p10

Order to go as requested
regarding Peoples priority
order these units.

The Animas Units

Animas is seeking
leave to appeal my
order of Nov 22/13 in
which I denied it
leave to file the Hui
affidavit sworn Nov 11/12.
In light of this, the
motion to declare priorities
regarding the Animas
units should not be
adjudicated until the
leave application is heard,

Dec 17th 2013 pg 11

and if successful,
until the appeal is
heard & determined.

The motion for leave
to appeal is scheduled
for January 9, 2014
1 hour. The time is
booked with the Divisional
Court.

Timetable as follows

- (1) Appellant to ~~file~~
deliver its motion for
record under rule
62.02(5)(b) by Dec 20/13
including all endorsements.
- (2) Facts according to
the rules.
- (3) 9:30 appointment

Dec 13
2013

pg 17

To be arranged for
the week following
the disposition of the
appeal proceedings
to schedule the
return of the priority
motion to the Unimac
units (subject to below)

If the Unimac
have application is
dismissed, the Unimac
priority issue will be
argued on January
28, 2014 for an hour.
That hour is in addition
to the 1/2 day already

Nov 2013 10

looked for The Receiver's
Motion + LA Council's
Motion.

The Mortgage Priorities

There being no dispute
that Peoples' Mortgage
ranks ahead of all the
other registered mortgages
the requested order will
go declaring its priority.

Meslunf