

CITATION: Trinity Ravine Community Inc., 2022 ONSC 1277
COURT FILE NO.: Court File No. CV-22-00677236-00CL
DATE: 2022-02-24

SUPERIOR COURT OF JUSTICE – ONTARIO (COMMERCIAL LIST)

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c.C-36 AS AMENDED AND IN THE MATTER OF A PLAN OF
COMPROMISE OR ARRANGEMENT OF TRINITY RAVINE COMMUNITY
INC.

BEFORE: Penny J.

COUNSEL: Gregory Azeff, Stephanie De Caria and Monica Faheim for the applicant

Monique Sassi for the proposed Monitor

Sara-Ann Wilson for Nahid Corp.

HEARD: February 23, 2022

ENDORSEMENT

- [1] This is an application made by Trinity Ravine Community Inc. for an initial order and other related relief under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36, as amended. Following oral submissions, I issued the initial order with reasons to follow. These are the reasons.
- [2] The applicant, Trinity Ravine, is a registered charitable organization developing a real estate project known as Trinity Ravine Community located at 1256 Markham Road, Scarborough, Ontario. The applicant is affiliated with Global Kingdom Ministries Church Inc., a member church of the Pentecostal Assemblies of Canada, which is a fellowship of over 1,100 Canadian churches. The church is the applicant's sole member.
- [3] Trinity Ravine Community is a proposed two-tower, 605-unit project intended to serve the senior citizens' community. The development land is the applicant's primary asset, and is a "shovel ready", permitted land parcel. The last appraised value for the development land as a high-density residential development property was approximately \$32 million.
- [4] The project utilizes a life lease structure under which prospective residents buy the right to occupy units in the project upon completion. As of November 6, 2019, the applicant sold life leases to a total of 439 purchasers under what are called life lease occupancy agreements.
- [5] As of September 30, 2021, the applicant had assets of \$25,766,228.49 and liabilities of \$29,115,052.79.12.

- [6] From the 439 purchasers in the project, a total of approximately \$27.6 million was paid to the applicant in the form of deposits.
- [7] Due primarily to skyrocketing construction costs and delays and uncertainty caused by the COVID-19 pandemic, the project's financial model is no longer viable. Due to delays in moving the project forward, over the last few years a number of purchasers terminated their life lease agreements and demanded the return of their deposits. The applicant accepted the termination requests of 188 purchasers. Deposits (inclusive of interest) in the aggregate amount of \$12,229,521.49 were returned to those purchasers.
- [8] A total of 280 purchasers remain in the project with deposits in the aggregate principal amount of \$16,119,649.96.16. Of the remaining purchasers, another 120 have more recently terminated their life lease agreements and demanded return of their deposits. The applicant does not have the money to repay these deposits. The funds not reimbursed to the initial 188 purchasers who terminated have been used up largely for the payment of pre-construction development costs.
- [9] Given the applicant's dwindling cash reserves as well as mounting pressure from purchasers and other creditors, an orderly process is required. The applicant wishes to conduct a "dual track" sale and investment solicitation process under the CCAA, with a view to either:
- (a) securing sufficient financing and purchaser support to complete the project in a way that provides sufficient liquidity to deal with purchasers who wish to terminate their life lease agreements; or
 - (b) selling the development and distributing the proceeds to purchasers and other creditors.
- [10] The total claims against the applicant exceed five million dollars.
- [11] The applicant was incorporated under Part II of the *Canada Corporations Act* and was continued under the *Canada Not-for-profit Corporations Act*. The applicant is therefore a "company" within the meaning of the CCAA.
- [12] I accept the evidence that the applicant is currently insolvent. The test under the BIA is satisfied. The applicant's liabilities materially exceed its balance sheet assets. The cash flow forecasts show that the applicant is unable to pay liabilities that are currently due and coming due. In particular, as described above, a number of purchasers have terminated their life lease agreements and have demanded return of their deposits; the applicant is unable to do so.
- [13] Although this enterprise is a real estate development, there are a number of factors that nevertheless militate in favour of a CCAA order:
- (1) the applicant is not a standard commercial real estate developer; rather, it serves a charitable purpose, namely, to provide a living community for senior citizens;

- (2) there is significant equity in the development land and the realizable value of the development land appears sufficient, if realized appropriately, to satisfy the applicant's obligations to its creditors;
 - (3) the SISP contemplated by the applicant appears to be a viable plan and includes an achievable timeline for completion;
 - (4) the process contemplated by the applicant would pose no significant prejudice to its senior secured lenders (indeed, the secured creditors support the application); and
 - (5) the SISP will ensure that recoveries of the applicant's creditors are maximized by providing for a sales and marketing process that thoroughly canvasses the market in an orderly manner, and a claims process that ensures that creditor claims are assessed and paid in a fair, timely and orderly fashion.
- [14] Section 11.02 of the CCAA, authorizes a stay of all proceedings concerning a debtor company for a period of ten days, provided that the Court is satisfied that (i) circumstances exist that make the order appropriate, and (ii) the applicant has acted, and is acting, in good faith and with due diligence. These requirements are met in this case.
- [15] The Court has granted CCAA protection to not-for-profit organizations providing community services before. A stay of proceedings is necessary in this case to allow the applicant the opportunity to formulate and implement an orderly restructuring plan and avoid the negative impact on the senior citizens' community of creditor realization, receivership or bankruptcy.
- [16] Deloitte, the proposed Monitor, is a "trustee" within the meaning of s. 2(1) of the BIA and is not subject to any of the restrictions on who may act as a monitor under s. 11.7(2) of the CCAA. Deloitte has consented to be appointed as Monitor in these CCAA proceedings.
- [17] The applicant seeks an initial administration charge against the property of the applicant (including, in particular, the development land) in favour of its counsel, the proposed Monitor, and the proposed Monitor's counsel, to an initial maximum aggregate amount of \$150,000, in order to secure payment of fees and expenses incurred in connection with this within application and for the initial ten-day period. The SISP and CCAA process will require extensive input from professional advisors and there is an immediate need for this advice.
- [18] The administration charge satisfies the *Canwest* factors and is, therefore, granted. The amount of the administration charge is limited to what is reasonably necessary for the initial stay period and is supported by the proposed Monitor.
- [19] In summary, the CCAA will allow the Applicant to implement a two-pronged SISP with the objective of enabling the Applicant to either: (i) secure the necessary financing and purchaser support to complete the project; or (ii) sell the development land and distribute the proceeds to purchasers and other creditors. The initial order sought by the applicant

will provide the required breathing room for the applicant to design and implement the SISP, with a view to protecting the interests of the purchasers and other stakeholders.

[20] For these reasons, the initial order is granted.

[21] Counsel shall make arrangements with the Commercial List office to book the required come back date.

A handwritten signature in blue ink, appearing to read "Penny J.", is written above a horizontal line.

Penny J.

Date: 2022-02-24