



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP/ENDORSEMENT

COURT FILE NO.: CV-23-00700356-00CL

DATE: 15 June 2023

NO. ON LIST: 4

TITLE OF PROCEEDING: **FIRM CAPITAL MORTGAGE FUND INC. v. STATEVIEW
HOMES (HAMPTON HEIGHTS) INC. ET AL.**

BEFORE JUSTICE: **Robert Centa**

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
D.J. Miller	Firm Capital Mortgage Fund Inc.	djmiller@tgf.ca
Puya Fesharaki	"	pfesharaki@tgf.ca

For Defendant, Respondent, Responding Party, Defence:

Name of Person Appearing	Name of Party	Contact Info
Jennifer Stam	Stateview Homes	Jennifer.stam@nortonrosefulbright.com
Adam Slavens	Tarion Warranty Corporation	aslavens@torys.com

For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info

Endorsement of Robert Centa J.

The applicant, Firm Capital Mortgage Fund Inc., with the consent of the respondent, Stateview Homes (Hampton Heights) Inc., seeks two orders:

1. An Order under s. 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, and s. 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, appointing RSM Canada Limited as receiver, without security, of all of the assets, undertakings and properties of the respondent acquired for, or used in relation to the business carried on by the respondent, and all proceeds thereof, including, but not limited to, the real estate development known as "Hampton Heights" and the lands and premises municipally known as 39 Auburn Court, Barrie, Ontario and 2, 4, 6, and 8 Teck Road, Barrie, Ontario; and
2. Approving the immediate commencement of a sale process to be conducted by the Receiver in respect of the property.

No other party appearing at today's motion objected to the relief sought by the applicant. I am satisfied that it is appropriate to grant the relief sought by the applicant and I have signed the orders as presented.

First, I find that it is just and convenient to appoint a receiver in these circumstances. Here, the respondent has consented to the receivership. Based on my review of the evidence filed on this motion, I am satisfied that the applicant has demonstrated that it has met the test in *Confederation Life Insurance Company v. Double Y Holdings Inc.*, 1991 CarswellOnt 1511, [1991] O.J. No. 2613 (Gen. Div.) for the appointment of a receiver. In my view, there has been an event of default under the first mortgage and there is clear evidence that the applicant's security faces significant risk of deteriorating. The management and supervision of a receiver will make meaningful progress towards completion of the project possible, while preserving value in the work that has been completed so far.

Second, I find that the receiver should be authorized to carry out the sale process. In my view and stakeholders, the sale process described satisfies the criteria in *Soundair*. The process appears to be both fair and transparent. I'm advised the sale process was developed in consultation with the proposed receiver, that the receiver will carry out the sale process in accordance with its court approved mandate, and that the completion of any sale by the receiver will be subject to further court approval. The expedited sale process is commercially reasonable given the need to move quickly to put a purchaser in place in order to complete the project. I find that the sale process strikes a reasonable balance between the need for moving quickly and the need to obtain the highest possible price. The sale process appears to be in the best interests of all creditors.

I grant the relief sought by the applicant and have signed the orders presented to me. I thank counsel for their helpful submissions.