

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
JUSTICE SUGUNASIRI

) Monday, the 4th
)
) day of July, 2022

BETWEEN:

**CITY OF TORONTO and WILLIAM JOHNSTON, CHIEF BUILDING OFFICIAL
FOR THE CITY OF TORONTO**

Applicants

-and-

TORONTO COMMUNITY HOUSING CORPORATION

Respondent



AMENDED JUDGMENT

THIS APPLICATION, brought by the Applicants City of Toronto and William Johnston, Chief Building Official for the City of Toronto, pursuant to sections 15.10(7) and 38(1) of the *Building Code Act, 1992*, S.O. 1992, c.23 (the "BCA"), as amended, for an Order confirming and enforcing an Emergency Order issued on ~~July 12, 2022~~ June 12, 2022 pursuant to subsection 15.10(1) of the BCA which prohibits the use and occupancy of all 154 townhouse units contained in the nine townhouse blocks in the residential complex known as Swansea Mews (the "Swansea Buildings") at the property municipally known as 21 Windermere Avenue in the City of Toronto (the "Property"), which is owned and operated by the Respondent Toronto Community Housing Corporation ("TCHC"), was heard this day at the court house, 330 University Avenue, Toronto, Ontario.

Entered at Toronto on July 6, 2022 - mg

ON READING the Applicants' Notice of Application, Application Record and factum, the Respondent's Application Record and supplementary affidavit, and affidavits of various tenants of the Swansea Buildings as interested persons, all duly filed, and on consent of the Applicants and the Respondent, and upon hearing the submissions of the counsel for the parties, respectively, and on hearing submissions from counsel for the tenants of the Swansea Buildings, the tenants having been duly served with the materials of both the Applicants and the Respondent;

1. **THIS COURT ORDERS** that the emergency Order issued by Kamal Gogna, Deputy Chief Building Official for the City of Toronto, on June 12, 2022 pursuant to subsection 15.10(1) of the BCA (the "Emergency Order") prohibiting use and occupancy of the Swansea Buildings is hereby confirmed.

2. **THIS COURT ORDERS** that the Swansea Buildings at the Property shall not be occupied unless and until such time as the Emergency Order is lifted by the Applicants.

3. **THIS COURT ORDERS** that TCHC shall comply with the Emergency Order by immediately vacating all remaining tenants from the Property and by no later than two days from the date of this Judgment.

4. **THIS COURT ORDERS** that should TCHC fail to comply with paragraph 3 above, the Sheriff of Toronto and the Toronto Police Service are authorized to assist the Applicants and their servants, employees, contractors and agents in removing any remaining tenants from the Swansea Buildings at the Property as particularized in paragraphs 5, 6 and 7 below, and this court directs that the Applicants and their servants, employees contractors and agents, the Sheriff of Toronto and the

Toronto Police Service are authorized to enter onto the Property and into the Swansea Buildings as necessary for this purpose. The units which have not yet been vacated to the best of the parties' knowledge are listed in Schedule A attached hereto along with the corresponding leaseholder names. (However, it is acknowledged that this this list may not be 100% accurate in that additional tenants may have vacated and/or re-occupied their units.)

5. **THIS COURT ORDERS** that the Sheriff of Toronto is directed pursuant to s. 141 of the Courts of Justice Act to enforce the provisions of this Judgment and may require the Toronto Police Service per s. 141 of said Act to accompany the Sheriff and assist in the execution of this Judgment.

6. **THIS COURT ORDERS** that in enforcing this Judgment, the Sheriff of Toronto and the Toronto Police Service are permitted and authorized to assist the City and its servants, employees, contractors and agents in carrying the provisions of this Judgment.

7. **THIS COURT ORDERS** that in enforcing this Judgment, the Sheriff of Toronto and the Toronto Police Service are permitted and authorized to assist the City, its employees, contractors and agents, in removing tenants from the Swansea Buildings thereby enforcing the Emergency Order.

8. **THIS COURT ORDERS** that Toronto Animal Services is authorized to assist in removing pets from the Swansea Buildings if deemed necessary by the Applicants and/or the Sheriff of Toronto when enforcing this Judgment.

9. **THIS COURT ORDERS** that, within 48 hours of the removal of all tenants from the Swansea Buildings or such other date to which the parties may agree but in any event not later than July 15,

2022, TCHC is required to erect or arrange for the erection of construction fencing at or around the perimeter of the Property that complies with the requirements of Article 7 of Chapter 363, Building Construction and Demolition, of the City of Toronto Municipal Code, the exact location of the fencing to be to the satisfaction of the Chief Building Official.

10. THIS COURT ORDERS that once the construction fencing required by paragraph 8 above has been erected to the Chief Building Official's satisfaction, access to the Property and the Swansea Buildings shall be limited only to TCHC and the Applicants and any persons expressly authorized by them until such time as the Emergency Order is lifted by the Chief Building Official.

11. THIS COURT ORDERS that the Applicants are authorized to register this Judgment against title to the Property.

12. THIS COURT ORDERS that the Emergency Order prohibiting use and occupancy does not operate to terminate any tenancies with respect to the Property and has no bearing on the landlord and tenant relationship that exists between TCHC and its tenants at the Property under the *Residential Tenancies Act, 2006*, and that the Property may be re-occupied by the tenants once it has been deemed safe to do so by the Chief Building Official and the Emergency Order has been lifted.

13. THIS COURT ORDERS that the Applicants shall forthwith serve a copy of this Judgment on all tenants who have to date failed to vacate the Property by leaving a copy of the Judgment at the front door of each unit listed in Schedule A attached hereto, and that TCHC shall post a copy of this Judgment on the Swansea Buildings at the Property.

14. **THIS COURT ORDERS** that there shall be no costs of this Application.



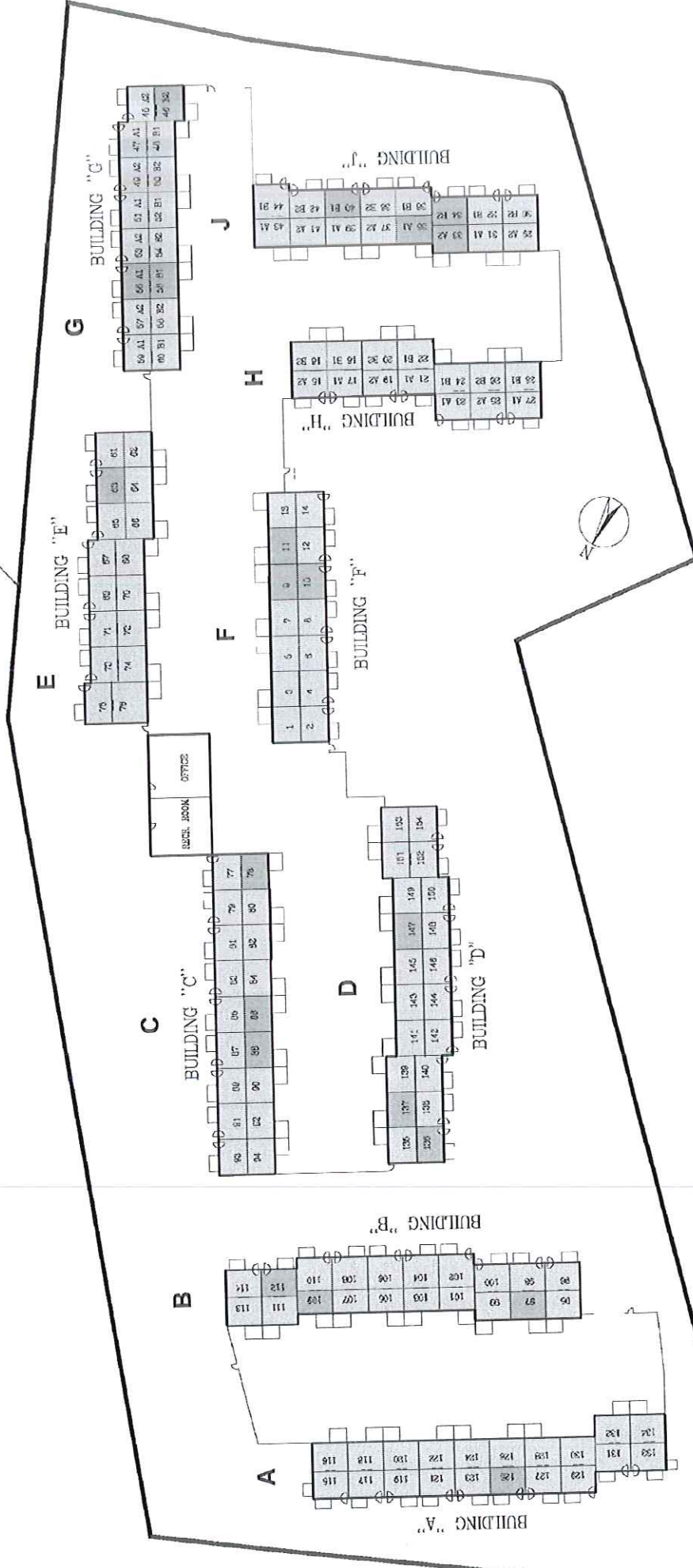
Digitally signed by
Justice P. Tamara
Sugunasiri
Date: 2022.07.06
10:41:50 -04'00'

SCHEDULE "A"

Swansea - Unit Status as of June 29 at 15:00 (154 Total Units)

- Occupied* - 21
- Unoccupied - 133

PROPERTY LINE



* Unit occupied by Swansea Tenant(s)

Swansea - occupied units as of June 29 at 15:00

Block	Unit	Level	Leaseholder Name
F	9	L1/L2	
F	10	L3/L4	
F	11	L1/L2	
J	33	L1/L2	
J	34	L3/L4	
J	35	L1/L2	
J	40	L3/L4	
G	46	L3/L4	
G	55	L1/L2	
G	56	L3/L4	
E	63	L1/L2	
C	78	L3/L4	
C	86	L3/L4	
C	88	L3/L4	
B	97	L1/L2	
B	109	L1/L2	
B	112	L3/L4	
A	125	L1/L2	
D	136	L3/L4	
D	137	L1/L2	
D	147	L1/L2	

*Note unit 101 is in use as a staff Hub and is not reflected in this list.

BETWEEN:

CITY OF TORONTO, et al
Applicants

and

TORONTO COMMUNITY HOUSING CORPORATION
Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

JUDGMENT

CITY SOLICITOR'S OFFICE
Station 1260, Metro Hall
55 John St., 26th Floor
Toronto, Ontario, Canada
M5V 3C6

Naomi Brown
LSO NO. 37755B
Tel: (416) 392-0121
Email: naomi.brown@toronto.ca

Jared Wehrle
LSO No. 689421
Tel: (416) 338 - 5863
Email: Jared.Wehrle@toronto.ca

Lawyers for the Applicants