

THORNHILL GREEN SUCCESSFUL IN ITS BID FOR FULL JUDICIAL REVIEW

CHF Canada and Thornhill Green Co-operative were back in court twice in October to try to stop the takeover of the co-op by York Region. In an unprecedented move, the Region is trying to force the sale of the assets of the co-op to the Region's own housing company, at little more than half its market value.

In July, the courts turned down a motion by the co-op and CHF Canada for an interim injunction on the attempted sale. The injunction was sought to allow time for a full Judicial Review of the case to take place, separate from the hearing on the receiver's motion to sell the property.

Thornhill Green and CHF Canada have argued in court documents that the York Region service manager has not treated the co-op reasonably or fairly and that a full review is needed in Divisional Court of how the Region has exercised its authority under the *Social Housing Reform Act*. The Divisional Court is the main forum for judicial review of government action in Ontario.

At an October 10 court hearing, the co-op got some very good news when the judges agreed to restructure the legal proceedings on the sale of the co-op to ensure that the full range of legal issues related to the case are heard by the courts. This is precisely the outcome that Thornhill Green and CHF Canada were seeking.

Under the arrangement, it was agreed that an October 23 hearing on the sale of the co-op would go ahead in the Commercial List (a court that

specializes in commercial matters like receivership) but that, if the sale were approved, it would be put on hold until the Judicial Review is completed. That hearing will take place in Divisional Court on December 5.

Frank Bennett has joined Thornhill Green's and CHF Canada's legal team. Mr. Bennett is a highly respected authority on Canadian receivership law and is the author of *Bennett on Receiverships*, the leading textbook on the subject. Mr. Bennett and Murray Klippenstein represented the co-op and CHF Canada in the commercial list hearing on the sale before Justice Morawetz on October 23.

Thornhill Green and CHF Canada have been waging an all-out campaign to stop the sale of the co-op since first learning of the Region's actions only two weeks before the first court hearing on May 29. York Region has told the court that Thornhill Green faces significant financial problems that are the result of poor management and that the co-op can't be trusted to manage additional funding from the Region. The only option they say is to shut down the co-op and turn the housing over to its own housing company.

While Thornhill Green does face financial challenges, these are mainly the result of operating buildings that are well over 40 years old and in need of major repair and upgrading. Co-op President, **Jim Common**, points out that the co-op is an acquisition-rehabilitation project and that very little capital replacement was done in 1992 when the townhouse

development was converted to a co-op.

"The understanding from the beginning was that the program of repair would continue in the years ahead with funding being made available as needed rather than upfront." Common says. "Now the service manager is trying to re-write history and say that the funding shortfall is the co-op's fault. This is particularly hard to take given that our co-op has received less subsidy than any co-op or non-profit in the province."

Co-ops across Canada have rallied behind Thornhill Green, passing a strongly worded resolution of support at CHF Canada's AGM in June and contributing more than \$50,000 to the Legal Assistance Fund to help the co-op with its legal costs.

While fighting York Region's actions in court, the co-op, and CHF Canada continue to reach out to the Region in the hope of finding a solution outside of the courts.



Murray Klippenstein speaks to co-op members outside the courthouse.