

MTCC 675
Applicant

and EACH & EVERY UNIT OWNER ET AL.
Respondent

Court File No: CV-10-00398979-0000

JUNE 3, 2010

PATRICIA CONWAY - for the Applicant
LYON TRELKOVEN - for John Anderson,
a Unitholder.

The Applicant seeks an Order amending
the Declaration & Description relating
to the Superintendent's Suite.

The unitholder, Anderson, asserts that
the Applicant ought to have sought consent
under s. 107 (1) (d) of the Act. The
Applicant asserts that there is an
"error or inconsistency" and that it is
"necessary or desirable" to correct it under
s. 109 (13).

I am of the view that, having regard
for the use of the suite as a rental
unit, rather than the superintendent's suite,

→ 2

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

APPLICATION RECORD

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BARRISTERS AND SOLICITORS
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Lawyers for the Applicant

APR 26 2010

-2-

An inconsistency has resulted in the declaration or description that it is desirable to correct some of the errors in Carton-Condaminio Corporation No. 26 v. Nagar (2009) Corwell Qnt. 640 (SC) and find it to be instructive in this instance.

I am therefore of the view that it is appropriate to proceed under s. 107. Notwithstanding the wording of s. 107, the proper administration of justice and the desirability of avoidance of a multiplicity of proceedings and consideration of potential future costs favor proceeding in this fashion. Counsel have jointly submitted that there be no order as to costs & I do order that no costs shall be awarded in this instance.

Order to go in the form attached.

Edell J.
Edmond J.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE *MR*) THURSDAY, THE 3RD
JUSTICE *COHEN*)
DAY OF JUNE, 2010

BETWEEN:

METROPOLITAN TORONTO CONDOMINIUM CORPORATION NO. 675

Applicant

- and -

EVERY UNIT OWNER AND MORTGAGEE ON THE
REGISTER OF THE APPLICANT AS OF FEBRUARY 15, 2010

Respondent

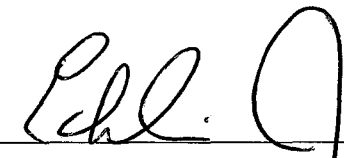
ORDER

THIS APPLICATION for an Order amending the Declaration and the Description of the Applicant in the manner set out in the Notice of Application, was heard this day at Toronto, Ontario.

ON READING the Application Record, the Order of Madam Justice Sproat for substituted service dated March 29, 2010, and the affidavit attesting to service on all unit owners and mortgagees of the Application Record, and on hearing the submissions of counsel for the Applicant, *& the Unitholder, John Anderson*

1. **THIS COURT ORDERS AND ADJUDGES** that the Declaration of the Applicant is amended in the following respects:
 - (a) At page 1 of the Declaration, all references to the number of dwelling units in the Applicant are changed from 120 to 121;
 - (b) At page 1 of the Declaration, the enumeration of units on Level 2 is changed from Units 1 - 10 inclusive to Units 1 - 11 inclusive

- (c) Schedule C of the Declaration is amended by changing the enumeration of Dwelling Units on Level 2 from Unit 1 to 10, to Unit 1 to 11;
 - (d) Schedule D to the Declaration as registered is deleted and replaced with Schedule D-1 in the form attached as Appendix 1 to this Judgment;
2. **THIS COURT FURTHER ORDERS AND ADJUDGES** that the Description for Metropolitan Toronto Condominium Corporation No. 675 shall be corrected in accordance with subsection 49(6) of Regulation 43/96 under the Registry Act, and this Court further orders that the land surveyor for the Applicant correct, or cause the correction of the Description, by deleting therefrom Part 2 of 4 Parts, Sheet 2 of 6, as registered, and replacing it with Amendment to Description Part 2 of 4 Parts, Sheet 2 of 6 sheets, in the form attached as Appendix 2 to this Judgment.
3. **THIS COURT FURTHER ORDERS AND DIRECTS** that Level 2, Unit 11 of Metropolitan Toronto Condominium Corporation No. 675 shall be registered in Land Titles in the name of the Applicant as owner.



Eaton J

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUN 04 2010

AS DOCUMENT NO.:
À TITRE DE DOCUMENT NO.:
PER / PAR:



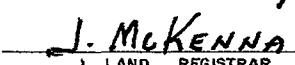

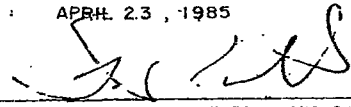
APPENDIX I

SCHEDULE "D1" TO THE DECLARATION

<u>UNIT</u>	<u>LEVEL</u>	<u>PROPORTION OF COMMON INTEREST & EXPENSE (Expressed as Percentages to each Unit)</u>	
1	1 (Recreation Unit)		0.0435
1	2 to 11 inclusive	0.6872 x 10 =	6.8720
2	2 to 11 inclusive	0.5334 x 10 =	5.3340
3	2 to 11 inclusive	0.7737 x 10 =	7.7370
4	2 to 11 inclusive	1.0745 x 10 =	10.7450
5	2 to 11 inclusive	0.8852 x 10 =	8.8520
6	2 to 11 inclusive	0.8768 x 10 =	8.7680
7	2 to 11 inclusive	0.7283 x 10 =	7.2830
8	2 to 11 inclusive	1.0745 x 10 =	10.7450
9	2 to 11 inclusive	0.8029 x 10 =	8.0290
10	2 to 11 inclusive	0.7381 x 10 =	7.3810
11	2 to 11 inclusive	0.5334 x 10 =	5.3340
1	12		0.6452
2	12		0.5334
3	12		0.7994
4	12		1.0966
5	12		0.9137
6	12		0.9046
7	12		0.7538
8	12		1.0966
9	12		0.8224
10	12		0.7630
11	12		0.5334
1-9, 14-22, 26-81, 84-86 inclusive, Level A (Parking Units)		0.0208 X 77	1.6016
10-13, 23-25, 82, 83 inclusive, Level A (Parking Units)		0.0416 X 9	0.3744
1-9, 17-24, 27-82, 85-87 inclusive, Level B (Parking Units)		0.0208 X 76	1.5808
10-16, 25, 26, 83, 84 inclusive, Level B (Parking Units)		0.0416 X 11	0.4576
<u>TOTALS</u>			100.0000

June 12, 2009
Ref:2554-0-Amended Schedule D

AMENDMENT TO DESCRIPTION

METROPOLITAN TORONTO CONDOMINIUM PLAN N^o 675	
PART 2 OF 4 PARTS SHEET 2 OF 6 SHEETS	LEVEL 2 UNITS 1 TO 10 11 REGISTERED IN THE LAND REGISTRY OFFICE LAND TITLES DIVISION OF METROPOLITAN TORONTO (N ^o 66) AT TORONTO AT <u>3:37</u> O'CLOCK ON THE <u>23</u> DAY OF <u>July</u> , 1985 <div style="text-align: right;">  J. MCKENNA DLR LAND REGISTRAR </div>
CERTIFICATE OF AMENDMENT Amended in accordance with s.18, O.Reg. 49/01. Amendment by Court Order registered as No. Date _____ Land Registrar _____	EXAMINER'S APPROVAL APPROVED <u>JULY 22, 1985</u> <div style="text-align: center;">  "B.G. SYME" ASSISTANT EXAMINER OF SURVEYS </div>
(Left side of the form is blank, containing a large vertical line)	SURVEYOR'S CERTIFICATE I CERTIFY THAT : 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT AND THE CONDOMINIUM ACT AND THE REGULATIONS MADE THEREUNDER; 2. THE SURVEY WAS COMPLETED ON THE <u>4th</u> DAY OF <u>FEBRUARY</u> , 1985 DATE : <u>APRIL 23</u> , 1985 <div style="text-align: center;">  I. M. PASTUSHAK, ONTARIO LAND SURVEYOR </div>
DECLARATION REGISTERED AS N ^o <u>B867425</u>	
SURVEYOR'S CERTIFICATE FOR AMENDMENT I certify that: 1) This survey and plan are amended in accordance with an amendment by Court Order registered as No. _____ and are correct and in accordance with the <i>Condominium Act, 1998</i> , the <i>Surveys Act</i> and the <i>Land Titles Act</i> (or the <i>Registry Act</i>) and the regulations made under them; 2) The survey was completed on the <u>26th</u> day of <u>November</u> , 2008. 3) The diagrams of the Units affected by this amendment are substantially accurate. Date _____ P. HOFMANN Ontario Land Surveyor	

PLAN OF SURVEY
SHOWING THE SPECIFICATIONS AND RELATIONSHIP BETWEEN THE BOUNDARIES
OF UNITS 1 TO ± 0 AND THE MONUMENTATION ON LEVEL 2
1.1

SCALE 1 : 200



I. M. PASTUSHAK, O. L. S.
1985



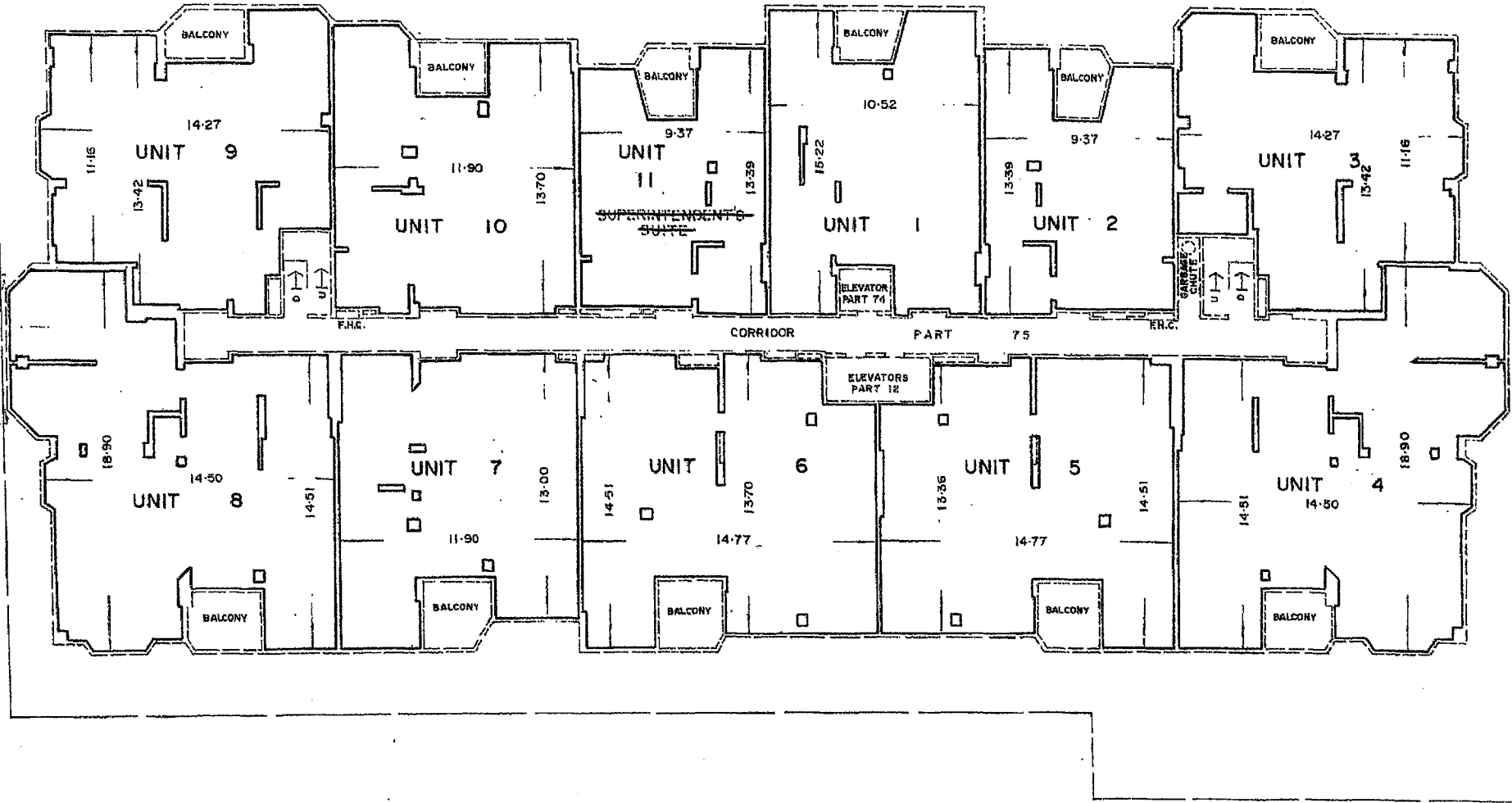
2. 8. 2

STREET

JARVIS

0-180

0-120



CARLTON

STREET

DIAGRAM SHOWING UNITS 1 TO 10, INCLUSIVE ON LEVEL 2 (FIFTH FLOOR)

11

3703

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