



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00715326-00CL DATE: 13-MAY-2024
CV-24-00715321-00CL

NO. ON LIST: 3 / 4

TITLE OF PROCEEDING: Constantine Enterprises Inc. v. Sam M LP Inc. et al, and related matters.

BEFORE: Mr. Justice Cavanagh

PARTICIPANT INFORMATION

For Applicant (in both files):

Name of Person Appearing	Name of Party	Contact Info
Jane Dietrich	Lawyers for Constantine Enterprises Inc. (Applicant)	jdietrich@cassels.com
Jessica Zagar		jzagar@cassels.com
John Picone		jpicone@cassels.com
Stephanie Fernandes		sfernandes@cassels.com

For Responding Parties / Others:

Name of Person Appearing	Name of Party	Contact Info
Steve Weisz	Lawyer for the Respondents (Sam M LP Inc., Mizrahi 128 Hazelton Inc., et al)	sweisz@cozen.com
David Trafford	Lawyer for S. Mizrahi	dtrafford@morseshannon.com
Jennifer Stam	Lawyer for the Proposed Receiver, KSV	jennifer.stam@nortonrosefullbright.com
John De Vellis	Lawyer for TSCC 2967 (Interested Party)	john.devellis@shibleyrighton.com

ENDORSEMENT OF JUSTICE CAVANAGH:

Introduction

- [1] Constantine Enterprises Inc. (“CEI”) brings two separate applications for the appointment of a receiver. The applications involve related respondents who were represented by the same counsel. The applications were heard together.
- [2] The Notice of Application in the first application was issued on February 22, 2024. The Respondents are Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc. I refer to this application as the “Hazelton Application”.
- [3] The Notice of Application in the second application was issued on February 23, 2024. The Respondents are Sam M (180 SAW) LP Inc. and Sam M (180 SAW) Inc. I refer to this application as the “SAW Application”.
- [4] Sam Mizrahi is a principal of the Respondents in each application. He was separately represented at the hearing of these applications.

Analysis

- [5] I address the two related applications separately. I first address the Hazelton Application.

Parties to Hazelton Application

- [6] CEI as a secured creditor seeks the appointment of KSV Restructuring Inc. (“KSV”) as receiver and manager over certain real property and all assets, undertakings, and properties of the Respondents Mizrahi (128 Hazelton) Inc. and Mizrahi 128 Hazelton Retail Inc.
- [7] CEI is a Toronto-based private real estate fund dedicated to acquiring, developing and managing properties in Canada and abroad. Since 2015, CEI has assisted in the financing of a project to develop properties located at 126 Hazelton Avenue, Toronto and 128 Hazelton Avenue, Toronto (the “Hazelton Project”).
- [8] Mizrahi (128 Hazelton) Inc. (“Hazelton”) is the registered owner of the real property comprised of certain condominium units located at 126 Hazelton Avenue, Toronto and 128 Hazelton Avenue, Toronto (the “Real Property”).
- [9] The Real Property is Hazelton’s primary asset and is made up of certain premises in relation to a nearly complete nine-story, 20-unit luxury condominium development project located in Toronto’s Yorkville neighbourhood including commercial retail space on the ground floor and three levels of underground parking. Hazelton developed and constructed the Hazelton Project and is the registered owner of 10 condominium units and the one ground floor commercial retail space, and the parking spaces allocated to the units at the retail space which collectively make up the Real Property.
- [10] Mizrahi 128 Retail Inc. (“Retail”) is a party to an agreement of purchase and sale between Retail (as assigned by Mizrahi Inc. to Retail), as purchaser, and Hazelton, as vendor, pursuant to which Retail has a right to purchase a unit intended for use as a professional office space, together with four parking spaces and one locker, for \$2,393,000 (the “Retail APS”).

Indebtedness owing to CEI

- [11] As of February 29, 2024, Hazelton is indebted to CEI in the amount of \$13,015,116.36 plus accruing interest after that date and legal fees and expenses from before and after that date (the “Hazelton Priority Indebtedness”) pursuant to indebtedness originally owed to DUCA Financial

Services Credit Union Ltd. (“DUCA”). To secure payment of the Hazelton Priority Indebtedness, Hazelton granted security over its property to DUCA which subsequently assigned such security and the Hazelton Priority Indebtedness to CEI on February 1, 2024.

[12] As of February 29, 2024, Hazelton is indebted to CEI in the amount of \$31,041,763.16 plus interest continuing to accrue from and after that date and legal fees and expenses from before and after that date pursuant to the 2015 Credit Agreement, the indebtedness in respect of which is secured and subordinate to the Hazelton Priority Indebtedness (the “Hazelton Subordinate Indebtedness”).

[13] As of February 29, 2024 Retail is indebted to CEI in the amount of \$2,854,278 plus accruing interest after that date and legal fees and expenses from before and after that date pursuant to a promissory note issued by Hazelton in favour of CEI (the “Retail Indebtedness”). To secure payment of the Retail Indebtedness, Retail granted to CEI a security interest over its property.

[14] In addition to this security granted in favour of CEI, Hazelton granted security in its personal property and a second priority mortgage to Aviva for certain deposit insurance indemnification obligations (subordinate to CEI’s security in respect of the DUCA commitment), securing the maximum amount of \$18,500,000.

[15] Hazelton is also indebted to CEI pursuant to what are described as the “2020 Grid Note” and the “2021 Grid Note”, in the aggregate principal amount of \$3,200,000 and \$1,500,000, respectively.

[16] There are also certain other construction liens registered on title to the Real Property. The indebtedness relating to a construction lien registered on title by Ozz Electric Inc. on January 31, 2024 was recently purchased by CEI and the related registration of title has been removed.

Enforcement of security by DUCA

[17] On October 8, 2023, Hazelton breached the DUCA commitment by failing to vacate or discharge a construction lien registered on title to the Real Property within ten days of registration.

[18] On December 6, 2023, DUCA delivered a demand to Hazelton. On January 19, 2024, DUCA commenced a receivership application to appoint a receiver and manager over all of the assets, undertakings and properties of Hazelton.

[19] On February 1, 2024, DUCA assigned its rights, benefits and interest in and to the DUCA commitment and DUCA Security to CEI pursuant to a debt purchase agreement. As a result, on February 9, 2024, DUCA obtained an order dismissing its receivership application without prejudice.

Position of CEI

[20] CEI has provided evidence that it has lost confidence in the ability of the Mizrahi Group to perform its obligations under its various agreements with CEI, including the loan and security documents. CEI notes that the Mizrahi Group has had a considerable amount of time to pay the indebtedness, including since the issuance of demands and the commencement of this application, but they have failed to do so.

[21] CEI submits that without the appointment of a Receiver, Hazelton’s expenses will not be paid unless CEI continues to directly pay costs on account of Hazelton to preserve and protect its collateral, including condominium fees and amounts required to complete the Hazelton Project units so they can be sold. CEI submits that if Hazelton’s expenses are not paid in a timely manner,

there is a significant risk that the value of the Property will be materially diminished because of the potential safety and maintenance issues relating to not properly maintaining the building and the potential stigma that could be, associated with the Hazelton Project, where there are vacancies in the building because construction of the units is not completed for an extended period of time.

[22] In addition to these defaults, CEI recently issued a capital call notice to Mizrahi Developments Inc. (“MDI”) pursuant to the Contribution Agreement. The purpose of the capital call was to request the additional funds required to complete and sell the Hazelton Project units, which amounts were required to be paid by March 14, 2024. MDI failed to make the contributions.

[23] CEI’s intention is for the Receiver to take steps to complete the sale of units already subject to agreements of purchase and sale, to facilitate the final phase of construction of the Hazelton Project required for completion of units when necessary, and to facilitate the marketing and sale of the remaining condominium units in order to realize on the value of the Property and repay creditors. CEI anticipates that the Receiver, if appointed, will bring a motion for approval by the court of a sales process in connection with such realization efforts and enhance transparency.

[24] CEI submits that it has met the technical requirements for the appointment of a receiver under the BIA and that it is just and convenient for a receiver to be appointed under the BIA and CJA in the circumstances.

Position of the Mizrahi Respondents

[25] The Mizrahi Respondents says that the construction of the condominium for the Hazelton Project is nearly complete and only two units remain to be sold. The other eight units are sold but not yet closed.

[26] The Mizrahi Respondents contend that for an extended period of time, in an effort to pay down the indebtedness and reduce condominium fees payable by Hazelton, MDI has been requesting CEI to proceed with the closing of the sold units. The Mizrahi respondents contend that CEI has refused to proceed with closing of these units which has resulted in Hazelton’s exposure to pay condominium fees, inability to pay down the secured debt and interest liability under the DUCA loan.

[27] The Mizrahi Respondents say that the parties appear to be proceeding with the path forward for which a receiver is not necessary.

Mizrahi legal action

[28] A Statement of Claim was recently issued by the Respondents, among others, as plaintiffs against CEI, Robert Hiscox and Edward S. Rogers III. In the Statement of Claim, the plaintiffs allege, in connection with the Hazelton Project, that CEI, Mr. Hiscox and Mr. Rogers took steps to prevent the indebtedness of the Hazelton Project to be repaid. The plaintiffs allege that, in response to a capital call made by CEI under the Shareholder Agreement for Hazelton, Mizrahi Development Inc. responded that no additional capital is required to exit the Hazelton Project. The plaintiffs allege that instead of closing on the sold units, CEI has proceeded with this receivership application, which comes at a substantial cost to Hazelton and the Hazelton Project.

[29] The Mizrahi Respondents rely on the claim in the Statement of Claim that there is no indebtedness owed to CEI. They say, on the strength of the pleaded allegations, that there is a legitimate dispute over the existence of the indebtedness claimed by CEI.

- [30] The Respondents rely on allegations in the Statement of Claim to submit that CEI, Mr. Hiscox and Mr. Rogers have failed to act in good faith.
- [31] In *Vancouver Coastal Health Authority v. Seymour Health Centre Inc.*, 2023 BCSC 1158, the respondents to an application for the appointment of a receiver filed a civil claim for damages against the applicant in the weeks leading up to the hearing of the application. The respondents alleged that the applicant and other defendants had acted in bad faith. They sought damages and an injunction to restrain the applicant from seeking the appointment of a receiver. The court, at para. 126-134, rejected this argument on the ground that the respondents' claim was not really a defence to the debt or contractual claim to security; rather, it is an entirely separate cause of action that may give rise to a counterclaim to set off against the debt owing. Other circumstances attenuated the respondents concerns that a receivership would prejudice its ability to advance its claims.
- [32] The allegations in the Statement of Claim are not evidence. I do not give weight to these pleaded allegations on these applications. The plaintiffs in the civil action are free to pursue the action, but the claims as pleaded do not show that it is not just or convenient for a receiver to be appointed in the circumstances.
- [33] The Mizrahi Respondents submit that this is a partnership dispute and not a conventional creditor and debtor relationship. They submit that it is not just or convenient for this Court to appoint a receiver in all of the circumstances. They submit that:
- a. CEI is effectively the only creditor with respect to the Hazelton Project;
 - b. the Hazelton Project is nearly complete with almost all units sold in the appointment of a receiver is not needed to complete the sale of these already sold units;
 - c. there is no evidence that the Mizrahi Respondents are not cooperating with CEI, or are interfering with furthering the completion of the Hazelton Project. The Mizrahi Respondents rely on the allegations in the Statement of Claim that conduct on the part of CEI amounts to bad faith in its capacity as a shareholder of Hazelton.
- [34] Section 243(1) of the *BIA* and section 101 of the *CJA* each provide for the appointment of a receiver where it is "just or convenient".
- [35] It is well-established that the ordinary nature of the appointment of a receiver as a remedy is "significantly reduced when dealing with a secured creditor who has the right to a receivership under its security arrangements [...]. The relief becomes even less extraordinary when dealing with a default under a mortgage". See *BCIMIC Construction Fund Corporation et al. v. The Clover on Yonge Inc.*, 2020 ONSC 1953, at para. 43.
- [36] Where the creditor's security provides for the appointment of a receiver, there is no requirement for the applicant to establish that it will suffer irreparable harm if the proposed receiver is not appointed. See *Bank of Montreal v. Carnival National Leasing Limited*, 2011 ONSC 1007, at paras. 24 and 28.
- [37] In *C & K Mortgage et al. v. 11282751 Canada Inc. et al.*, 2024 ONSC 1039, Osborne J. set out the following factors that have historically been taken into account in the determination of whether it is appropriate to appoint a receiver:

- a. whether irreparable harm might be caused if no order is made, although as stated above, it is not essential for a creditor to establish irreparable harm if a receiver is not appointed where the appointment is authorized by the security documentation;
- b. the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of assets while litigation takes place;
- c. the nature of the property;
- d. the apprehended or actual waste of the debtor's assets;
- e. the preservation and protection of the property pending judicial resolution;
- f. the balance of convenience to the parties;
- g. the fact that the creditor has a right to appointment under the loan documentation;
- h. the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulties with the debtor;
- i. the principle that the appointment of a receiver should be granted cautiously;
- j. the consideration of whether a court appointment is necessary to enable the receiver to carry out its duties efficiently;
- k. the effect of the order upon the parties;
- l. the conduct of the parties;
- m. the length of time that a receiver may be in place;
- n. the cost to the parties;
- o. the likelihood of maximizing return to the parties; and
- p. the goal of facilitating the duties of the receiver.

[38] Osborne J. explained, at para. 20, that these factors are not a checklist but a collection of considerations to be viewed holistically in an assessment of whether, in all the circumstances, the appointment of a receiver is just or convenient.

[39] The Mizrahi Respondents submit that CEI should exercise other contractual rights than those that allow for the appointment of a receiver.

[40] CEI is the primary secured creditor of the Respondents. Notices of intention to enforce security were delivered to the Respondents and the ten-day periods for payment have expired.

[41] KSV is qualified to act as Receiver in accordance with subsection 243(4) of the BIA and has consented to act.

[42] CEI is a secured creditor and has security over the Property. CEI has shown that the Mizrahi defendants are indebted to it, that they are in default of their obligations in relation to such indebtedness, and that its security provides for the appointment of a receiver in these circumstances.

[43] I accept CEI's evidence that it has lost confidence in the Mizrahi Respondents. I reject the submission made by the Mizrahi Respondents that the parties are working together and will be able to complete the Hazelton Project without the need for the appointment of a Receiver. The fact that serious allegations are being made in the Statement of Claim, which CEI denies, supports CEI's position that they have lost confidence in the Mizrahi Respondents and that a receiver is needed.

[44] CEI has provided the Respondents with a reasonable length of time for payment. CEI is asserting its contractual rights to seek the appointment of a receiver in these circumstances. The appointment of a receiver will (a) allow for the completion of the sale of units already subject to agreements of purchase and sale, (b) facilitate the final phase of construction of the Hazelton project required for completion of units where necessary, (c) facilitate the marketing and sale of the remaining Hazelton Project units in order to realize value of the Property and repay creditors, and (d) preserve the value of the Property and allow for its realization in a transparent manner in the interests of all stakeholders.

[45] I am satisfied that it is just and convenient for KSV to be appointed as receiver of the Property in the Hazelton Application.

[46] I now turn to the SAW Application.

Parties to SAW Application

[47] Mizrahi Constantine (180 SAW) LP (the "Partnership") is a limited partnership that owns property at 180 Steeles Avenue West, Toronto. The general partner of the partnership is Mizrahi Constantine (180 SAW) Inc. ("General Partner").

[48] Sam M (180 SAW) LP Inc. ("Mizrahi Partner") owns a one-third interest in the Partnership. CEI owns a two-thirds interest in the Partnership. Sam M (180 SAW) Inc. ("Mizrahi Shareholder") owns 50% of the shares of the General Partner. CEI owns 50% of the shares of the General Partner.

[49] CEI, is a secured creditor, seeks the appointment of KSV as receiver over the partnership interest of SAM M (180 SAW) LP Inc. (the "Mizrahi Partner") and all shares in the capital of Mizrahi Constantine (180 SAW) Inc. (the "General Partner") owned by SAM M (180 SAW) Inc. (the "Mizrahi Shareholder"), including all dividends, distributions, and related proceeds, pursuant to subsection 243 (1) of the BIA and section 101 of the CJA.

[50] Mizrahi Partner is a borrower or guarantor of the Indebtedness and has pledged his interest in the Partnership in respect of those obligations.

[51] The Mizrahi Shareholder is a guarantor under the 18 ESA W Loan and 18 ESA W Note and has pledged shares in the General Partner in respect of those obligations.

[52] The General Partner is the general partner of the Partnership. Mr. Mizrahi and CEI's nominee, Robert Hiscox, are the only directors and officers of the General Partner. The shares in the capital of the General Partner are held 50% by the Mizrahi Shareholder and 50% by CEI. Decision-making respect of the General Partner is equal among the shareholders, and the shareholders' relationship is governed by a unanimous shareholders agreement.

[53] The Partnership is a limited partnership. The Mizrahi Partner and CEI are its limited partners. The partnership interests in the Partnership are held one-third by Mizrahi Partner and two-thirds by CEI.

[54] The Partnership is the owner of property at 180 Steeles Avenue West, Toronto (the “180 Steeles Real Property”). The 180 Steeles Project is currently in the development phase with zoning being pursued to convert the current use of the 180 Steeles Real Property as a large plaza to its new intended use as a condominium building.

[55] Mizrahi SPV is the borrower under the SPV Loan. The shares in the capital of Mizrahi SPV are wholly-owned by Mr. Mizrahi or his designee.

[56] Mr. Mizrahi is the President and sole director and officer of Mizrahi Partner, Mizrahi Shareholder, and Mizrahi SPV. He is also the principal of the Mizrahi Group, a group of development companies engaged in condominium development and building.

Indebtedness

[57] A summary of the indebtedness owed to CEI (the “Indebtedness”) and the security structure, including the defaults that have not been cured and the notices sent and demands for payment made are described in the first affidavit of Robert Hiscox and summarized in CEI’s factum at para. 16.

[58] The SAW Loans and the SPV Loan matured on August 31, 2022. Following maturity, and attempts to seek repayment from the Debtors, CEI delivered demand letters and notices of intention to enforce security under s. 244 of the *BIA* to the Debtors, Mizrahi SPV, and respective guarantors on September 22, 2022.

[59] Mr. Hiscox’s evidence is that since September 2022, CEI had taken steps to cooperate with the Mizrahi Group, including the Debtors, to preserve their business relationship and attempt to maximize the value of the 180 Steeles Project. However, nearly \$29 million remains outstanding, which includes the contributions that CEI made on behalf of the Mizrahi Partner under the Partnership Agreement since October 2023, when the Mizrahi Partner failed to make its required contributions in the amount of \$166,667 monthly. Mr. Hiscox’s evidence is that Mizrahi Partner continues to be in default of its required monthly contribution amounts and CEI has no confidence that Mizrahi Partner will make those required contributions in the future.

[60] Searches conducted on behalf of CEI under the *Personal Property Security Act* against each of the Debtors discloses only the following registrations:

- a. a registration in favour of CEI against Mizrahi Partner,
- b. a registration in favour of Mizrahi Shareholder against Mizrahi Partner, and
- c. a registration in favour of MDI against Mizrahi Shareholder.

[61] In addition to the amounts owing to CEI, the Partnership is indebted to a second mortgagee in the approximate amount of \$20 million, and a first mortgagee – CWB - in the amount of a proximately \$78 million. The loans advanced by these mortgagees remained outstanding and the capital contributed by the limited partners has not been withdrawn.

Breakdown of relationship

[62] Mr. Hiscox has provided evidence that CEI has lost confidence in the ability of the Mizrahi Group to perform its obligations under its various agreements with CEI and has lost confidence in Mr. Mizrahi as a partner and developer.

- [63] The development of the Steeles Project is at a halt. CEI has determined that the most direct path to repayment of the Indebtedness was for the Partnership to sell the 180 Steeles Project. CEI engaged various efforts to market the Property for sale but the sales process failed to result in any viable offers.
- [64] CEI submits that there is no viable path forward for a sale transaction or any reasonable prospect of completing a sale of the 180 Steeles Project in the near future that would result in CEI being repaid its indebtedness in full. CEI submits that there is a significant risk that the value of the Property will be materially diminished because of continued development delays and/or enforcement by CWB or Trez of their respective mortgages in connection with the 180 Steeles Project.
- [65] CEI submits that there is no reason to believe that his right Partner will fulfil its financial obligations moving forward stop it submits that without the appointment of a receiver, the Partnership's expenses will not be paid unless CEI contributes the entire amount to preserve and protect his collateral, and both Mr. Mizrahi and CEI agree on how such funds should be expended.
- [66] Mr. Hiscox's evidence is that there is a significant risk to enforcement steps being taken under the mortgages registered on title to the 180 Steeles Real Property by the mortgagees. The occurrence of default under either of the mortgages would entitle each of the mortgagees to take enforcement action, which would present a significant risk that the value of the Property will be materially diminished.
- [67] Mr. Mizrahi has provided evidence that CWP is in the process of renewing its lending facility. The renewal term includes an extension only to September 3, 2024 with a significant renewal fee. The renewal terms also require "a full covering personal liability guarantee" from Mr. Edward Rogers and CEI in support of the loan and the "granting of the one (1) six-month extension option [is] subject to material progress have a good made toward resolution of the Receivership". Similarly, the other mortgagee, Trez, recently offered a brief extension on its lending facility and a number of conditions precedent to that extension have not been satisfied.
- [68] This evidence shows that the mortgagees are amenable to brief extensions provided certain conditions are satisfied in the Partnership continues to comply with its obligations. The ability of the Partnership to do so depends on it being funded and being able to make decisions.
- [69] CEI's intention is for the Receiver to realize on the value of the Property and to repay CEI. CEI dissipates that the Receiver, if appointed, will bring a motion for approval by the Court of a sale process in connection with such realization efforts.
- [70] The technical requirements to appoint a receiver under the *BIA* have been satisfied.
- [71] Section 20 of the Pledges specifically provide that CEI's entitled to the appointment of a receiver in the event of default.

Position of Respondents

- [72] The Respondents submit that it is unnecessary for the court to intervene in what they submit is a partnership dispute and appoint a receiver. They submit that the security held by CEI provides extensive remedies, including taking possession of the collateral and exercising the Respondents' voting rights to effectively take control of the Partnership and the 180 Steeles Project. The Respondents submit that there is no evidence that they have not cooperated or would not cooperate in the development of the 180 Steeles Project. The Respondents submit that the appointment of a

receiver will not address the potential harm or alleged deterioration of the 180 Steeles Project. The Respondents submit that the appointment of a receiver is not just or convenient.

[73] The Respondents rely on allegations in the Statement of Claim that CEI, Mr. Hiscox and Mr. Rogers rejected offers for the 180 Steeles Project which would have retired the indebtedness owed to CEI in connection with the 180 Steeles Project and earned a profit. They rely on pleaded allegations that CEI blocked a sale of the 180 Steeles Project so that CEI could be in a position to eliminate the Respondents' one-third interest in the 180 Steeles Project.

[74] Pleadings are not evidence and I do not treat the allegations made in the Statement of Claim as evidence on this application.

[75] I have considered the various factors set out in *C & K Mortgage* holistically. The development of the 180 Steeles Project is halted. I accept the evidence of Mr. Hiscox that there has been a breakdown of the relationship between CEI and the Mizrahi Group.

[76] I am satisfied that it is just and convenient for this Court to appoint a Receiver over the Property because (a) CEI's aggregate secured indebtedness is approximately \$28.9 million in relation to Mizrahi Partner and Mizrahi Shareholder; (b) defaults have occurred and are continuing under various loans and security documents, (c) CEI is entitled to seek the appointment of a receiver pursuant to the terms of the pledges; (d) there does not appear to be sufficient assets available to satisfy the Respondents' secured creditors; (e) Mizrahi Partner has failed to make the required contributions to the Partnership such that the Partnership will not have sufficient funds to advance the development of the 180 Steeles Project; (f) the relationship between the Mizrahi group and CEI has broken down; (g) there is a real risk that the Property will decline in value if a receiver is not appointed to stabilize the situation; and (h) the appointment of a receiver will not end the plaintiffs' ability to pursue their claims made in the Statement of Claim.

[77] I am satisfied that the appointment of the Receiver would preserve the value of the Property and ensure that it is realized upon in an orderly, transparent manner, for the benefit of CEI and other stakeholders. Delay in the appointment of the receiver materially increases the risk of development delays and enforcement by CWP or Trez of their respective mortgages.

Disposition

[78] For these reasons:

- a. Order to issue in the Hazelton Application in the form signed by me today.
- b. Order to issue in the SAW Application in the form signed by me today.

[79] Mr. Mizrahi made submissions at the hearing about his interpretation of the word "records" in the proposed form of order in the Hazelton Application and his opposition to producing information on records that are not project related. I note these submissions. He does not ask for changes to the proposed forms of order in this respect.

Cavanagh J