

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON**

BETWEEN:

CHARLES H. GRAVES and MERIDEL J. GRAVES

Plaintiffs

- and -

SHIRE INTERNATIONAL REAL ESTATE INVESTMENTS LTD.

Defendant

NOTICE OF MOTION

TAKE NOTICE THAT an application will be made on behalf of the Plaintiffs before the presiding Master in Chambers, at the Law Courts, in Edmonton, Alberta, on Tuesday, September 28, 2010, at 10:00 o'clock in the forenoon or so soon thereafter as counsel may be heard, for:

1. An Order that the property be listed for sale by way of a Listing Agreement; including:
 - (a) An Order cancelling any existing sale listings of the Lands;
 - (b) An Order that the listing Agent shall be entitled to post a "For Sale" sign customarily posted by the listing agent at a conspicuous location on the Lands, which sign shall remain during the currency of the listing agreement and shall not be interfered with by any person under any circumstances;
 - (c) An Order that the Defendant(s), or any person(s) in possession of the Lands, are directed to co-operate with the Agent in his efforts to sell the Lands, and shall upon 24 hours written notice delivered to the Lands, allow the Agent access for the purpose of showing the Lands to potential purchasers;
 - (d) An Order that the mortgagee shall not be required to accept any tender less than an amount sufficient to pay out the mortgagee in full; and
 - (e) Awarding costs to the Plaintiffs for the within application on a solicitor and client

basis;

2. An Order bridging the time for service of this Notice of Motion and Affidavit in support, pursuant to Rule 548 of the *Alberta Rules of Court*; and
3. An Order granting such further and other relief as may be requested and as this Honourable Court deems just.

AND FURTHER TAKE NOTICE THAT in support of this application will be read the Supplemental Affidavits of Default, filed, the Affidavits of Value, filed, the Order Nisi / Order for Sale granted herein and such further material as counsel may advise and as this Honourable Court may allow.

AND FURTHER TAKE NOTICE THAT the within application will be made upon the following grounds:

1. The Defendants have not, nor has anyone else entitled to do so, redeemed the Plaintiffs' mortgage;
2. No tenders were submitted to this Honourable Court pursuant to the advertisement of the land that is the subject of this action pursuant to the Order Nisi / Order For Sale nor pursuant to the Order of Master L. Smart granted February 24, 2010;
3. The Defendants have little equity in the land that is the subject of this action; and
4. Such further and other grounds as counsel may advise and as this Honourable Court may allow.

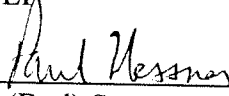
AND FURTHER TAKE NOTICE THAT in support of the within application the following authorities will be relied on:

1. Part 5 of the *Law of Property Act* (R.S.A. 2000, c. L-7, as amended);
2. Rules 132, 133 & 548 and Part 49 of the *Alberta Rules of Court*; and
3. Such further and other authorities as counsel may advise and as this Honourable Court

may allow.

DATED at Edmonton, Alberta on September 17, 2010.

WITTEN LLP

Per: 
for: R. W. (Bud) Steen
Solicitors for the Plaintiffs

TO: Clerk of the Court

AND TO: Parlee McLaws LLP, Attn.: Jeffrey H. Selby
Via E-Mail To: jsselby@parlee.com
Solicitors for the Defendant, Shire International Real Estate Investments Ltd.

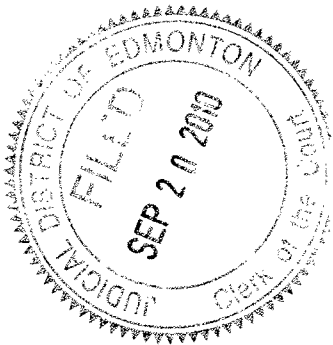
AND TO: Fort McMoney Properties Ltd.
Via Delivery to Registered Office, #300, 808 – 4 Avenue SW, Calgary, Alberta
Current Owner

AND TO: Owen Bird Law Corporation, Attn.: Scott H. Stephens
Via E-Mail To: sstephens@owenbird.com
Solicitors for the Subsequent Encumbrancer, Romspen Mortgage Corporation (by
the DIP Lender Charge)

**IMPORTANT NOTICE TO THE
RESPONDENTS**

If you want to present any evidence to the Judge hearing this application you must:

- make an Affidavit, sworn or affirmed as true before a Commissioner for Oaths or Notary Public;
- file the Affidavit with the Clerk of the Court; and
- make sure that the Applicants' lawyer receives the Affidavit *at least 24 hours before the hearing*.



Action No.: 0803 11873

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WITTEN LLP
Barristers & Solicitors
#2500, 10303 – Jasper Avenue
Edmonton, Alberta
T5J 3N6

ATTN: R. W. (Bud) Steen
Phone No.: 780-428-0501
Fax No.: 780-429-2559

File No.: 104065 RWS