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Our File: AR-833390  
Notre dossier:

**Via Courier**

Your file:  
Votre dossier:

April 29, 2014

The Honourable Justice R. Mosley  
c/o Administrator  
Federal Court of Canada  
1801 Hollis Street, Suite 1720  
Halifax, NS B3J 3N4

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My Lord:

**Re: Marcus Brauer v. Her Majesty the Queen – T-1028-13**

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Following the hearing of the above-noted matter on April 15, 2014, your Lordship requested that the Respondent provide certain additional information with regard to Home Equity Assistance Provisions of both the Canadian Forces Integrated Relocation Program (“CFIRP”), and the corresponding RCMP program. Below you will find responses to these requests, with relevant document attached.

Please note that on April 23, 2013, I wrote to your Lordship requesting directions as to whether the Court would require this information be filed by way of affidavit. To date, we have not received a response to this request. Given that your Lordship set a deadline of two weeks from the date of the hearing for the Respondent to respond to these requests, I have taken the liberty of providing the information below without an affidavit. Should the Court require an affidavit, please advise and the Respondent would be happy to provide one.

- 1) Has Treasury Board Secretariat (“TBS”) ever declared any communities “depressed market areas” for the purposes of the Canadian Forces Integrated Relocation Program (“CFIRP”)?

My client advises that TBS has declared other communities depressed market areas for the purposes of the CFIRP. These communities included:

- Port Maitland, Nova Scotia, which was a declared a depressed market area from January 2010 to December 2011; and
- Temiscaming, Quebec was declared a depressed market area in 2008.

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Attached you will find the signed decision memo declaring these communities depressed market areas signed by the Secretary of Treasury Board. Please note that the vetted information contains references to Treasury Board decisions. These are not TBS' documents and it is the Respondent's position that the documents referenced are confidences of the Queen's Privy Council pursuant to section 39(2)(c) of the *Canada Evidence Act* (R.S.C. 1985, c. C-5). As a result, the Respondent reserves the right to object to their production pursuant to section 39(1) of the *Canada Evidence Act* should this Honourable Court order their disclosure.

- 2) Who is the ultimate decision-maker with regard to the RCMP's home equity assistance benefits which correspond with the benefits at issue pursuant to the CFIRP in the present case?

The RCMP home equity assistance benefits which correspond with the benefits at issue in the CFIRP are contained in the Relocation Policy for the Royal Canadian Mounted Police ("RPRCMP"). Pursuant to section 1.01 of the RPRCMP, the policy came into effect on April, 2009.

The key provisions of the RPRCMP with regard to the sale of an RCMP members' principal residence include:

- Section 3.02 which provides a summary of the relevant benefits and states that RCMP members are entitled to 100% of the qualifying equity loss for sales in a depressed market;
- Section 3.09 which sets out the general terms of the Home Equity Assistance Program and limits the qualifying residence value \$300,000;
- Section 3.10 provides an outline of the requirements RCMP members must meet in order to build a case for "depressed market status" and indicates that TBS is the decision-maker in this regard; and
- Section 1.03 (15) defines "Depressed Market" as "a community where the housing market has decreased more than 20% since the time of purchase."

As with the CFIRP, the term "community" is not defined.

As a result of these provisions, it is the Respondent's position that the final decision-maker with regard to a declaration of "depressed market status" for the purposes of the RPRCMP is the TBS.

Given the Applicant's arguments regarding potential redress to an "independent" grievance process, my Lord may also wish to take note of section 1.13 of the RPRCMP which contains a provision allowing for recourse to the grievance procedures outlined in the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10 ("*RCMP Act*") in cases of alleged "misrepresentation or interpretation."

Key sections with regard to the RCMP grievance process are found throughout the *RCMP Act* and a general description of the grievance procedure is found at Part III of said *Act*. Relevant sections include:

- Section 2 which states that the “Commissioner” is “the Commissioner of the Royal Canadian Mounted Police”;
- Section 2 also defines “Committee” as “the Royal Canadian Mounted Police External Review Committee”;
- Section 5 (1) provides that the Commissioner is an RCMP Officer appointed by the Governor in Council who, “under direction of the Minister, has control and management of the Force and all matters connected therewith”;
- Section 25(5) which prohibits RCMP members from serving as members of the Committee;
- Section 31(1) which provides RCMP members with recourse to a grievance process for issues relating to the “administration of the Force”;
- Section 32(1) is a privative clause which provides that the Commissioner of the Royal Canadian Mounted Police is the final level in the grievance process with the exception of judicial review; and
- Section. 32(2) which states that “the Commissioner is not bound to act on any findings or recommendations” of the Committee.

On the basis of these sections of the *RCMP Act*, the Commissioner of the RCMP, who is an officer of the RCMP, is the final decision-maker with regard to issues of “misrepresentation or interpretation” of the and terms of the RPRCMP.

I trust this information answers my Lord’s questions. However, I remain available if the Court requires any further assistance in this regard.

Yours Respectfully,



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