

# **SUPREME COURT OF YUKON**

Citation: *In the Matter of the Estate of Donald Ross  
Miller, Deceased*, 2013 YKSC 3

Date: 20121227  
Docket: S.C. No. 08-P0027  
Registry: Whitehorse

## **IN THE MATTER OF THE ESTATE OF DONALD ROSS MILLER, DECEASED**

Before: Mr. Justice L.F. Gower

Appearances:

Bev Miller, Beneficiary

Appearing on her own behalf (by phone)

Ann-Marie Miller, Beneficiary

Appearing on her own behalf

Frank Silvestri

Appearing on behalf of Redwood Realty

### **REASONS FOR JUDGMENT DELIVERED FROM THE BENCH**

[1] GOWER J. (Oral): Redwood Realty presently has conduct of the sale and they would be the ones that would be making the arrangements to have the appraisal done. So that is my direction.

[2] The cost of the appraisal is to be paid out of the estate bank account at the Royal Bank of Canada, and again, to that extent, the order of January 19, 2012 freezing the bank account is amended so that those costs can be paid.

[3] Now, you had something you wanted to say, Ms. Miller, Bev.

[4] BEV MILLER: I'd like to say that with the potential price that is currently offered that -- he is interested in actually buying the house. I think that he made an offer of \$234,000 which is [indiscernible]. If he's quite serious about making a reasonable offer, we certainly, you know, would look at that.

[5] THE COURT: I think the offer was 235, but anyway, what -- just repeat what you said because I was having a little difficulty hearing you. Could you speak up a little bit?

[6] BEV MILLER: I was told that the offer was 234 from my correspondence with Donna. I think that it was 234. So if that buyer is serious about purchasing the house, then if he makes a reasonable offer -- I don't think that offering 64,000 less than the listed prices is a reasonable offer.

[DISCUSSION RE LISTING PRICE]

[7] THE COURT: Well, what Mr. MacDonald has asked for in his affidavit is that if the Court were to direct that the property be relisted, that it be in the context of his recommendation and the result of the independent appraisal. And further, that if the appraised value confirms his assessment of the current value - and I believe his assessment was that it should be listed at just under 240, at 239 - that [as read in] "the party who has made the offer on the property be invited to resubmit his bid for consideration by the Court." I am satisfied that that is a reasonable request and it will, of course, depend on the outcome of the appraised value.

[8] So the first thing that we have to do is get the appraisal, and then once that is obtained, I will direct that the property be relisted at a value to be determined by Redwood Realty, and that if further direction is required, you can return before me or any judge of this court to seek those directions.

[9] BEV MILLER: If I could just add as well, Judge Gower, that our contract expires November 1st with Redwood Realty, so neither Anne Marie nor I have a contract with them.

[10] THE COURT: Well, it makes sense to me, Bev Miller, to have Redwood continue with the file. They are familiar with the file; they are familiar with the property, and I think there was a previous order, if I am not mistaken, that they have conduct of the sale. So it makes sense to me to have them continue in that regard and oversee the sale. So that if a further listing agreement is required, then Mr. Silvestri can make those arrangements with the parties.

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GOWER J.