

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED AND SECTION 68 OF THE *CONSTRUCTION ACT*, R.S.O. 1990, C. C30

BETWEEN:

C & K MORTGAGE SERVICES INC.

Applicant

- and -

CAMILLA COURT HOMES INC. and ELITE HOMES INC.

Respondents

**MOTION RECORD OF THE COURT-APPOINTED
RECEIVER ROSEN GOLDBERG INC.**

(Sale Approval Motion returnable October 6, 2020 via Zoom videoconference at 11:15 am)

October 2, 2020

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AND TO:	<p>PFAFF LEASING, A DIVISION OF PFAFF MOTORS INC. c/o Pfaff Leasing 101 Auto Park Circle Woodbridge, ON L4L 8R1</p> <p>Vanessa Candelma, National Risk Manager (289) 236-0357 ext 2711 (Tel) Email: vcandelma@pfaffleasing.com</p>

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AND TO:	<p>ROSEN GOLDBERG INC. 5255 Yonge Street, Suite 804 Toronto ON M2N 6P4</p> <p>BRAHM ROSEN (416) 225-4200 (Tel) (416) 224-4330 Email: brosen@rosengoldberg.com</p> <p>Court-appointed Receiver</p>

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TAB 1

Court File No. CV-20-00643021-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*,
R.S.O. 1990 C. C.43, AS AMENDED AND SECTION 68 OF THE *CONSTRUCTION ACT*,
R.S.O. 1990, C. C30**

B E T W E E N:

C & K MORTGAGE SERVICES INC.

Applicant

- and -

CAMILLA COURT HOMES INC. and ELITE HOMES INC.

Respondents

NOTICE OF MOTION

ROSEN GOLDBERG INC., in its capacity as the Court-appointed receiver and trustee (the “**Receiver**”) of all the assets, undertakings and properties of the Respondents Camilla Court Homes Inc. (“**Camilla**”) and Elite Homes Inc. (“**Elite**” and together with Camilla, collectively, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors, including the lands and premises municipally known as 180 Mateo Place, Mississauga, Ontario (the “**Mateo Property**”) and 2371 Camilla Road, Mississauga, Ontario (the “**Camilla Property**” and together with the Mateo Property, the “**Properties**”), and all proceeds thereof, will make a Motion to a Judge of the Commercial List, on Tuesday, October 6, 2020 at 11:15 a.m., or as soon after that time as the Motion can be heard via Zoom videoconference due to the COVID-19 pandemic.

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PROPOSED METHOD OF HEARING: The Motion is to be heard orally.

THE MOTION IS FOR:

1. An Order abridging the time for service and validating service of this Notice of Motion and the Motion Record so that the Motion is properly returnable on October 6, 2020 and dispensing with further service thereof;
2. An Order approving the First Report of the Receiver dated August 17, 2020 and the activities described therein;
3. An Order approving the Second Report of the Receiver dated October 2, 2020 (the “**Second Report**”) including the Receiver’s statement of receipts and disbursements for the period July 2, 2020 to September 30, 2020, and the activities and proposed activities of the Receiver described in the Second Report;
4. An Approval and Vesting Order, substantially in the form attached as Schedule A, approving the transaction (the “**Camilla Transaction**”) contemplated in the Offer to Purchase made by Parmjit Sandhu and Sukhdeep Sandhu (the “**Camilla Purchasers**”) on September 1, 2020 and accepted by the Receiver on September 2, 2020 (the “**Camilla APS**”), for the sale of the Camilla Property and vesting the Debtors’ right, title and interest in the Camilla Property in and to the Camilla Purchasers upon the closing of the Camilla Transaction;
5. An Approval and Vesting Order, substantially in the form attached as Schedule A, approving the transaction (the “**Mateo Transaction**”) contemplated in the Offer to Purchase made by Janak Bhawnani and Sharmila Bhawnani (the “**Mateo Purchasers**”) on

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September 10, 2020 and accepted by the Receiver on September 11, 2020 (the “**Mateo APS**”), for the sale of the Mateo Property and vesting the Debtors’ right, title and interest in the Mateo Property in and to the Mateo Purchasers upon the closing of the Mateo Transaction;

6. An Order authorizing the Receiver to distribute the net sale proceeds from the Camilla Transaction and the Mateo Transaction to the Applicant C & K Mortgages Services Inc. (the “**First Mortgagee**”) to partially satisfy the first mortgage registered (the “**First Mortgage**”) against the Properties;
7. An Order authorizing and directing the Receiver, *nunc pro tunc*, to redact from the First Report served on the parties named in the service list, (i) the letter of opinion of Right at Home Realty, attached as **Confidential Appendix 1** to the First Report; and (ii) the Receiver’s projected realization and distribution attached as **Confidential Appendix 2** to the First Report;
8. An Order sealing the unredacted version of the First Report, including Confidential Appendices 1 and 2 to the First Report filed with this Court from the public record, until the closing of the Mateo Transaction or further Order of this Court;
9. An Order authorizing and directing the Receiver, *nunc pro tunc*, to redact from the Second Report served on the parties named in the service list, (i) the summary of offers received in respect of the Mateo Property, attached as **Confidential Appendix 1** to the Second Report; and (ii) the unredacted Mateo APS, a copy of which is attached as **Confidential Appendix 2** to the Second Report;

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10. An Order sealing the unredacted version of the Second Report, including Confidential Appendices 1 and 2 filed with this Court from the public record, until the closing of the Mateo Transaction or further Order of this Court;
11. An Order directing the law firm Garfinkle Biderman LLP to pay to the Receiver all funds it is holding in trust on account of holdback under the *Construction Act* from advances made under the First Mortgage; and
12. Such further and other Relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE:

1. The Receiver was appointed by Order of Justice Conway dated July 2, 2020 (the “**Appointment Order**”);
2. The Appointment Order empowered and authorized the Receiver to, among other things, take possession and control of, market and sell, and apply for vesting orders to convey the Properties;
3. Camilla is the registered owner of the Properties. Elite was a Tarion-registered builder. The Properties are located within a residential common area condominium. At the time of the Receiver’s appointment, the Debtors were building single family homes on each of the Properties. The home on the Mateo Property was very close to complete. The home on the Camilla Property was approximately 35% complete;
4. Prior to the Receiver’s appointment, the Camilla Property was subject to an agreement of purchase and sale between Elite and the Camilla Purchasers. Following its appointment, the Receiver notified the Camilla Purchasers that it intended to disclaim their pre-

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receivership agreement and would be considering its options, in terms of completing construction of the home, or selling the Camilla Property on an “as is, where is” basis. The Camilla Purchasers advised the Receiver that they were interested in purchasing the property and completing construction on their own;

5. The Receiver performed an analysis to assess the projected net realizations that would be achieved by completing the construction of the house as compared to selling the Camilla Property on an “as is, where is” basis. The Receiver concluded that there could be a marginal benefit to completing the construction of the home, but the benefit was insufficient to mitigate the risks of cost overruns, construction delays and a decline in the real estate market;
6. After lengthy negotiations with the Camilla Purchasers, the Receiver entered into the Camilla APS on September 2, 2020. The purchase price is \$1,125,000.00, inclusive of HST. The Receiver is holding a deposit of \$75,000.00. The Camilla Purchasers have waived conditions and have agreed to close on October 7, 2020. The First Mortgagee, who will be suffering a shortfall, supports the sale;
7. Prior to the Receiver’s appointment, the Mateo Property was subject to an agreement of purchase and sale (the “**Tan APS**”) between Elite and Jeremy Tan (“**Mr. Tan**”), pursuant to which Mr. Tan had paid an unsecured deposit of \$400,000.00 directly to Elite.
8. In early July of 2020, the Receiver notified Mr. Tan that it did not intend to complete the sale of the Mateo Property to him pursuant to his agreement of purchase and sale with Elite (the “**Tan APS**”). The Receiver’s disclaimer of the Tan APS prompted Mr. Tan to move

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to compel the Receiver to complete the Tan APS. On August 27, 2020, Justice Dietrich dismissed Mr. Tan's motion (the "**August 27 Disclaimer Order**");

9. The Receiver undertook various work to complete and repair the home on the Mateo Property to enhance its saleability. When the work was substantially completed, the Receiver entered into a listing agreement with an experienced broker of residential properties in Mississauga. The listing price was \$1,898,000. The Receiver decided that no offers would be considered until September 10, 2020. The date was stipulated to protect Mr. Tan's ten day right to file an appeal of the August 27 Disclaimer Order under the *BIA*, which expired on September 8, 2020;
10. The Receiver's listing broker, among other things, staged the house with furniture and accessories, listed the property on MLS, prepared floor plans and measurements of each room, a brochure, a virtual tour and marketed the property on various websites. As a result of these activities, there were 34 showings and ultimately four offers were received;
11. After reviewing the offers, the Receiver entered into the Mateo APS on September 11, 2020. The purchase price payable under the Mateo APS was the highest offered. The Mateo APS is unconditional. The Receiver is holding a deposit of \$200,000. The closing date is November 5, 2020, which will allow the Receiver to complete the remaining work required to obtain an occupancy certificate. The First Mortgagee, who will be suffering a shortfall, approves of the sale;
12. On September 14, 2020, the Receiver was notified by Mr. Tan's counsel that he was finalizing instructions to appeal the August 27 Disclaimer Order. On September 17, 2020, Mr. Tan served a Notice of Motion in the Court of Appeal to extend the 10 day period

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prescribed for filing a notice of appeal under the *BIA* and for directions on whether leave is required to appeal the August 27 Disclaimer Order. Mr. Tan's motion is currently returnable on October 8, 2020;

13. The closing date under the Mateo APS is sufficiently far out that it will not interfere with Mr. Tan's motion to the Court of Appeal;
14. The Receiver proposes to distribute the net sale proceeds from the Camilla Transaction and the Mateo Transaction to partially satisfy the First Mortgage;
15. The Receiver was recently advised that Garfinkle Biderman LLP, who acted for the First Mortgagee in registering the First Mortgage and advancing funds thereunder, is holding \$223,536 in trust on account of holdback pursuant to the *Construction Act*. Based on the Receiver's review, the quantum of funds held back appears to exceed the aggregate lien claims. Prior to making any further distributions, the Receiver will prepare an analysis of the liens claims and move for directions. In the meantime, the funds held by Garfinkle Biderman LLP should be controlled by the Receiver;
16. The development on which the Properties are situated is located within a registered common area condominium. The Receiver understands the condominium corporation was managed by the Debtors and that there are significant arrears of fees owing to the condominium corporation. The Receiver has asked the Debtors' principal to provide pertinent information relating to the condominium corporation, including banking records, most of which has been received. The Receiver is working towards establishing a proper accounting and operation of the condominium corporation;

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17. Section 249 of the *Bankruptcy and Insolvency Act*;
18. Rules 3.02(1), 16.08 and 41.05 of the *Rules of Civil Procedure*; and
19. Such further and other grounds as the lawyers may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion

1. The First Report of the Receiver dated August 17, 2020 and the Second Report of the Receiver dated October 2, 2020;
2. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

October 2, 2020

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Lawyers for the Court-appointed Receiver, Rosen
Goldberg Inc.

TO: ATTACHED SERVICE LIST

Schedule "A"

Court File No. CV-20-00643021-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR.)

TUESDAY, THE 6th

JUSTICE KOEHNEN)

DAY OF OCTOBER, 2020

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION ACT*, R.S.O. 1990, C. 30

B E T W E E N:

(Court Seal)

C & K MORTGAGE SERVICES INC.

Applicant

- and -

CAMILLA COURT HOMES INC. and ELITE HOMES INC.

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by Rosen Goldberg Inc. in its capacity as the Court-appointed receiver and trustee (the "**Receiver**") of, among other things, the lands and premises municipally known as 2371 Camilla Road, Mississauga, Ontario and legally described in Schedule A hereto (the "**Property**"), and all proceeds thereof, for an order approving the sale transaction (the "**Transaction**") contemplated in the Offer to Purchase made by Parmjit Sandhu and Sukhdeep Sandhu (the "**Purchasers**") on September 1, 2020 and accepted by the Receiver on September 2,

2020 (the “**Sale Agreement**”) and appended to the Second Report of the Receiver dated October 2, 2020, and vesting in the Purchasers all of the right, title and interest of the Respondents Camilla Court Homes Inc. and Elite Homes Inc. (collectively, the “**Debtors**”) in and to the Property, was heard this day by judicial video conference due to the COVID-19 pandemic.

ON READING the Second Report of the Receiver dated October 2, 2020 and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although served as appears from the affidavit of Janet Nairne sworn October 2, 2020, filed:

1. THIS COURT ORDERS that that the time for service of the Receiver’s Notice of Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Property to the Purchasers, as joint tenants.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver’s certificate to the Purchasers substantially in the form attached as Schedule B hereto (the “**Receiver’s Certificate**”), all right, title and interest of the Debtors in and to the Property, shall vest absolutely in the Purchasers, as joint tenants, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Conway dated July 2, 2020; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D hereto)

and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Property are hereby expunged and discharged as against the Property.

4. THIS COURT ORDERS that upon the registration in Land Registry Office for the Land Titles Division of Mississauga (No. 43) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchasers, as joint tenants, as the owners of the Property in fee simple, and is hereby directed to delete and expunge from title to the Property all of the Claims listed in Schedule C hereto.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Property shall stand in the place and stead of the Property, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Property with the same priority as they had with respect to the Property immediately prior to the sale, as if the Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of any of the Debtors;

the vesting of the Property in the Purchasers, as joint tenants, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Debtors and shall not be void or voidable by creditors of any of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other

applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

9. THIS COURT ORDERS that this that notwithstanding Rule 59.05, this Order is effective from the date that it is made, and is enforceable without any need for entry and filing. In accordance with Rule 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing when the Court returns to regular operations.

Schedule A – Property**Legal Description**

PT BLK A, PL A27, DES PTS 2, 17, 18, PL43R35816; SUBJECT TO AN EASEMENT IN GROSS OVERPAR 18, PL 43R35816 AS IN PR2477172; SUBJECT TO AN EASEMENT IN GROSS AS IN PR1987587; SUBJECT TO AN EASEMENT AS IN PR2640845; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017; TOGETHER WITH AN EASEMENT OVER PART BLOCK A, PLAN A27, DESIGNATED AS PARTS 1, 22, 23, 234, PLAN 43R35816 AS IN PR3130178; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 43R35816 IN FAVOUR OF LOT 1, PLAN 846, DESIGNATED AS PARTS 1 & 2, PLAN 43R37562 AS IN PR3130488; SUBJECT TO AN EASEMENT OVER PARTS 2 TO 21 & 26 & 27, PLAN 43R35816 IN FAVOUR OF PART OF BLOCK A. PLAN A27, DESIGNATED AS PARTS 25, 28, & 29, PLAN 43R35816 AS IN PR3155396; CITY OF MISSISSAUGA

PIN 13348-0587 (LT)

Schedule B – Form of Receiver’s Certificate

Court File No. CV-20-00643021-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION ACT*, R.S.O. 1990, C. 30

B E T W E E N:

(Court Seal)

C & K MORTGAGE SERVICES INC.

Applicant

- and -

CAMILLA COURT HOMES INC. and ELITE HOMES INC.

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Conway of the Ontario Superior Court of Justice (the “**Court**”) dated July 2, 2020, Rosen Goldberg Inc. was appointed as receiver, pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act*, and trustee, pursuant to section 68 of the *Construction Act* (in such capacities, collectively, the “**Receiver**”), without security, of all the assets, undertakings and properties of the Respondents Camilla Court Homes Inc. and Elite Homes Inc. (collectively, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors, including the lands and

premises municipally known as 180 Mateo Place, Mississauga, Ontario and 2371 Camilla Road, Mississauga, Ontario and all proceeds thereof.

B. Pursuant to an Order of the Court dated October 6, 2020, the Court approved the transaction (the “**Transaction**”) contemplated in the Offer to Purchase made by Parmjit Sandhu and Sukhdeep Sandhu (the “**Purchasers**”) on September 1, 2020 and accepted by the Receiver on September 2, 2020 (the “**Sale Agreement**”) and provided for the vesting in the Purchasers all of the Debtors’ right, title and interest in and to the real property municipally known as 2371 Camilla Road, Mississauga, Ontario, described more particularly in the Sale Agreement (the “**Property**”), which vesting is to be effective with respect to the Property upon the delivery by the Receiver to the Purchasers of a certificate confirming (i) the payment by the Purchasers of the Purchase Price for the Property; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchasers; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchasers have paid and the Receiver has received the Purchase Price for the Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchasers; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____, 2019.

**Rosen Goldberg Inc., in its capacity as
Receiver of the Property, and not in its
personal capacity**

Per: _____

Name: Brahm Rosen

Title: President

Schedule C – Claims to be deleted and expunged from title to Real Property

REGISTRATIONS TO BE DELETED

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR2940841	2016/06/30	CHARGE	\$920,000	CAMILLA COURT HOMES INC.	ZOOM CREDITMAY INC.
PR2940842	2016/06/30	NO ASSGN RENT GEN		CAMILLA COURT HOMES INC.	ZOOM CREDITMAY INC.
PR3052681	2016/12/22	POSTPONEMENT		ZOOM CREDITMAY INC.	FIRM CAPITAL MORTGAGE FUND INC.
PR3202137	2017/09/15	NOTICE		CAMILLA COURT HOMES INC. ELITE HOMES INC.	ZOOM CREDITMAY INC.
PR3409284	2018/11/16	TRANSFER OF CHARGE		ZOOM CREDITMAY INC.	BILWANI, SHAZAD
PR3409285	2018/11/16	NOTICE	\$1	CAMILLA COURT HOMES INC.	BILWANI, SHAZAD
PR3409292	2018/11/16	CHARGE	\$5,800,000	CAMILLA COURT HOMES INC. ELITE HOMES INC.	C & K MORTGAGE SERVICES INC.
PR3409293	2018/11/16	NO ASSGN RENT GEN		CAMILLA COURT HOMES INC. ELITE HOMES INC.	C & K MORTGAGE SERVICES INC.
PR3409324	2018/11/16	POSTPONEMENT		BILWANI, SHAZAD	C & K MORTGAGE SERVICES INC.
PR3559790	2019/10/25	CONSTRUCTION LIEN	\$18,732	CANADIAN CHOICE HOME SERVICES INC.	
PR3587113	2019/12/13	CONSTRUCTION LIEN	\$3,909	SUPER SAVE TOILET RENTALS INC.	
PR3644457	2020/04/28	CONSTRUCTION LIEN	\$70,372	VIA TRIM & DOORS INC.	
PR3664130	2020/06/15	CERTIFICATE		VIA TRIM & DOORS INC.	
PR3670945	2020/06/30	CONSTRUCTION LIEN	\$57,376	DAVCO DRYWALL SYSTEMS INC.	
PR3677688	2020/07/20	CONSTRUCTION LIEN	\$31,075	ULTRA ROOFING I INC.	
PR3692824	2020/08/26	CONSTRUCTION LIEN	\$54,257	2078644 ONTARIO INC.	

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR3707147	2020/09/25	CERTIFICATE		2078644 ONTARIO INC.	

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR1987587	2011/04/12	TRANSFER EASEMENT	\$2	DI BLASIO, ADINA DIBLASIO, ANTONIO VITALI, CHRISTOPHER PASQUALE XHAFERRI, ALBANA XHAFERRI, LUAN	ENERSOURCE HYDRO MISSISSAUGA INC.
PR1987593	2011/04/12	NOTICE	\$2	DI BLASIO, ADINA DIBLASIO, ANTONIO VITALI, CHRISTOPHER PASQUALE XHAFERRI, ALBANA XHAFERRI, LUAN	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR198566	2011/04/15	NOTICE	\$2	DI BLASIO, ADINA DIBLASIO, ANTONIO VITALI, CHRISTOPHER PASQUALE XHAFERRI, ALBANA XHAFERRI, LUAN	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR2057203	2011/08/17	TRANSFER EASEMENT	\$2	XHAFERRI, ALBANA XHAFERRI, LUAN VITALI, CHRISTOPHER PASQUALE DI BLASIO, ADINA DIBLASIO, ANTONIO	ROGERS COMMUNICATIONS INC.
PR2477172	2013/12/13	TRANSFER EASEMENT	\$2	VITALI, CHRISTOPHER	THE CORPORATION OF THE CITY OF

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
				PASQUALE	MISSISSAUGA
43R35816	2014/03/03	PLAN REFERENCE			
PR2603640	2014/09/23	BYLAW		THE CORPORATION OF THE CITY OF MISSISSAUGA	
43R36245	2014/11/19	PLAN REFERENCE			
PR2633484	2014/11/19	APL ABSOLUTE TITLE		VITALI, CHRISTOPHER PASQUALE	
PR2640845	2014/12/01	TRANSFER EASEMENT	\$2	VITALI, CHRISTOPHER PASQUALE	ENBRIDGE GAS DISTRIBUTION INC.
PR2697676	2015/04/14	NOTICE	\$2	VITALI, CHRISTOPHER PASQUALE XHAFERRI, LUAN XHAFERRI, ALBANA	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR2697679	2015/04/14	NOTICE	\$2	VITALI, CHRISTOPHER PASQUALE XHAFERRI, LUAN XHAFERRI, ALBANA	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR2714127	2015/05/20	NOTICE	\$2	THE REGIONAL MUNICIPALITY OF PEEL	
PR2732587	2015/06/22	TRANSFER	\$2	VITALI, CHRISTOPHER PASQUALE	VITALI, CHRISTOPHER PASQUALE
PR2798752	2015/10/06	TRANSFER	\$3,955,000	VITALI, CHRISTOPHER PASQUALE	CAMILLA COURT HOMES INC.
PR3130177	2017/05/19	APL ANNEX REST COV		XHAFERRI, ALBANA XHAFERRI, LUAN CAMILLA COURT	

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
				HOMES INC.	
PR3130488	2017/05/19	TRANSFER EASEMENT	\$2	XHAFERRI, ALBANA XHAFERRI, LUAN CAMILLA COURT HOMES INC.	GOLDEN TOWN COMPANY LIMITED
PCP1017	2017/06/29	CE CONDO PLN			
PR3155396	2017/06/29	CONDO DECLARATION		CAMILLA COURT HOMES INC.	
PR3164498	2017/07/14	CONDO BYLAW/98		PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017	
PR3164499	2017/07/14	CONDO BYLAW/98		PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017	
PR3164500	2017/07/14	NOTICE	\$2	XHAFERRI, LUAN XHAFERRI, ALBANA CAMILLA COURT HOMES INC	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR3671552	2020/07/02	APPL AMEND ORDER		ONTARIO SUPERIOR COURT OF JUSTICE, BRAMPTON	GOLDEN TOWN COMPANY LIMITED
PR3671684	2020/07/03	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	ROSEN GOLDBERG INC.

Schedule "B"

Court File No. CV-20-00643021-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR.	)	TUESDAY, THE 6 th
)	
JUSTICE KOEHNEN	)	DAY OF OCTOBER, 2020

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION ACT*, R.S.O. 1990, C. 30

BETWEEN:

(Court Seal)

C & K MORTGAGE SERVICES INC.

Applicant

- and -

CAMILLA COURT HOMES INC. and ELITE HOMES INC.

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by Rosen Goldberg Inc. in its capacity as the Court-appointed receiver and trustee (the "**Receiver**") of, among other things, the lands and premises municipally known as 180 Mateo Place, Mississauga, Ontario and legally described in Schedule A hereto (the "**Property**"), and all proceeds thereof, for an order approving the sale transaction (the "**Transaction**") contemplated in the Offer to Purchase made by Janak Bhawnani and Sharmila Bhawnani (the "**Purchasers**") on September 10, 2020 and accepted by the Receiver on

September 11, 2020 (the “**Sale Agreement**”) and appended to the Second Report of the Receiver dated October 2, 2020, and vesting in the Purchasers all of the right, title and interest of the Respondents Camilla Court Homes Inc. and Elite Homes Inc. (collectively, the “**Debtors**”) in and to the Property, was heard this day by judicial video conference due to the COVID-19 pandemic.

ON READING the Second Report of the Receiver dated October 2, 2020 and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although served as appears from the affidavit of Janet Nairne sworn October 2, 2020, filed:

1. THIS COURT ORDERS that that the time for service of the Receiver’s Notice of Motion and Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Property to the Purchasers, as joint tenants.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver’s certificate to the Purchasers substantially in the form attached as Schedule B hereto (the “**Receiver’s Certificate**”), all of right, title and interest of the Debtors in and to the Property, shall vest absolutely in the Purchasers, as joint tenants, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Conway dated July 2, 2020; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the “**Encumbrances**”, which term

shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Property are hereby expunged and discharged as against the Property.

4. THIS COURT ORDERS that upon the registration in Land Registry Office for the Land Titles Division of Mississauga (No. 43) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchasers, as joint tenants, as the owners of the Property in fee simple, and is hereby directed to delete and expunge from title to the Property all of the Claims listed in Schedule C hereto.

5. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Property shall stand in the place and stead of the Property, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Property with the same priority as they had with respect to the Property immediately prior to the sale, as if the Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of any of the Debtors;

the vesting of the Property in the Purchasers, as joint tenants, pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Debtors and shall not be void or voidable by creditors of any of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue,

or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

9. THIS COURT ORDERS that that notwithstanding Rule 59.05, this Order is effective from the date that it is made, and is enforceable without any need for entry and filing. In accordance with Rule 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing when the Court returns to regular operations.

Schedule A – Property**Legal Description**

PT BLK A, PL A27, DES PTS 4, 15, 20 & 21, PL 43R35816; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 20 & 21, PL 43R35816 AS IN PR2477172; SUBJECT TO AN EASEMENT IN GROSS AS IN PR1987587; SUBJECT TO AN EASEMENT AS IN PR2057203; SUBJECT TO AN EASEMENT AS IN PR2640845; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017; TOGETHER WITH AN EASEMENT OVER PART BLOCK A, PLAN A27, DESIGNATED AS PARTS 1, 22, 23 & 24, PLAN 43R35816 AS IN PR3130176; SUBJECT TO AN EASEMENT OVER PARTS 15 & 21, PLAN 43R35816 IN FAVOUR OF LOT 1, PLAN 846, DESIGNATED AS PARTS 1 & 2, PLAN 43R37562 AS IN PR3130488; SUBJECT TO AN EASEMENT OVER PARTS 2 TO 21 & 26 & 27, PLAN 43R35816 IN FAVOUR OF PART OF BLOCK A. PLAN A27, DESIGNATED AS PARTS 25, 28 & 29, PLAN 43R35816 AS IN PR3155396; SUBJECT TO AN EASEMENT OVER PARTS 15 & 21, 43R35816 IN FAVOUR OF PARTS 1 & 2, 43R37562 AS IN PR3671552; CITY OF MISSISSAUGA

PIN 13348-0589 (LT)

Schedule B – Form of Receiver’s Certificate

Court File No. CV-20-00643021-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION ACT*, R.S.O. 1990, C. 30

B E T W E E N:

(Court Seal)

C & K MORTGAGE SERVICES INC.

Applicant

- and -

CAMILLA COURT HOMES INC. and ELITE HOMES INC.

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Conway of the Ontario Superior Court of Justice (the “**Court**”) dated July 2, 2020, Rosen Goldberg Inc. was appointed as receiver, pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* and section 101 of the *Courts of Justice Act*, and trustee, pursuant to section 68 of the *Construction Act* (in such capacities, collectively, the “**Receiver**”), without security, of all the assets, undertakings and properties of the Respondents Camilla Court Homes Inc. and Elite Homes Inc. (collectively, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors, including the lands and

premises municipally known as 180 Mateo Place, Mississauga, Ontario and 2371 Camilla Road, Mississauga, Ontario and all proceeds thereof.

B. Pursuant to an Order of the Court dated October 6, 2020, the Court approved the transaction (the “**Transaction**”) contemplated in the Offer to Purchase made by Janak Bhawnani and Sharmila Bhawnani (the “**Purchasers**”) on September 10, 2020 and accepted by the Receiver on September 11, 2020 (the “**Sale Agreement**”) and provided for the vesting in the Purchasers all of the Debtors’ right, title and interest in and to the real property municipally known as 180 Mateo Place, Mississauga, Ontario, described more particularly in the Sale Agreement (the “**Property**”), which vesting is to be effective with respect to the Property upon the delivery by the Receiver to the Purchasers of a certificate confirming (i) the payment by the Purchasers of the Purchase Price for the Property; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchasers; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchasers have paid and the Receiver has received the Purchase Price for the Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchasers; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____, 2019.

**Rosen Goldberg Inc., in its capacity as
Receiver of the Property, and not in its
personal capacity**

Per: _____

Name: Brahm Rosen

Title: President

Schedule C – Claims to be deleted and expunged from title to Real Property

REGISTRATIONS TO BE DELETED

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR2940841	2016/06/30	CHARGE	\$920,000	CAMILLA COURT HOMES INC.	ZOOM CREDITMAY INC.
PR2940842	2016/06/30	NO ASSGN RENT GEN		CAMILLA COURT HOMES INC.	ZOOM CREDITMAY INC.
PR3052681	2016/12/22	POSTPONEMENT		ZOOM CREDITMAY INC.	FIRM CAPITAL MORTGAGE FUND INC.
PR3202137	2017/09/15	NOTICE	\$2	CAMILLA COURT HOMES INC. ELITE HOMES INC.	ZOOM CREDITMAY INC.
PR3409284	2018/11/16	TRANSFER OF CHARGE		ZOOM CREDITMAY INC.	BILWANI, SHAZAD
PR3409285	2018/11/16	NOTICE	\$1	CAMILLA COURT HOMES INC.	BILWANI, SHAZAD
PR3409292	2018/11/16	CHARGE	\$5,800,000	CAMILLA COURT HOMES INC. ELITE HOMES INC.	C & K MORTGAGE SERVICES INC.
PR3409293	2018/11/16	NO ASSGN RENT GEN		CAMILLA COURT HOMES INC. ELITE HOMES INC.	C & K MORTGAGE SERVICES INC.
PR3409324	2018/11/16	POSTPONEMENT		BILWANI, SHAZAD	C & K MORTGAGE SERVICES INC.
PR3644457	2020/04/28	CONSTRUCTION LIEN	\$70,372	VIA TRIM & DOORS INC.	
PR3664130	2020/06/15	CERTIFICATE		VIA TRIM & DOORS INC.	
PR3670944	2020/06/30	CONSTRUCTION LIEN	\$57,376	DAVCO DRYWALL SYSTEMS INC.	
PR3677687	2020/07/20	CONSTRUCTION LIEN	\$29,832	ULTRA ROOFING I INC.	
PR3692824	2020/08/26	CONSTRUCTION LIEN	\$54,257	2078644 ONTARIO INC.	
PR3707147	2020/09/25	CERTIFICATE		2078644 ONTARIO INC.	

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR1987587	2011/04/12	TRANSFER EASEMENT	\$2	DI BLASIO, ADINA DIBLASIO, ANTONIO VITALI, CHRISTOPHER PASQUALE XHAFERRI, ALBANA XHAFERRI, LUAN	ENERSOURCE HYDRO MISSISSAUGA INC.
PR1987593	2011/04/12	NOTICE	\$2	DI BLASIO, ADINA DIBLASIO, ANTONIO VITALI, CHRISTOPHER PASQUALE XHAFERRI, ALBANA XHAFERRI, LUAN	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR198566	2011/04/15	NOTICE	\$2	DI BLASIO, ADINA DIBLASIO, ANTONIO VITALI, CHRISTOPHER PASQUALE XHAFERRI, ALBANA XHAFERRI, LUAN	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR2057203	2011/08/17	TRANSFER EASEMENT	\$2	XHAFERRI, ALBANA XHAFERRI, LUAN VITALI, CHRISTOPHER PASQUALE DI BLASIO, ADINA DIBLASIO, ANTONIO	ROGERS COMMUNICATIONS INC.
PR2477172	2013/12/13	TRANSFER EASEMENT	\$2	VITALI, CHRISTOPHER	THE CORPORATION OF THE CITY OF

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
				PASQUALE	MISSISSAUGA
43R35816	2014/03/03	PLAN REFERENCE			
PR2603640	2014/09/23	BYLAW		THE CORPORATION OF THE CITY OF MISSISSAUGA	
43R36245	2014/11/19	PLAN REFERENCE			
PR2633484	2014/11/19	APL ABSOLUTE TITLE		VITALI, CHRISTOPHER PASQUALE	
PR2640845	2014/12/01	TRANSFER EASEMENT	\$2	VITALI, CHRISTOPHER PASQUALE	ENBRIDGE GAS DISTRIBUTION INC.
PR2697676	2015/04/14	NOTICE	\$2	VITALI, CHRISTOPHER PASQUALE XHAFERRI, LUAN XHAFERRI, ALBANA	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR2697679	2015/04/14	NOTICE	\$2	VITALI, CHRISTOPHER PASQUALE XHAFERRI, LUAN XHAFERRI, ALBANA	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR2714127	2015/05/20	NOTICE	\$2	THE REGIONAL MUNICIPALITY OF PEEL	
PR2798752	2015/10/06	TRANSFER	\$3,955,000	VITALI, CHRISTOPHER PASQUALE	CAMILLA COURT HOMES INC.
PR3130177	2017/05/19	APL ANNEX REST COV		XHAFERRI, ALBANA XHAFERRI, LUAN CAMILLA COURT HOMES INC.	
PR3130488	2017/05/19	TRANSFER EASEMENT	\$2	XHAFERRI, ALBANA XHAFERRI, LUAN	GOLDEN TOWN COMPANY LIMITED

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
				CAMILLA COURT HOMES INC.	
PCP1017	2017/06/29	CE CONDO PLN			
PR3155396	2017/06/29	CONDO DECLARATION		CAMILLA COURT HOMES INC.	
PR3164498	2017/07/14	CONDO BYLAW/98		PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017	
PR3164499	2017/07/14	CONDO BYLAW/98		PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017	
PR3164500	2017/07/14	NOTICE	\$2	XHAFERRI, LUAN XHAFERRI, ALBANA CAMILLA COURT HOMES INC	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR3671552	2020/07/02	APL AMEND ORDER		ONTARIO SUPERIOR COURT OF JUSTICE, BRAMPTON	GOLDEN TOWN COMPANY LIMITED
PR3671684	2020/07/03	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	ROSEN GOLDBERG INC.

C & K MORTGAGE SERVICES INC.
Applicant

-and- **CAMILLA COURT HOMES INC. et al**
Respondents

Court File No. CV-20-00643021-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

APPROVAL AND VESTING ORDER

DICKINSON WRIGHT LLP
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Fax: 844-670-6009

Lawyers for the Court-appointed Receiver

Schedule "C"

Court File No. CV-20-00643021-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR.	)	TUESDAY, THE 6 th
)	
JUSTICE KOEHNEN	)	DAY OF OCTOBER, 2020

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION ACT*, R.S.O. 1990, C. 30

BETWEEN:

(Court Seal)

C & K MORTGAGE SERVICES INC.

Applicant

- and -

CAMILLA COURT HOMES INC. and ELITE HOMES INC.

Respondents

INTERIM ADMINISTRATION AND DISTRIBUTION ORDER

THIS MOTION, made by Rosen Goldberg Inc. in its capacity as the Court-appointed receiver and trustee (in such capacities, the “**Receiver**”), without security, of all the assets, undertakings and properties of the Respondents Camilla Court Homes Inc. and Elite Homes Inc. (collectively, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors, including the lands and premises municipally known as 180 Mateo Place, Mississauga,

Ontario and 2371 Camilla Road, Mississauga, Ontario, and all proceeds thereof, was heard this day by judicial video conference due to the COVID-19 pandemic.

ON READING the First Report of the Receiver dated August 17, 2020 (the “**First Report**”), the Second Report of the Receiver dated October 2, 2020 (the “**Second Report**”) and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although served as appears from the affidavit of Janet Nairne sworn October 2, 2020, filed:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and Motion Record, including the Second Report, is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

RECEIVER’S ACTIVITIES

2. THIS COURT ORDERS that the activities, proposed activities and recommendations of the Receiver described in the First Report and the Second Report are hereby approved.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

3. THIS COURT ORDERS that Receiver’s interim statement of receipts and disbursements for the period July 2, 2020 to September 30, 2020 contained in the Second Report is hereby approved.

SEALING

4. THIS COURT ORDERS AND DECLARES that the Receiver is authorized and directed, *nunc pro tunc*, to redact from the First Report served on the parties named in the service list, Confidential Appendices 1 and 2.

5. THIS COURT ORDERS AND DECLARES that the unredacted version of the First Report, including the Confidential Appendices 1 and 2 shall be sealed, kept confidential, and shall not form part of the public record, but shall rather be placed separate and apart from all other contents of the Court File in a separately sealed envelope on which is affixed is a notice

setting out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be unsealed after the closing of the Mateo Transaction (as defined in the Second Report), or further Order of this Court.

6. THIS COURT ORDERS AND DECLARES that the Receiver is authorized and directed, *nunc pro tunc*, to redact from the Second Report served on the parties named in the service list, Confidential Appendices 1 and 2.

7. THIS COURT ORDERS AND DECLARES that the unredacted version of the Second Report, including the Confidential Appendices 1 and 2 shall be sealed, kept confidential, and shall not form part of the public record, but shall rather be placed separate and apart from all other contents of the Court File in a separately sealed envelope on which is affixed is a notice setting out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be unsealed after the closing of the Mateo Transaction (as defined in the Second Report), or further Order of this Court.

DISTRIBUTION OF PROCEEDS

8. THIS COURT ORDERS that upon completion of the Camilla Transaction (as defined in the Second Report), the Receiver shall distribute funds in its hands from the net proceeds of sale to C & K Mortgages Services Inc. in reduction of the indebtedness secured under the First Mortgage (as defined in the Second Report).

9. THIS COURT ORDERS that upon completion of the Mateo Transaction (as defined in the Second Report), the Receiver shall distribute funds in its hands from the net proceeds of sale to C & K Mortgages Services Inc. in reduction of the indebtedness secured under the First Mortgage (as defined in the Second Report).

HOLDBACK

10. THIS COURT ORDERS AND DIRECTS the law firm, Garfinkle Biderman LLP, to pay to the Receiver all funds it is holding in trust on account of holdback under the *Construction Act* from advances made under the First Mortgage (as defined in the Second Report).

GENERAL

11. THIS COURT ORDERS that that notwithstanding Rule 59.05, this Order is effective from the date that it is made, and is enforceable without any need for entry and filing. In accordance with Rule 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing when the Court returns to regular operations.

C & K MORTGAGE SERVICES INC.
Applicant

-and- **CAMILLA COURT HOMES INC. et al**
Respondents

Court File No. CV-20-00643021-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

INTERIM ADMINISTRATION AND
DISTRIBUTION ORDER

DICKINSON WRIGHT LLP

Barristers & Solicitors
199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario, M5L 1G4

DAVID P. PREGER (36870L)

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Lawyers for the Court-appointed Receiver

C & K MORTGAGE SERVICES INC.
Applicant

-and- **CAMILLA COURT HOMES INC. et al.**
Respondents

Court File No. CV-20-00643021-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION

DICKINSON WRIGHT LLP

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Lawyers for the Court-appointed Receiver, Rosen Goldberg Inc.

TAB 2



Court File No. CV-20-00643021-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*,
R.S.O. 1990 C. C.43, AS AMENDED AND SECTION 68 OF THE *CONSTRUCTION ACT*,
R.S.O. 1990, C. C30**

BETWEEN:

C & K MORTGAGES SERVICES INC.

Applicant

- and -

CAMILLA COURT HOMES INC. and ELITE HOMES INC.

Respondents

SECOND REPORT OF ROSEN GOLDBERG INC.

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I. INTRODUCTION

1. By Order of the Honourable Justice Conway dated July 2, 2020 (the “**Appointment Order**”), Rosen Goldberg Inc. was appointed receiver, pursuant to section 243(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”) and section 101 of the *Courts of Justice Act*, and trustee, pursuant to section 68 of the *Construction Act* (in such capacities, collectively, the “**Receiver**”), of all of the assets, undertakings and properties of the Respondents Camilla Court Homes Inc. (“**Camilla**”) and Elite Homes Inc. (“**Elite**” and together with Camilla, collectively, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors, including the lands and premises municipally known as 180 Mateo Place Mississauga, Ontario (the “**Mateo Property**”) and 2371 Camilla Road, Mississauga, Ontario (the “**Camilla Property**” and together with Mateo Property, collectively, the “**Properties**” and , individually, a “**Property**”) and all proceeds thereof. A copy of the Appointment Order is attached as **Appendix A**.

II. TERMS OF REFERENCE

2. In preparing this Second Report, the Receiver has relied upon information from third party sources (collectively, the “**Information**”). Certain information contained in this Second Report may refer to, or be based on, the Information. As the Information has been provided by other parties, or obtained from documents filed with the Court in this proceeding, the Receiver has relied on this Information, and to the extent possible reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.

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III. PURPOSE OF REPORT

3. This Second Report is being filed by the Receiver to:
 - (a) report on and obtain approval of the activities of the Receiver described in the Receiver's First Report dated August 17, 2020 (the "**First Report**"), and the activities described in this Second Report including, without limitation, the steps taken by the Receiver to market and sell the Properties;
 - (b) seek approval of the transaction (the "**Camilla Transaction**") contemplated in the Offer to Purchase made by Parmjit Sandhu and Sukhdeep Sandhu (the "**Camilla Purchasers**") on September 1, 2020 and accepted by the Receiver on September 2, 2020 (the "**Camilla APS**"), for the sale of the Camilla Property and an Order vesting the Debtors' right, title and interest in the Camilla Property in and to the Camilla Purchasers upon the closing of the Camilla Transaction;
 - (c) seek approval of the transaction (the "**Mateo Transaction**") contemplated in the Offer to Purchase made by Janak Bhawnani and Sharmila Bhawnani (the "**Mateo Purchasers**") on September 10, 2020 and accepted by the Receiver on September 11, 2020 (the "**Mateo APS**"), for the sale of the Mateo Property and an Order vesting the Debtors' right, title and interest in the Mateo Property in and to the Mateo Purchasers upon the closing of the Mateo Transaction;
 - (d) obtain authorization to distribute the net sale proceeds from the Camilla Transaction to the Applicant C & K Mortgages Services Inc. (the "**First Mortgagee**") to partially satisfy the first mortgage registered (the "**First Mortgage**") against the Properties;

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- (e) obtain authorization and direction, *nunc pro tunc*, for the Receiver to redact from the First Report served on the parties named in the service list, (i) the letter of opinion of Right at Home Realty, a copy of which is attached as **Confidential Appendix 1** to the First Report; and (ii) the Receiver's projected realization and distribution attached as **Confidential Appendix 2** to the First Report;
- (f) obtain a sealing of the unredacted version of the First Report, including the Confidential Appendices 1 and 2 to the First Report filed with this Court from the public record, until the closing of the Mateo Transaction or further Order of this Court.
- (g) obtain authorization and direction, *nunc pro tunc*, for the Receiver to redact from the Second Report served on the parties named in the service list, (i) the summary of offers received in respect of the Mateo Property, which is attached as **Confidential Appendix 1**; and (ii) the unredacted Mateo APS, a copy of which is attached as **Confidential Appendix 2**;
- (h) obtain a sealing of the unredacted version of the Second Report, including the Confidential Appendices 1 and 2 filed with this Court from the public record, until the closing of the Mateo Transaction or further Order of this Court; and
- (i) obtain direction to the law firm Garfinkle Biderman LLP to pay to the Receiver all funds it is holding in trust on account of holdback under the *Construction Act* from advances made under the First Mortgage.

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IV. BACKGROUND

4. Camilla is the registered owner of the Properties. Elite was a Tarion-registered builder. The Properties are located within a residential common area condominium. At the time of the Receiver's appointment, the Debtors were building single family homes on each of the Properties. The home on the Mateo Property was very close to complete. The home on the Camilla Property was approximately 35% complete.
5. The First Mortgage was registered on November 11, 2018 and originally blanketed six separate parcels comprising the Debtors' residential development, including the Properties. The Receiver understands that the proceeds of the First Mortgage were used to repay a prior first-ranking mortgage, a prior second-ranking mortgage and to fund construction.
6. Prior to the Receiver's appointment, the First Mortgage was partially discharged against four of the six parcels as and when homes were completed and sold and proceeds were received by the First Mortgagee, such that the only hard security that remained for the First Mortgage at the time of the Receiver's appointment were the Camilla Property and the Mateo Property.
7. The First Mortgage matured on May 15, 2020 and was not repaid.
8. In mid-June of 2020, the Debtors' principal informed the First Mortgagee that Elite had entered into agreements of purchase and sale to sell Properties, and required a discharge of the First Mortgage in order to complete the sales notwithstanding that the proceeds of sale would be insufficient to satisfy the First Mortgage. The Receiver understands that the Debtors' principal informed the First Mortgagee that the deficiency arose because he had used approximately

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\$400,000 of a deposit paid directly to Elite by Jeremy Tan (“**Mr. Tan**”), the purchaser of the Mateo Property, to fund construction and did not have funds available to replace the deposit.¹

9. The maturity of the First Mortgage, the insufficiency of the proceeds payable under the agreements of purchase and sale to satisfy the First Mortgage, as well as the registration of a number of construction liens against the Properties, prompted the First Mortgagee to apply for the Receiver’s appointment.
10. The Receiver’s application was brought on notice to Mr. Tan. Justice Conway, in her endorsement, held that it was just and convenient to appoint the Receiver to take possession and control of the Properties, finance the remaining construction as necessary and then market and sell the Properties, taking into account the interests of the various stakeholders, notwithstanding that she was sympathetic to the plight of the purchasers. A copy of Her Honour’s endorsement is attached as **Appendix B**.
11. In early July of 2020, the Receiver notified Mr. Tan that it did not intend to complete the sale of the Mateo Property to him pursuant to his agreement of purchase and sale with Elite (the “**Tan APS**”).
12. The Receiver’s disclaimer of the Tan APS prompted Mr. Tan to move to compel the Receiver to complete the Tan APS. Mr. Tan’s motion was heard by the Honourable Justice Dietrich on August 21, 2020. On August 27, 2020, Her Honour dismissed the motion on the basis that Justice Conway was well aware of Mr. Tan’s concern and the real possibility that the Tan APS would be disclaimed, but Mr. Tan did not take steps to appeal the Appointment Order. Justice Dietrich also held that the equities did not justify subordinating the legal priority of the First Mortgage and rejected Mr. Tan’s argument that the Receiver breached its fiduciary duty to take into

¹ The Receiver has not undertaken an analysis to determine whether the proceeds of the deposit were, in fact, used to fund construction.

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account the interests of the stakeholders in the Debtor's estates in deciding to disclaim the Tan APS. A copy of Her Honour's endorsement is attached as **Appendix C**. A copy of Her Honour's Order (the "**August 27 Disclaimer Order**") is attached as **Appendix D**.²

13. On September 14, 2020, Mr. Tan's counsel notified the Receiver that he was finalizing instructions to appeal the August 27 Disclaimer Order. On September 17, 2020, Mr. Tan's counsel served a Notice of Motion in the Court of Appeal to extend the 10 day period prescribed for filing a notice of appeal under the *BIA* and for directions on whether leave is required to appeal the August 27 Disclaimer Order. Mr. Tan's motion is currently returnable on October 8, 2020.

² The Receiver's First Report was filed in response to Mr. Tan's motion before Justice Dietrich, rather than in connection with a motion for approval of the Receiver's activities. For that reason, the Receiver now seeks approval of the activities described in both the First Report and the Second Report.

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V. FINANCIAL ENCUMBRANCES AGAINST PROPERTIES

14. The Camilla Property is currently subject to the following financial encumbrances in the following order:

	Nature of Instrument	Holder of Instrument	Face Amount
1.	First Mortgage	First Mortgagee	\$5,800,000.00
2.	Second Mortgage	Shazad Bilwani	\$ 920,000.00
3.	Construction Lien	Canadian Choice Home Services Inc.	\$ 18,732.00
4.	Construction Lien	Super Save Toilet Rentals Inc.	\$ 3,909.00
5.	Construction Lien	Via Trim & Doors Inc.	\$ 70,372.00
6.	Construction lien	Davco Drywall Systems Inc..	\$ 57,376.00
7.	Construction Lien	Ultr Roofing 1 Inc.	\$ 31,075.00
8.	Construction Lien	2078644 Ontario Inc.	\$ 54,257.00

15. The Mateo Property is currently subject to the following financial encumbrances in the following order:

	Nature of Instrument	Holder of Instrument	Face Amount
1.	First Mortgage	First Mortgagee	\$5,800,000.00
2.	Second Mortgage	Shazad Bilwani	\$ 920,000.00
3.	Construction Lien	Via Trim & Doors Inc.	\$ 70,372.00
4.	Construction lien	Davco Drywall Systems Inc..	\$ 57,376.00
5.	Construction Lien	Ultr Roofing 1 Inc.	\$ 29,832.00
6.	Construction Lien	2078644 Ontario Inc.	\$ 54,257.00

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16. According to the First Mortgagee, as at September 27, 2020, the amount outstanding under the First Mortgage was \$2,2649,693.40. As reported in the First Report, the Receiver obtained an opinion from its independent counsel, Blaney McMurtry LLP, regarding the First Mortgage. Subject to the customary qualifications, Blaney McMurtry LLP opines that the First Mortgage is valid and enforceable.
17. As of this date, the Receiver has had no communication with the second mortgagee and has not considered whether the second mortgage is valid or enforceable. The Receiver has also not yet considered the timeliness and validity of the construction liens registered against the Properties.

VI. ACTIVITIES OF THE RECEIVER

18. The Receiver has undertaken the following activities since its appointment, in addition to those described in its First Report:
 - Numerous attendances at and inspections of the Properties;
 - Dealt with insurance;
 - Communicated with creditors;
 - Communicated with pre-receivership purchasers, including Mr. Tan and his counsel;
 - Dealt with repairs to and completion of the home on the Mateo Property;
 - Implemented a marketing and sale process in respect of the Mateo Property;
 - Listed the Mateo Property for sale;
 - Ongoing communications with the Receiver's listing agent;
 - Ongoing communications with counsel regarding Mr. Tan's motions;
 - Attended the hearing before Justice Dietrich;
 - Negotiated the sale of the Camilla Property;
 - Reviewed offers to purchase the Mateo Property;

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- Negotiated the sale of the Mateo Property;
- Ongoing consultations and communications with the First Mortgagee;
- Ongoing communications with the Receiver's legal counsel;
- Dealt with condominium issues; and
- Prepared statutory reports.

VII. MARKETING AND SALE PROCESS

Camilla Property

19. Prior to the Receiver's appointment, the Camilla Property was subject to an agreement of purchase and sale between Elite and the Camilla Purchasers for a purchase price of \$1,680,000.00, including HST. Following its appointment, the Receiver notified the Camilla Purchasers that it intended to disclaim their pre-receivership agreement and would be considering its options, in terms of completing construction of the home, or selling the Camilla Property on an "as is, where is" basis. The Camilla Purchasers advised the Receiver that they were interested in purchasing the Property and completing construction on their own, as they wished to live in the area and had placed their children in local schools.
20. The Receiver performed an analysis to assess the projected net realizations that would be achieved by completing the construction of the house as compared to selling the Camilla Property on an "as is, where is" basis. In preparing its analysis, the Receiver considered, in consultation with its listing broker, the likely selling price of a completed house, the cost to complete, the cost of borrowings to complete and the associated incremental transactional costs. The Receiver also considered the selling price of comparable lots in the area.

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21. Based on its analysis, the Receiver concluded that there could be a marginal benefit to completing the construction of the home, but the benefit was insufficient to mitigate the risks of cost overruns, construction delays and a decline in the real estate market. The Receiver's analysis is attached as **Appendix E**. The Receiver discussed its analysis and recommendation with the First Mortgagee, who would likely have had to fund the cost to complete. The First Mortgagee concurred that the Camilla Property should be sold "as is, where is."
22. After lengthy negotiations with the Camilla Purchasers, the Receiver entered into the Camilla APS on September 2, 2020, a copy of which is attached as **Appendix F**.
23. The salient terms of the Camilla Transaction are as follows:
 - The purchase price is \$1,125,000.00, inclusive of HST;
 - The Receiver is holding a deposit of \$75,000.00;
 - It is unconditional by virtue of the Camilla Purchaser's waiver of conditions; and
 - The parties have agreed to close on October 7, 2020;
24. The Receiver recommends that this Honourable Court approve the Camilla APS for the following reasons:
 - Based on the Receiver's due diligence, the purchase price is fair;
 - The quick closing will avoid further interest accrual under the First Mortgage;
 - The First Mortgagee, who will be suffering a shortfall, supports the sale; and
 - The Receiver does not believe that further exposure will achieve superior realization.

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Mateo Property

25. The Receiver undertook various work to complete and repair the home on the Mateo Property to enhance its saleability. When the work was substantially completed, the Receiver entered into a listing agreement on August 18, 2020 with Art Cassidy of Right At Home Realty, an experienced broker of residential properties in Mississauga. The listing price was \$1,898,000. The Receiver decided that no offers would be considered until September 10, 2020. The date was stipulated to protect Mr. Tan's ten day right to file an appeal of the August 27 Disclaimer Order under the *BIA*, which expired on September 8, 2020.
26. The Receiver's listing broker undertook the following marketing activities in relation to the Mateo Property:
 - Staged the house with furniture and accessories;
 - Listed the Property on MLS;
 - Prepared floor plans and measurements of each room;
 - Prepared a brochure;
 - Prepared a virtual tour;
 - Placed signage at the Property; and
 - Marketed on various sites including Realtor.ca and Zillow.com.
27. As a result of these activities, there were 34 showings and ultimately four offers were received. A summary of the offers is attached as **Confidential Appendix 1**.

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28. After reviewing the offers, the Receiver entered into the Mateo APS on September 11, 2020, a redacted copy of which is attached as **Appendix G**. An unredacted copy is attached as **Confidential Appendix 2**.
29. The Mateo APS is unconditional. Under its terms, the Mateo Property is being sold on an “as is, where is” basis. The Receiver is holding a deposit of \$200,000. The closing date is November 5, 2020, which will allow the Receiver to complete the remaining work required and obtain an occupancy certificate.
30. The Receiver recommends that the Mateo APS be approved for the following reasons:
- The Property was widely exposed in a common manner for properties of this nature;
 - The purchase price payable is the highest price offered;
 - The First Mortgagee, who will be suffering a shortfall, supports the sale;
 - The Receiver does not believe that further exposure will achieve superior realization;
and
 - The closing date is sufficiently far out that it will not interfere with Mr. Tan’s motion to the Court of Appeal on October 8, 2020.

VIII. PROPOSED INTERIM DISTRIBUTION TO FIRST MORTGAGEE

31. The Receiver proposes to distribute the net sale proceeds from the Camilla Transaction and the Mateo Transaction to partially satisfy of the First Mortgage.
32. The Receiver was recently advised that Garfinkle Biderman LLP, who acted for the First Mortgagee in registering the First Mortgage and advancing funds thereunder, is holding,

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\$223,536 in trust on account of holdback pursuant to the *Construction Act*. Based on the Receiver's review, the quantum of funds held back appears to exceed the aggregate lien claims. Prior to making any further distributions, the Receiver will prepare an analysis of the liens claims and move for directions.

33. In the meantime, the funds held by Garfinkle Biderman LLP should be controlled by the Receiver and it, therefore seeks, an Order directing Garfinkle Biderman LLP to pay them to the Receiver. The First Mortgagee has confirmed that it does not oppose such Order.

IX. COMMON AREA CONDOMINIUM

34. The development on which the Properties are situated is located within a registered common area condominium. The Receiver understands the condominium corporation was managed by the Debtors and that there are significant arrears of fees owing to the condominium corporation. The Receiver has asked the Debtors' principal to provide pertinent information relating to the condominium corporation, including banking records, most of which has been received. The Receiver is working towards establishing a proper accounting and operation of the condominium corporation.

X. STATEMENT OF RECEIPTS AND DISBURSEMENTS

35. The Receiver's statement of receipts and disbursements for the period of July 2, 2020 to September 30, 2020 is attached as **Appendix H**.

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XI. CONCLUSION

36. For reasons set out above, the Receiver recommends that this Honourable Court grant the relief requested in paragraph 3 hereof.

All of which is respectfully submitted,

Dated at Toronto, Ontario, this 2nd day of October, 2020.

**ROSEN GOLDBERG INC., SOLELY IN ITS CAPACITY AS
COURT-APPOINTED RECEIVER OF
CAMILLA COURT HOMES INC. AND ELITE HOMES INC.**

Rosen Goldberg Inc.

TAB A

Court File No. CV-20-00643021-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED AND SECTION 68 OF THE *CONSTRUCTION ACT*, R.S.O. 1990, C. C30

THE HONOURABLE MADAM	)	THURSDAY, THE 2 nd
)	
JUSTICE CONWAY	)	DAY OF JULY, 2020

B E T W E E N:

C & K MORTGAGE SERVICES INC.

Applicant

- and -

CAMILLA COURT HOMES INC. and ELITE HOMES INC.

Respondents

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order appointing Rosen Goldberg Inc. as Receiver of the assets, property and undertakings of the Respondents acquired for, or used in relation to a business carried on by the Debtors, pursuant to section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c.B-3 (the “BIA”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43 (the “CJA”), and as Trustee pursuant to section 68 of the *Construction Act*,

R.S.O. 1990, C. C30 (the "CA"), was heard this day by videoconference due to the COVID-19 crisis.

ON READING the Affidavit of Gary Gruneir sworn June 12, 2020 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, counsel for the Debtors, counsel for Via Trim & Doors Inc., counsel for Jeremy Tan, no one else on the service list appearing, although served as appears from the Affidavit of Service of Jennifer Samuels sworn June 15, 2020 and on reading the consent of Rosen Goldberg Inc. to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and Application Record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Rosen Goldberg Inc. is hereby appointed as receiver, and as trustee pursuant to section 68 of the CA (collectively, the "Receiver"), without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including the lands and premises legally described in Schedule "A" hereto, and all proceeds thereof (the "Property").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

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- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or disclaim or cease to perform any contracts of the Debtors, including, without limitation, agreements of purchase and sale entered into by the Debtors with respect to the Property ;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;

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- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in each such case, notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;

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- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that

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nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to

the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal

information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may

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consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further

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orders that a Case Website shall be established in accordance with the Protocol with the following URL: www.rosengoldberg.com/admin/companyview.php?company_id=56.

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

27. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

29. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

30. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within

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proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

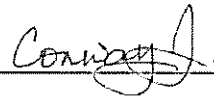
31. THIS COURT ORDERS that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estates with such priority and at such time as this Court may determine.

32. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

33. THIS COURT ORDERS that this Order is effective from today's date and is not required to be entered.

PRIORITY OVER EXISTING AGREEMENTS OF PURCHASE AND SALE

34. THIS COURT DECLARES that the Applicant's security over the Property ranks in priority to the interests, if any, of the purchasers under the agreement of purchase and sale between Elite Homes Inc. and Yong Yeow Tan, aka Jeremy Tan dated February 11, 2020, and the agreement of purchase and sale between Elite Homes Inc. and Sukhdeep Sandhu dated December 13, 2019.



SCHEDULE "A"

LANDS AND PREMISES

Legal Description - Camilla Property

PT BLK A, PL A27, DES PTS 2, 17 & 18, PL 43R35816; SUBJECT TO AN EASEMENT IN GROSS OVER PART 18, PL 43R35816 AS IN PR2477172; SUBJECT TO AN EASEMENT IN GROSS AS IN PR1987587; SUBJECT TO AN EASEMENT AS IN PR2057203; SUBJECT TO AN EASEMENT AS IN PR2640845; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017; TOGETHER WITH AN EASEMENT OVER PART BLOCK A, PLAN A27, DESIGNATED AS PARTS 1, 22, 23 & 24, PLAN 43R35816 AS IN PR3130178; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 43R35816 IN FAVOUR OF LOT 1, PLAN 846, DESIGNATED AS PARTS 1 & 2, PLAN 43R37562 AS IN PR3130488; SUBJECT TO AN EASEMENT OVER PARTS 2 TO 21 & 26 & 27, PLAN 43R35816 IN FAVOUR OF PART OF BLOCK A. PLAN A27, DESIGNATED AS PARTS 25, 28 & 29, PLAN 43R35816 AS IN PR3155396; CITY OF MISSISSAUGA

Legal Description - Mateo Property

PT BLK A, PL A27, DES PTS 4, 15, 20 & 21, PL 43R35816; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 20 & 21, PL 43R35816 AS IN PR2477172; SUBJECT TO AN EASEMENT IN GROSS AS IN PR1987587; SUBJECT TO AN EASEMENT AS IN PR2057203; SUBJECT TO AN EASEMENT AS IN PR2640845; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017; TOGETHER WITH AN EASEMENT OVER PART BLOCK A, PLAN A27, DESIGNATED AS PARTS 1, 22, 23 & 24, PLAN 43R35816 AS IN PR3130176; SUBJECT TO AN EASEMENT OVER PARTS 15 & 21, PLAN 43R35816 IN FAVOUR OF LOT 1, PLAN 846, DESIGNATED AS PARTS 1 & 2, PLAN 43R37562 AS IN PR3130488; SUBJECT TO AN EASEMENT OVER PARTS 2 TO 21 & 26 & 27, PLAN 43R35816 IN FAVOUR OF PART OF BLOCK A. PLAN A27, DESIGNATED AS PARTS 25, 28 & 29, PLAN 43R35816 AS IN PR3155396; CITY OF MISSISSAUGA

SCHEDULE "B"**RECEIVER CERTIFICATE**

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Rosen Goldberg Inc., the receiver (the "Receiver") of the assets, undertakings and properties of Camilla Court Homes Inc. and Elite Homes Inc. (the "Debtors") acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 2nd day of July, 2020 (the "Order") made in an application having Court file number CV-20-00643201-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the _____ day of each month after the date hereof at a notional rate per annum equal to the rate of _____ per cent.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

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to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the _____ day of _____, 2020.

Rosen Goldberg Inc., solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

C & K MORTGAGE SERVICES INC.

Applicant

-and- **CAMILLA COURT HOMES INC. et al**

Respondents

Court File No. CV-20-00643021-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

**ORDER
(Appointing Receiver)**

DICKINSON WRIGHT LLP

Barristers & Solicitors
199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario, M5L 1G4

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Fax: (844) 670-6009

Lawyers for the Applicant

TAB B

Subject: RE: C & K Mortgage Services Inc. v. Camilla Court Homes Inc. et al., Court File No. CV-20-00643021-00CL

Date: 7/2/2020 11:50 AM

From: "Conway, Madam Justice Barbara (SCJ)" <Barbara.Conway@scj-csj.ca>

"David P. Preger" <DPreger@dickinson-wright.com>, "jdavies@alloway.net" <jdavies@alloway.net>, "dsazant@bianchipresta.com" <dsazant@bianchipresta.com>,
 To: "spoquiz@poquizlaw.com" <spoquiz@poquizlaw.com>, "brosen@rosengoldberg.com" <brosen@rosengoldberg.com>, "Lisa S. Corne" <LCorne@dickinson-wright.com>, "Janet C. Nairne" <JNairne@dickinson-wright.com>

Cc: "JUS-G-MAG-CSD-Toronto-SCJ Commercial List" <MAG.CSD.To.SCJCom@ontario.ca>

This is the return of the receivership application that I adjourned on June 18, 2020 to today's date. It proceeded by Zoom videoconference. The participants on the call are listed in the attached counsel slip.

The debtors did not file any responding materials but made submissions in opposition to the receivership, saying the record did not establish that it was just and convenient to appoint a receiver. Counsel (and the real estate agent) for the purchasers also attended and expressed their clients' upset and frustration with the pending sale. Counsel for one of the lien claimants attended to observe the hearing.

The Applicant is owed over \$2.5 million on its mortgage from the developer of two properties. The properties secured under the mortgage are under construction. One is almost complete and the other is not. On the affidavit evidence before me (which is not disputed) one of the debtors, Elite, entered into agreements to sell the properties but used the deposit funds to fund the construction and development of the properties. This has created the situation where the mortgage cannot be fully repaid from the sale proceeds. The situation is further complicated by the presence of various construction liens registered on title.

Overall, I consider it just and convenient for a receiver to be appointed to take possession and control of the properties, finance the remaining construction as necessary and then market and sell the properties, all taking into account the interests of the various stakeholders. While I am sympathetic to the concerns of the purchasers, unfortunately they are caught in a situation created by the respondent who independently used the deposit money to fund the construction.

Order to go as signed by me. This order is effective from today's date and is enforceable without the need for entry and filing.



Superior Court of Justice (Toronto)

TAB C

CITATION: C & K Mortgage Services Inc. v. Camilla Court Homes Inc., 2020 ONSC 5071
COURT FILE NO.: CV-20-00643021-00CL
DATE: 20200827

SUPERIOR COURT OF JUSTICE - ONTARIO

**IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*,
R.S.O. 1990 C. C.43, AS AMENDED AND SECTION 68 OF THE *CONSTRUCTION ACT*,
R.S.O. 1990, C. 30**

RE: C & K MORTGAGE SERVICES INC., Applicant

AND:

CAMILLA COURT HOMES INC. and ELITE HOMES INC., Respondents

BEFORE: Dietrich J.

COUNSEL: *Richard Macklin and Yolanda Song*, for the Moving Party Yong Yeow (Jeremy) Tan

David P. Preger and David Z. Seifer, for the Applicant

Eric Golden, for the Receiver, Rosen Goldberg Inc.

HEARD: August 21, 2020

ENDORSEMENT

[1] Yong Yeow (Jeremy) Tan and his wife Melissa, a Canadian citizen, live in Ho Chi Min City, Vietnam. When Mr. Tan retired from his employment in logistics, Melissa and he decided to use his savings and retirement bonus to purchase a residence in the City of Mississauga, Canada, where they would live. There, they would be closer to Melissa's family and Mr. Tan would work as a logistics consultant.

[2] On February 12, 2020, Mr. Tan entered into an agreement of purchase and sale (the "APS") with the Respondent Elite Homes Inc. ("Elite Homes") to purchase a residential unit within a condominium project, municipally known as 180 Mateo Place, Mississauga, Ontario (the "Mateo Property"). In accordance with the APS, Mr. Tan paid a deposit of \$500,000, \$100,000 of which he paid to the real estate broker, in trust, and \$400,000 of which he paid directly to Elite Homes.

[3] Prior to the parties entering into the APS, the applicant/responding party C & K Mortgage Services Inc. carrying on business as Rescom (the "Applicant"), had made a loan to the Respondents Elite Homes and Camilla Court Homes Inc. ("Camilla Court"). The loan was secured

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by a first mortgage against the Mateo Property and other properties included in the condominium project, of which Camilla Court was the registered owner.

[4] When the Mateo Property was close to completion, on or about June 10, 2020, the principal of Elite Homes, Junaid Sudiq, advised the Applicant that the Respondents would be seeking a discharge of the Applicant's first charge on the Mateo Property to complete the sale to Mr. Tan. Mr. Sudiq also advised the Applicant that the proceeds from the sale of the Mateo Property would not be sufficient to obtain a discharge in accordance with the terms of the loan because the Respondents had used Mr. Tan's \$400,000 deposit to fund ongoing construction and development activity and they had no funds to it.

[5] The Applicant then applied to this court to have a receiver appointed. On July 2, 2020, Justice Conway appointed Rosen Goldberg Inc. (the "Receiver") as receiver over the Mateo Property and one other property in the condominium project. At that time, the Applicant's loan had been in financial arrears since May 15, 2020.

[6] Once the Receiver was appointed, Elite Homes could not close the sale pursuant to the APS. The Receiver decided to disclaim the APS.

[7] Mr. Tan brings this motion for an order directing the Receiver to refrain from disclaiming the APS and, instead, to complete it. Mr. Tan asks the court to find that he has an equitable or proprietary interest in the Mateo Property equal to the \$500,000 paid as a deposit.

[8] For the reasons that follow, I decline to grant the relief sought. In weighing the equities, I find that the Receiver has not breached its fiduciary duty in its decision to disclaim the APS.

Issue

[9] The issue in this matter is whether Mr. Tan has an interest in the Mateo Property that should subordinate the interest of the Applicant first mortgagee.

Background Facts

[10] Pursuant to a commitment letter dated October 6, 2018, the Applicant advanced a secured loan in the principal amount of \$4,550,000 to the Respondents. As security for the loan, the Applicant obtained a first charge against the Mateo Property and other properties in the condominium project. A second mortgage and a number of construction lien claims were subsequently registered on title to the Mateo Property.

[11] Pursuant to the secured loan agreement, the Applicant agreed to provide partial discharges of the loan for individual house sales provided that it received 100 percent of the net proceeds of sale, less the borrower's real estate commission, legal fees and HST, but not less than \$1,750,000 per house.

[12] Prior to executing the APS, Mr. Tan retained a lawyer, Stephen Poquiz, to review it.

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[13] Paragraph 41 of Schedule “A” to the APS provides that the APS “shall be, and is hereby, subordinate to and postponed to any mortgage(s) arranged by the Vendor and any advances made thereunder from time to time or liabilities secured thereunder ...”

[14] The closing of Mr. Tan’s purchase was set to take place on April 30, 2020, when the balance of the purchase price of \$1,758,000 would be due. The closing date was extended to June 26, 2020.

[15] Because the Respondents had used Mr. Tan’s \$400,000 deposit to fund ongoing construction and development activity, the net sale proceeds of sale for the Mateo Property would be less than the amount required under the loan agreement. Prior to the scheduled closing date, the Applicant declined to grant a partial discharge of the mortgage and ceased to make any further advances on its loan to the Respondents.

[16] Mr. Poquiz represented Mr. Tan at both the June 18, 2020 hearing of the Applicant’s application for the appointment of the Receiver, which was adjourned at his request, and the July 2, 2020 hearing at which the Receiver was appointed. Mr. Tan did not apply to vary or appeal the Receivership Order.

[17] Following its appointment, the Receiver advised Mr. Tan of its intention to disclaim the APS. The Receiver confirmed that Mr. Tan could make an offer on the Mateo Property, and compete with any other purchaser, but that he would not receive any credit for his deposit.

[18] If the Receiver disclaims the APS, Mr. Tan would lose at least \$300,000 of his deposit. He will likely recoup \$100,000 through the Tarion Corporation; and he could likely recover an additional \$100,000 of the deposit if he releases all claims against the realtors and Elite Homes.

Positions of the Parties

[19] Mr. Tan asserts that a court-appointed receiver, as an officer of the court, owes a fiduciary duty to act in the best interests of all stakeholders in the debtors’ estate and must not favour the interests of a secured creditor over others. Mr. Tan further submits that a court-appointed receiver does not have unlimited authority to disclaim contracts entered into by the debtor prior to the receivership, and that, in the case of Mr. Tan’s APS, a disclaimer would be a breach of the Receiver’s fiduciary duties.

[20] Mr. Tan also asserts that he has a proprietary or equitable interest in the Mateo Property to the extent of his \$500,000 deposit. Accordingly, he asserts that the Applicant should complete the APS by conveying the Mateo Property to Mr. Tan for the difference between the purchase price agreed to in the APS and the deposit he paid. He further asserts that the equities weigh in favour of completing the APS and that the Applicant’s legal priority is but one consideration in the decision to disclaim a contract.

[21] Mr. Tan submits that the Receiver should not be permitted to disclaim the APS because: a) it is grossly unfair and would cause significant financial hardship to Mr. Tan; and b) completing

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the APS would not be onerous or commercially unreasonable, and it would not create a significant preference in favour of Mr. Tan.

[22] The Applicant asserts that if the Receiver is directed to complete the APS, its priority under the first mortgage will be subordinated to the APS, which is contrary to both the terms of the APS and the Receivership Order.

[23] The Applicant submits that such a direction would mean that no lender of funds for the construction of residential housing could rely on its registered priority pursuant to the *Land Titles Act* or protect itself from a buyer (with whom it would have no privity of contract) who signs an agreement of purchase and sale with the lender's mortgagor after the mortgage is registered.

[24] The Applicant also asserts that Mr. Tan's motion is a collateral attack on the Receivership Order, which Mr. Tan did not appeal.

[25] The Receiver submits that the \$400,000 paid by Mr. Tan to Elite Homes is not a deposit, but an unsecured loan to a builder.

[26] The Receiver further submits that Mr. Tan was advised by counsel regarding the APS, which makes specific reference to the possibility of a mortgage against the Mateo Property. The Receiver adds that there is no evidence that Mr. Tan was unaware of the Applicant's mortgage when he made the \$400,000 payment to Elite Homes, or that he was unaware of the risks or consequences of such action. The Receiver asserts that it was the Receiver that was unaware of Mr. Tan's \$400,000 payment to Elite Homes until the Respondents requested a partial discharge of the mortgage to permit a conveyance to Mr. Tan.

Law

Land Titles Act, R.S.O. 1990, c. L.5 (the "*Land Titles Act*")

[27] Section 93 of the *Land Titles Act* provides as follows:

93 (1) A registered owner may in the prescribed manner charge the land with the payment at an appointed time of any principal sum of money either with or without interest or as security for any other purpose and with or without a power of sale.

Statement of principal

(2) A charge that secures the payment of money shall state the amount of the principal sum that it secures.

Effect of charge when registered

(3) The charge, when registered, confers upon the chargee a charge upon the interest of the chargor as appearing in the register subject to the

- Page 5 -

encumbrances and qualifications to which the chargor's interest is subject, but free from any unregistered interest in the land.

Receivership Order

[28] The Receivership Order includes the following provisions:

Paragraph 3(c) provides as follows:

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

...

(c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, *or disclaim or cease to perform any contracts of the Debtors, including, without limitation, agreements of purchase and sale entered into by the Debtors with respect to the Property* [emphasis added];

Paragraph 34 provides as follows:

34. THIS COURT DECLARES that the Applicant's security over the Property ranks in priority to the interests, if any, of the purchasers under the agreement of purchase and sale between Elite Homes Inc. and Yong Yeow Tan, aka Jeremy (*sic*) Tan dated February 11, 2020, and the agreement of purchase and sale between Elite Homes Inc. and Sukhdeep Sandhu dated December 13, 2019.

Analysis

Mr. Tan's challenge to the Receivership Order

[29] The Receivership Order, at paragraph 3(c), specifically authorizes the Receiver to "disclaim or cease to perform any contracts of the Debtors, including, without limitation, agreements of purchase and sale entered into by the Debtors with respect to the Property."

[30] Mr. Tan argues that the order permitting disclaimer was not appropriate on the application for the appointment of a receiver, and that the mortgagee did not seek this order on its application. I disagree. The record shows that Justice Conway, in making the Receiver Order, was well aware of Mr. Tan's concern and the real possibility that his APS would be disclaimed. Mr. Tan's counsel was present and made submissions at the hearing. Justice Conway's endorsement dated July 2, 2020 reflects Mr. Tan's concerns: "Overall, I consider it just and convenient for a receiver to be

appointed to take possession and control of the properties, finance the remaining construction as necessary and then market and sell the properties, all taking into account the interests of the various stakeholders. While I am sympathetic to the concerns of the purchasers, unfortunately they are caught in a situation created by the respondent who independently used the deposit money to fund the construction.” Mr. Tan did not take any steps to appeal the Receivership Order. Because Mr. Tan was represented at the hearing of the application, his ability to seek a variation of the order is limited: *Textron Financial Canada Limited v. Beta Limitée*, 2007 CanLII 30473 at para. 89.

Equitable Interest

[31] Mr. Tan and the Applicant disagree on whether Mr. Tan has a proprietary or equitable interest in the Mateo Property. The Applicant asserts that he does not, and that the Applicant, as first mortgagee, has a legal priority to which any interest Mr. Tan may have in the Mateo Property is subordinate.

[32] Mr. Tan relies on the case of *Armadale Properties Ltd. v. 700 King Street (1997) Ltd.*, 2001 Can LII 28461 (ON SC) in support of his claim for an equitable interest. In *Armadale*, a construction lien trustee/trustee in bankruptcy sought guidance on whether it should perform an agreement of purchase and sale where the estate would receive no benefit. The purchaser, Mr. Goldschlager, had entered into an agreement of purchase and sale with the vendor/bankrupt 700 King Street (1997) Ltd. (“700 King”) to purchase a condominium unit. The purchaser paid the entire purchase price, in three instalments, by way of deposit, to a personal company of the sole officer and director of 700 King. Mr. Goldschlager then moved into the unit and made \$80,000 worth of improvements to the unit at his own expense. The transfer date for the unit was scheduled and postponed, but never took place. Receivership and bankruptcy followed. The trustee discovered that the entire purchase price for Mr. Goldschlager’s condominium unit had been paid to the officer/director’s personal company and 700 King had received none of these proceeds.

[33] In directing the trustee to use its construction lien powers to convey clear title to Mr. Goldschlager, Justice Lax held that the trustee could not disclaim the agreement of purchase and sale. A disclaimer was not appropriate because the trustee could only succeed to the rights of the bankrupt, and the trustee could not terminate property rights that had passed under an agreement of purchase and sale prior to the bankruptcy. Justice Lax found that the equitable interest in property under Mr. Goldschlager’s agreement of purchase and sale had indeed passed prior to the bankruptcy because Mr. Goldschlager had paid the full purchase price and could have enforced the transfer of title by way of specific performance. The property had been validly conveyed but for the delivery of a deed: see para. 12. It is also noteworthy that, unlike in the case of Mr. Tan’s APS, in *Armadale*, there was no reference to a contractual provision negating Mr. Goldschlager’s interest in land or subordinating it to the mortgagee’s interest.

[34] At the outset of her reasons, Justice Lax acknowledges that the facts of the *Armadale* case are “unique.” I agree and also find that they are distinguishable from the case at bar. Unlike Mr. Goldschlager, Mr. Tan did not pay the entire amount owing under the agreement of purchase and sale, with the result that he could have, at any time prior to the receivership, enforced the transfer of title by way of specific performance. For Mr. Tan, there was no valid conveyance of the Mateo

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Property to him but for the delivery of a deed. In *Armadale*, Mr. Goldschlager had an equitable interest in the whole of the property prior to the bankruptcy. The bankrupt had an obligation to convey title to Mr. Goldschlager prior to the bankruptcy. The trustee stood in the shoes of the bankrupt and took on the obligation to deliver the deed in recognition of Mr. Goldschlager's equitable interest in the whole of the property.

[35] Mr. Tan argues that notwithstanding that he does not have an equitable interest in the whole of the Mateo Property, the \$500,000 deposit payment creates an equitable interest that should be elevated above the secured interest of the Applicant based on the equities.

[36] Mr. Tan argues that according to the jurisprudence, disclaimer should only be permitted where: a) the mortgagee will face an onerous burden or greater financial hardship than the purchaser under the agreement of purchase and sale; or b) the purchaser paid less than fair market value; or c) the purchaser has been repaid his deposit. Mr. Tan asserts that none of these circumstances apply in this case.

[37] The Applicant submits that any equitable interest that Mr. Tan may have had is extinguished by clause 27 of Schedule "A" to the APS, which provides as follows:

NO REGISTRATION

27. The Purchaser acknowledges that this Purchase Agreement does not create an interest in the Real Property and that until a Transfer/Deed of Land is registered in favour of the Purchaser, he shall have no interest in the Real Property. The Purchaser further covenants and agrees that he will not register or cause or permit this Purchase Agreement to be registered on title to the Land and that no reference to it, or notice of it or any caution or any certificate of pending litigation, Purchaser's lien or any other notice or document of any type shall be registered on title whether or not the Vendor is in default hereunder. In the event that the Purchaser creates any encumbrance or makes any registration or causes or permits any encumbrance or registration to be made on title to the Land on or before Closing, any such action will constitute an event of default under this Purchase Agreement and the provision of Section 30 shall apply.

[38] Further, the Applicant submits that, at clause 41 of Schedule "A" to the APS, Mr. Tan agreed that the APS "shall be, and is hereby, subordinate to and postponed to any mortgage(s) arranged by the Vendor and any advances made thereunder from time to time or liabilities secured thereunder ..."

[39] Mr. Tan argues that the Applicant cannot rely on clauses 27 and 41 because the APS was terminated. In my view, Mr. Tan has not demonstrated that the APS was terminated. The record shows that in an email exchange with Mr. Sudiq relating to the closing of the Mateo Property, Mr. Sudiq stated that he was trying very hard to close the transaction. There is no evidence that either the vendor or the purchaser took any step to terminate the APS. The receivership intervened and now the Receiver plans to disclaim the APS while Mr. Tan seeks to have it completed. Mr. Tan's position is supportive of the existence of the APS.

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[40] Mr. Tan relies on *McGrath v. B.G. Schickedanz Homes Inc.*, [2000] O.J. No. 4161 in support of his position that a vendor, who unilaterally terminates an agreement, cannot rely on a clause in that agreement inserted for the protection of the vendor. However, in *McGrath*, it was clear that the vendor chose to treat the purchaser's alleged breaches of the Agreement as conduct constituting repudiation of the Agreement entitling the vendor to accept that repudiation and terminate the contract. Regarding the APS, there is no evidence of conduct constituting repudiation and no evidence that either party accepted the repudiation and terminated the APS. Further, in the case at bar, it is not the vendor but, rather, the Applicant who seeks to rely on the APS.

[41] The Applicant asserts that clauses 27 and 41 of Schedule "A", which remain in effect, are determinative of the Applicant's priority and that Mr. Tan was aware of these provisions at the time he entered into the APS. He had retained legal counsel to advise him on the APS before he signed it.

[42] In addition to confirmation of the Applicant's priority in the APS, paragraph 34 of the Receivership Order specifically provides that: "the Applicant's security over the Property ranks in priority to the interests, if any, of the purchasers under the agreement of purchase and sale between Elite Homes Inc. and Yong Yeow Tan, aka Jeremy (*sic*) Tan dated February 11, 2020, and the agreement of purchase and sale between Elite Homes and Sukhdeep Sandhu dated December 13, 2019." This declaration is consistent with s. 93(3) of the *Land Titles Act*.

[43] Mr. Tan further argues that Justice Conway's endorsement is clear that the Receiver is to take into account the interests of all the various stakeholders. He asserts that the Receiver did not. Instead, he alleges that it rushed into its decision to disclaim the APS without undertaking sufficient research into the Respondents' assets. I do not accept this allegation. The Receivership Order covered only the Mateo Property and one other property, thus limiting the scope of the Receiver's research into the Respondents' assets. Further, the Receiver was aware that even if there were sufficient assets to pay the Applicant in full (which is not the case), there was another secured creditor and a number of construction lien claimants who also had registered claims on title to the Mateo Property. Based on the record, there is little doubt that the Receiver's marketing and selling the Mateo Property would yield a higher recovery for the estate than would be the case if the APS were completed and Mr. Tan were given full credit for the \$500,000 deposit.

[44] Mr. Tan also asserts that a disclaimer of the APS is unfair because it benefits the Applicant only at Mr. Tan's expense. He further asserts that the loss to him on a disclaimer is disproportionate to the loss to the Applicant if the Receiver completes the APS. I disagree with this reasoning. If the Applicant does not disclaim, but completes, the APS, Mr. Tan alone would benefit, at the expense of the Applicant whose interest in the property is secured. Mr. Tan would enjoy a preference and the Applicant would be subordinated by the shortfall in the deposit plus any incremental amount above the agreed upon purchase price that the Receiver might realize in the market. All of the equity in the Mateo Property is charged by the first mortgage. According to the First Report of the Receiver, dated August 17, 2020, filed in this motion, the Receiver has also incurred approximately \$40,000 in expenses for work required to market the Mateo Property for sale. Mr. Tan appears to be asking this court to resolve one inequity by creating another.

[45] I find that Mr. Tan has not met his burden to prove that the Receiver should prefer Mr. Tan over the secured creditor. The equities do not justify the subordination of the Applicant's legal priority. Such subordination is contrary to the terms of the APS and the Receivership Order.

[46] I accept that Mr. Tan is a victim of the improper use of the \$400,000 deposit he paid directly to Elite Homes in the belief that this payment would expedite the construction of the Mateo Property. However, the Applicant in no way participated in Mr. Tan's decision to make the improvident payment and was unaware that such payment had been made until Elite Homes requested a partial discharge of the mortgage to permit a conveyance of the Mateo Property to Mr. Tan. I find that there is no basis in equity or in law that would permit this court to visit the consequences of Mr. Tan's unfortunate decision on the Applicant secured lender.

[47] This conclusion is consistent with leading jurisprudence. See, for example, *Forjay Management Ltd. v. 0981478 B.C. Ltd.*, 2018 BCSC 527. In *Forjay*, Justice Fitzpatrick ordered the receiver to disclaim agreements of purchase and sale and to remarket the subject residential units free of the buyers' interests. Justice Fitzpatrick found that the mortgagee had legal priority over the position of the buyers by virtue of a contractual provision in each buyer's agreement, similar to the provision found in Mr. Tan's APS, negating any interest in land. Justice Fitzpatrick also found that the buyers' interests were grounded in contract and that no equitable interests arose in any of the units.

[48] In *Third Eye Capital Corporation v. Resources Dianor Inc./Dianor Resources Inc.*, 2019 ONCA 508, the Court of Appeal for Ontario held, at para. 109, that in considering whether an interest in land should be extinguished, a court should consider: (1) the nature of the interest in land; and (2) whether the interest holder has consented to the vesting out of their interest either in the insolvency process itself or in agreements reached prior to the insolvency. The Court of Appeal also held that if these factors prove to be ambiguous or inconclusive, the court may then engage in a consideration of the equities to determine if a vesting order is appropriate in the particular circumstances of the case.

[49] In *Firm Capital Mortgage Fund Inc. v. 2012241 Ontario Ltd.*, Justice Morawetz (as he then was) gave effect to a subordination clause in an agreement very similar to clause 41 of Schedule "A" to the APS. In that case, five buyers of condominium units paid the balance of the purchase price owing under their agreements directly to the debtor. The receiver moved for authorization to market and sell the condominium property and terminate the existing agreements. Justice Morawetz held that the mortgagee had legal priority over the interests of the buyers. His Honour then considered the equities and found that they did not justify overriding the first mortgagee's legal priority. His Honour observed that those purchasers whose deposits were not held in trust may have some remedy against the debtors or its advisors. Regarding those purchasers who paid the balance of their purchase price, notwithstanding the subordination clauses of their agreements, and the fact that they would not be receiving title at that time, Justice Morawetz observed that these purchasers ran the risk of losing those payments but may have recourse against other parties: paras. 27 and 31-38.

[50] Mr. Tan too ran a risk when he paid \$400,000 directly to Elite Homes. It appears that he may have recourse against Tarion Corporation, and he may also have recourse against others as well.

[51] On the evidence, I am satisfied that the Receiver did not breach its fiduciary duty to take into account the interests of the various stakeholders in the Respondents' estate in its decision to disclaim the APS. In assessing whether a disclaimer of an agreement is appropriate, the priority of a secured interest registered under the *Land Titles Act*, while not determinative, weighs heavily.

Disposition

[52] The moving party's motion is dismissed.

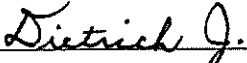
Costs

[53] The Applicant submitted a Bill of Costs and asserts that costs should follow the cause on the outcome of the motion. Its costs, on a partial indemnity basis, are \$25,588.51, including HST and disbursements.

[54] The Applicant submits that it should be entitled to the costs it seeks because the motion was unnecessary and a collateral attack on the Receivership Order. It further submits that the principles at issue are of significant importance to the residential construction lending industry.

[55] Mr. Tan did not submit a Bill of Costs but submits that there should be no costs awarded on the motion. Alternatively, if costs are awarded against him, Mr. Tan submits that such costs should be nominal because he is already facing a potential loss of \$300,000 to \$400,000.

[56] Having heard the submissions and considered the principles relating to costs set out in rule 57.01 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, including the principle of indemnity, the amount of costs that Mr. Tan could reasonably expect to pay in relation to this motion, the complexity of the proceeding, and the importance of the issues, I fix the costs at \$20,000, inclusive of HST and disbursements. This award is fair and reasonable in the circumstances of this case.



Dietrich J.

Date: August 27, 2020

TAB D

Court File No. CV-20-00643021-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*,
R.S.O. 1990 C. C.43, AS AMENDED, AND SECTION 68 OF THE *CONSTRUCTION ACT*,
R.S.O. 1990, C. 30**

THE HONOURABLE	)	THURSDAY, THE 27 TH
)	
JUSTICE DIETRICH	)	DAY OF AUGUST, 2020

B E T W E E N:

(Court Seal)

C & K MORTGAGE SERVICES INC.

Applicant

- and -

CAMILLA COURT HOMES INC. and ELITE HOMES INC.

Respondents

ORDER

THIS MOTION made by the Moving Party Yong Yeow (Jeremy) Tan (“**Tan**”), for an Order directing Rosen Goldberg Inc., in its capacity as Court-appointed receiver and trustee (in such capacities, the “**Receiver**”) of all of the assets, undertakings and properties of the Respondents Camilla Court Homes Inc. and Elite Homes Inc. (“**Elite**”) acquired for, or used in relation to a business carried on by them, including, *inter alia*, the lands and premises municipally

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known as 180 Mateo Place (the “**Mateo Property**”) and all proceeds thereof, to complete the agreement of purchase and sale made between Elite, as vendor, and Tan, as purchaser, dated February 12, 2020, for the sale of the Mateo Property, was heard on August 21, 2020 by Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the Affidavit of Tan sworn August 6, 2020 and the Exhibits thereto, the Affidavit of Gary Gruneir sworn August 11, 2020 and the Exhibits thereto, the transcript of the cross-examination of Tan held on August 14, 2020, the First Report of the Receiver dated August 17, 2020 and the Appendices thereto, and the answers to undertakings of Tan given on his cross-examination, and on hearing the submissions of counsel for Tan, counsel for the Applicant C & K Mortgage Services Inc. (the “**Applicant**”), and counsel for the Receiver, no one else on the service list appearing, although served,

1. **THIS COURT ORDERS** that this motion be and is hereby dismissed.
2. **THIS COURT ORDERS** that Tan shall pay the Applicant its costs of this motion in the amount of \$20,000, inclusive of HST and disbursements.
3. **THIS COURT ORDERS** that notwithstanding Rule 59.05, this order is effective from the date that it is made, and is enforceable without any need for entry and filing. In accordance with Rule 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order

C & K MORTGAGE SERVICES INC.
Applicant

-and- **CAMILLA COURT HOMES INC. et al**
Respondents

Court File No. CV-20-00643021-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

ORDER

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Lawyers for the Applicant

TAB E

Rosen Goldberg Inc.; Receiver and Manager of
 Camilla Court Homes Inc. et al
Comparison of 2371 Camilla Road- Sale "As Is" v. Build out
 Prepared August 14, 2020

	Note	As Is	Build-Out
Estimated Proceeds	1	1,125,000	1,850,000
Costs			
Cost of construction	2		500,000
HST		120,000	120,000
Comissions and selling costs			85,000
Interest on Receiver's Borrowings	3		41,250
Accrual of interest on mortgage	4		63,333
		<u>120,000</u>	<u>809,583</u>
Net proceeds		<u>1,005,000</u>	<u>1,040,417</u>
Difference			<u><u>35,417</u></u>

1. Based on discussions with real estate agent and review of sales data .
2. Based on estimate provided by two contractors.
3. Based on additional borrowings of 550,000 at 10% for 9 months.
4. Interest on \$1,000,000 at 9.5% for 8 months.

TAB F

OFFER TO PURCHASE

(PIN 13348-0587(LT) – 2371 Camilla Road, Mississauga)

TO: ROSEN GOLDBERG INC. in its capacity as court-appointed receiver (the “**Receiver**” or “**Vendor**”), without security, of the assets, property, undertakings and certain real property of Elite Homes Inc. and Camilla Court Homes Inc. (collectively, the “**Debtors**”) municipally known as 2371 Camilla Road, Mississauga, Ontario, and all proceeds thereof pursuant to an Order of the Honourable Justice Conway of the Ontario Superior Court of Justice (Commercial List), dated July 2, 2020 in Court File No. CV-20-006643021-00CL at Toronto, (the “**Receivership Order**”) and not in its personal capacity or corporate capacity.

1. Offer to Purchase

The undersigned, Parmjit Sandhu and Sukhdeep Sandhu (collectively, the “**Purchaser**”), hereby offers to purchase from and through the Vendor all of the right, title and interest in and to the Property (hereinafter defined) which the Vendor is entitled to sell pursuant to the Receivership Order at the purchase price set out herein and upon and subject to the terms hereof.

2. Definitions

In this Offer and the Agreement arising from the acceptance hereof, the following terms have the meanings respectively ascribed to them:

“**Agreement**”, “**the Agreement**” or “**this Agreement**” means the agreement of purchase and sale resulting from the acceptance of the Offer by the Vendor.

“**Approval**” in relation to the Court means the making of an appropriate Order of the Court in respect of the particular matter submitted for approval approving the action or proposed action of the Vendor on terms satisfactory to the Vendor.

“**Approval and Vesting Order**” has the meaning ascribed thereto in Section 7 hereof.

“**Buildings**” means the building(s), if any, situate on the Lands (as hereinafter defined) together with all other structures situate thereon, including all improvements thereto and all fixtures forming a part thereof.

“**Business Day**” means a day other than Saturday, Sunday or a statutory holiday.

“**Closing**” or “**Closing Date**” has the meaning ascribed thereto in Section 18 thereof.

“**Condition Date**” has the meaning ascribed thereto in Section 5 hereof.

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“**Court**” means the Ontario Superior Court of Justice and includes a judge, master or registrar of that court and any appellate court judge having jurisdiction in any particular matter.

“**Deposits**”, the “**First Deposit**” and the “**Second Deposit**” have the meaning ascribed thereto in Section 3(a) and 3(b) hereof.

“**Environmental Laws**” has the meaning ascribed thereto in Section 25 hereof.

“**Hazardous Substances**” means any contaminant, pollutant, dangerous substance, potentially dangerous substances, noxious substance, toxic substance, hazardous waste, flammable material, explosive material, radioactive material, urea-formaldehyde foam insulation, asbestos, PCBs radiation and any other substance, material, effect, or thing declared or defined to be hazardous, toxic, a contaminant, or pollutant, in or pursuant to any Environmental Laws.

“**HST**” has the meaning ascribed thereto in Section 17 hereof.

“**Indemnitees**” has the meaning ascribed thereto in Section 25 hereof.

“**Lands**” means the lands legally described in Schedule “A” attached hereto.

“**Material Documents**” includes copies of all architectural, structural, electrical, plumbing, engineering and all other plans and drawings, all building permits and all other permits, licenses, authorizations and approvals, all inspection reports and any existing surveys and site plans, all of the foregoing relating to the Property, if any, and to the extent that such Material Documents are in the possession or control of the Vendor.

“**Offer**”, “**the Offer**” or “**this Offer**” means the offer to purchase the Property made by the Purchaser and contained in and comprised of this document.

“**Property**” means collectively, the Lands and Buildings.

“**Purchase Price**” has the meaning ascribed thereto in Section 3 hereof.

“**Purchaser’s Condition**” has the meaning ascribed thereto in Section 5 hereof.

3. Purchase Price

The purchase price for the Property shall be One Million One Hundred and Twenty-Five Thousand dollars (\$1,125,000.00) payable in lawful money of Canada (the

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“Purchase Price”), subject to the adjustments hereinafter referred to in Section 9 hereof, and to be paid by the Purchaser as follows:

- a) a deposit in the amount of Twenty-Five Thousand Dollars (\$25,000.00) (the “**First Deposit**”) shall be delivered within two Business Days of the date submission of this Offer by certified cheque, irrevocable wire transfer or bank draft drawn on an account at a Canadian chartered bank or trust company payable to the Vendor’s solicitors in trust;
- b) a deposit in the amount of Fifty Thousand Dollars (\$50,000.00) (the “**Second Deposit**”, and combined with the First Deposit, the “**Deposits**”) shall be delivered within two Business Days of the date that the Purchaser has waived all of the Purchaser’s Condition by certified cheque, irrevocable wire transfer or bank draft drawn on an account at a Canadian chartered bank or trust company payable to the Vendor’s solicitors in trust; and,
- (c) the balance of the Purchase Price for the Property shall be paid, subject to the adjustments hereinafter referred to, to the Vendor on the Closing Date by irrevocable wire transfer or direct deposit to the Vendor’s solicitors in trust (or as the Vendor or its solicitors may direct in writing).

4. **Deposits**

The Deposits shall be held in trust by the Vendor’s solicitors and shall be:

- (a) returned to the Purchaser without interest or deduction if the Vendor does not accept this Offer; or,
- (b) credited to the Purchaser as an adjustment against the Purchase Price on the Closing Date if the purchase and sale of the Property is completed pursuant to the Agreement; or,
- (c) refunded to the Purchaser with interest and without deduction if the purchase and sale of the Property is not completed pursuant to the Agreement, provided that the Purchaser is not in default under this Offer or under the Agreement; or,
- (d) retained by the Vendor as a genuine pre-estimate of liquidated damages and not as a penalty, in addition to any other rights and remedies that the Vendor may have under this Offer, the Agreement and at law, including offering the Property for sale to another person, if the purchase and sale of the Property is not completed pursuant to this Offer and the Agreement as a result of the Purchaser’s breach hereunder.

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5. Purchaser's Condition

Notwithstanding anything to the contrary herein contained, the Agreement is conditional to the Purchaser until 5:00 p.m. (Toronto time) on September 14, 2020 (the "**Condition Date**") upon the Purchaser satisfying itself in its sole, absolute and unfettered discretion with the following: (a) all matters relating to the Property, including without limitation, zoning matters, the suitability of the Property for the Purchaser's use, the physical condition of the Property, soil conditions, the environmental condition of the Property and the surrounding real property, the Purchaser being able to arrange for builder's risk insurance required to complete the dwelling being constructed on the Lands, and the results of its other due diligence tests, inspections and investigations; and, (b) the Purchaser obtaining financing for its acquisition of the Property on terms and conditions satisfactory to the Purchaser (items (a) and (b) above are collectively referred to herein as the "**Purchaser's Condition**").

The Purchaser's Condition is for the exclusive benefit of the Purchaser and may be waived in whole or in part by the Purchaser at any time on or before the Condition Date, any such waiver to be made in writing by the Purchaser or its solicitors and delivered to the Vendor or the Vendor's solicitors. In the event that the Purchaser has not, on or before the Condition Date, waived the Purchaser's Condition or provided the Vendor with written confirmation that the Purchaser's Condition has been satisfied, this Agreement shall be null and void and the Deposit shall be returned to the Purchaser with interest and without deduction and the Vendor and the Purchaser shall have no further obligations to each other with respect hereto.

From and after the date of acceptance of this Offer by the Vendor, the Purchaser and its agents, advisors and consultants shall have access four (4) times, at their sole risk and at expense, to the Property for the purpose of making any inspections, surveys, tests or for any other purpose that they require. The Purchaser shall provide not less than 24 hours prior written notice to the Vendor before attending at the Property.

6. Acceptance of Offer

The Purchaser agrees that no agreement for the purchase and sale of the Property shall result from this Offer unless and until this Offer has been accepted by the Vendor and approved by the Court in accordance with the provisions of Section 7 hereof. The Purchaser agrees that this Offer shall be irrevocable by the Purchaser and open for acceptance by the Vendor until 5:00 p.m. (Toronto time) on September 3, 2020, after which time, if not accepted by the Vendor, this Offer shall be null and void and the First Deposit shall be returned to the Purchaser in accordance with

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Section 4(a) hereof. The Vendor shall indicate the date on which it has accepted this Offer in the space provided on the execution of this Offer.

7. Court Approval

The Purchaser hereby acknowledges and agrees that the sale of the Property is subject to the Approval of the Court. The Vendor shall, forthwith after the waiver of the Purchaser's Condition, or if there is no Purchaser's Condition forthwith after the Vendor's acceptance of this Offer, bring a motion to the Court for Approval of the Agreement and an order of the Court vesting title to the Property in the Purchaser and, if necessary, authorize the Vendor to declare the agreement of purchase and sale dated December 13, 2019 made between Elite Homes Inc., as vendor, and the Purchaser, as purchaser, with respect to the Property (the "**Elite Agreement of Purchase and Sale**") to be disclaimed (the "**Approval and Vesting Order**"). The Purchaser shall not be given any credit in the purchase and sale of the Property hereunder for any money the Purchaser previously paid to Elite Homes Inc. as a deposit pursuant to the Elite Agreement of Purchase and Sale. The Vendor shall diligently pursue such motion on notice to the Purchaser and shall promptly notify the Purchaser of the disposition thereof. The Purchaser, at its own expense, shall promptly provide to the Vendor all such information and assistance within the Purchaser's power as the Vendor may reasonably require to obtain Approval of the Agreement. If the Court shall not have granted Approval of the Agreement within fourteen (14) Business Days of the Purchaser's waiver of the Purchaser's Condition, the Agreement shall automatically be terminated. If the Agreement is terminated under any provision of this Section, the Deposits and any interest earned thereon shall be returned to the Purchaser with interest and without deduction and neither party shall have any further rights or liabilities hereunder.

8. Capacity of Receiver

The Vendor, by acceptance of the Offer, is entering into the Agreement solely in its capacity as the as court-appointed receiver of the assets, undertakings and property of the Debtors and not in its personal or any other capacity. Any claim against the Vendor shall be limited to and only enforceable against the Property and assets then held by or available to it in its said capacity and shall not apply to its personal property and/or any assets held by it in any other capacity. The Vendor shall have no personal or corporate liability of any kind, whether in contract or in tort or otherwise. The term "Vendor" as used in this Agreement shall have no inference or reference to the present registered owner of the Property.

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9. Adjustments

The Purchase Price for the Property shall be adjusted as of the Closing Date in respect of realty taxes, flat/fixed water and sewer rates and charges, if any, and all other items usually adjusted with respect to properties similar to the Property that apply. Such adjustments shall be pro-rated where appropriate for the relevant period on the basis of the actual number of days elapsed during such period to the Closing Date itself to be apportioned to the Purchaser.

10. Termination of Agreement

Notwithstanding anything to the contrary contained in this Agreement, if at any time or times prior to the Closing Date, the Vendor is unable to complete this Agreement as a result of any action taken by an encumbrancer, any action taken by the present registered owner, the refusal by the present registered owner, to take any action, the exercise of any right by the present registered owner or other party which is not terminated upon acceptance of this Agreement, a certificate of pending litigation is registered against the Property, a court judgment or order is made, or, if the Purchaser submits valid title requisition which the Vendor is unable or unwilling to satisfy prior to Closing, or if the sale of the Property is restrained at any time by a court of competent jurisdiction, or if the Property is occupied by the owner of the Property and the Vendor is unable to provide vacant possession on Closing Day, the Vendor may, in its sole and unfettered discretion, elect by written notice to the Purchaser, to terminate this Agreement, whereupon the Deposit and any interest earned thereon shall be returned to the Purchaser with interest and without deduction, and neither party shall have any further rights or liabilities hereunder.

The obligation of the Vendor to complete the Agreement is subject to the satisfaction of the following terms and conditions on or prior to the Closing Date, which conditions are for the sole benefit of the Vendor and which may be waived by the Vendor in its sole discretion:

- (a) the representations and warranties of the Purchaser being true and accurate as of the Closing Date;
 - (b) no action or proceeding at law or in equity shall be pending or threatened by any person, firm, government, government authority, regulatory body or agency to enjoin, restrict or prohibit the purchase and sale of the Property hereunder;
 - (c) the Property shall not have been removed from the control of the Vendor by any means or process;
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- (d) no party shall take any action to redeem the Property; and,
- (e) the Court shall have granted Approval of this Agreement and shall have granted the Approval and Vesting Order within the time period prescribed in Section 7 hereunder.

11. Purchaser's Acknowledgements

The Purchaser hereby acknowledges and agrees with, and to be subject to, the following:

- (a) it is responsible for conducting its own searches and investigations of the current and past uses of the Property;
 - (b) the Vendor makes no representation or warranty of any kind that the present use of future intended use by the Purchaser of the Property is or will be lawful or permitted;
 - (c) upon waiver of the Purchaser's Condition, it is satisfied with the Property and all matters and things connected therewith or in any way related hereto;
 - (d) it is relying entirely upon its own investigations and inspections in entering into this Agreement;
 - (e) it is purchasing the Property on an "as is, where is" basis as of the date of acceptance of this Offer by the Vendor, and on a "without recourse" basis including, without limitation, outstanding work orders, deficiency notices, compliance, requests, development fees, imposts, lot levies, sewer charges, zoning and building code violations and any outstanding requirements which have been or may be issued by any governmental authority having jurisdiction over the Property;
 - (f) it relies entirely on its own judgment, inspection and investigation of the Property and acknowledges that any documentation relating to the Property obtained from the Vendor has been prepared or collected solely for the convenience of prospective purchasers and is not warranted to be complete or accurate and is not part of this Offer;
 - (g) it will provide the Vendor with all requisite information and materials, including proof respecting source or funds, at any time or times within forty-eight (48) hours of request by the Vendor so that the Vendor may
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- determine the creditworthiness of the Purchaser and any related parties thereto;
- (h) the Vendor shall have no liability or obligation with respect to the value, state or condition of the Property, whether or not the matter is within the knowledge or imputed knowledge of the Vendor, its officers, employees, directors, agents, representatives and contractors;
 - (i) the Vendor has made no representations or warranties with respect to or in any way related to the Property, including without limitation, the following: (i) the title, quality, quantity, marketability, zoning, fitness for any purpose, state, condition, encumbrances, description, present or future use, value, location or any other matter or thing whatsoever related to the Property, either stated or implied; and (ii) the environmental state of the Property, the existence, nature, kind, state or identity of any Hazardous Substances on, under, or about the Property, the existence, state, nature, kind, identity, extent and effect of any administrative order, control order, stop order, compliance order or any other orders, proceedings or actions under the *Environmental Protection Act* (Ontario), or any other statute, regulation, rule or provision of law now in existence, state, nature, kind, identity, extent and effect of any liability to fulfill any obligation to compensate any third party for any costs incurred in connection with or damages suffered as a result of any discharge of any Hazardous Substances whether on, under or about the Property or elsewhere;
 - (j) the Material Documents are being provided to the Purchaser merely as a courtesy and without any representations or warranties by the Vendor whatsoever; and,
 - (k) it will ensure that any environmental and/or structural reports on behalf of the Purchaser shall also be addressed to the Vendor and a copy of each such report shall be delivered to the Vendor promptly after the completion thereof, regardless of whether the transaction contemplated by this Offer closes. If for any reason such transaction is not consummated, the Purchaser agrees to deliver promptly to the Vendor any and all reports and other data pertaining to the Property and any inspections or examinations conducted hereunder.

12. Title to the Property

Provided that the title to the Property is good and free from all restrictions, charges, liens, claims and encumbrances, except as otherwise specifically provided in this Agreement, and save and except for:

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- (a) any reservations, restrictions, rights of way, easements or covenants that run with the land;
- (b) any registered agreements with a municipality, region or supplier of utility service including, without limitations, electricity, water, sewage, gas, telephone or cable television or other telecommunication services;
- (c) all laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Property;
- (d) any minor easements for the supply of utility services or other services to the Property or adjacent properties;
- (c) encroachments disclosed by any error or omission in existing surveys of the Property or neighbouring properties and any title defects, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Property and survey of the Property and survey matters generally;
- (f) the exceptions and qualifications set forth in the *Registry Act* (Ontario) or the *Land Titles Act* (Ontario), or amendments thereto;
- (g) any reservation(s) contained in the original grant from Crown;
- (h) subsection 44(1) of the *Land Titles Act* (Ontario) except paragraphs 11 and 14;
- (i) provincial succession duties and escheats or forfeiture to the Crown;
- (j) the rights of any person who would, but for the *Land Titles Act* (Ontario) be entitled to the Lands or any part of it through length of adverse possession, prescription, misdescription or boundaries settled by convention; and
- (k) those registrations set out in Schedule "C" attached hereto.

Notwithstanding the foregoing, the Approval and Vesting Order shall provide for the deletion of the instruments or registrations listed in Schedule "B" attached hereto and for the deletion of any filings under the *Personal Property Security Act* (Ontario), as they affect the Property, as well as the deletion of any instruments or registrations not listed in Schedule "B" that are registered subsequent to the date of this Offer.

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13. Authorizations

Upon the completion of purchase and sale of the Property hereunder, the Purchaser shall assume, at its cost, complete responsibility for compliance with all municipal, provincial and federal laws insofar as the same apply to the Property and the use thereof by the Purchaser, and it shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Purchaser of the Vendor's right, title and interest, if any, in the Property.

14. Requisition Period

The Purchaser shall be allowed until the Condition Date to investigate the title to the Property and to satisfy itself that all present uses are the legal uses thereof or legal nonconforming uses which may be continued and that the Property may be insured against usual insurable risks, at the Purchaser's own expense. If within such time the Purchaser shall furnish the Vendor in writing with any valid objection to title to the Property, which the Vendor is unable or unwilling to remove, remedy or satisfy and which the Purchaser will not waive, then the Agreement shall be terminated, the Deposits and any interest earned thereon shall be returned to the Purchaser and neither party shall have any further rights or liabilities hereunder. Save as to any valid objection made as aforesaid or which the law allows to be made and is made after expiry of the aforesaid period, the Purchaser shall be conclusively deemed to have accepted the title to the Property to be vested in the Purchaser on Closing in accordance with the Agreement, and to have accepted the Property subject to all applicable laws, by-laws, regulations, easements and covenants affecting its use and the Purchaser shall assume responsibility from and after the Closing Date for compliance therewith. The Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title to the Lands, except as are in the control or possession of the Vendor. The Vendor shall not be required to produce any other document or report to the Purchaser, unless it is expressly provided for by this Agreement. The description of the Property is believed by the Vendor to be correct but, if any statement, error or omission shall be found in the particulars thereof, the same shall not cancel the sale or entitle the Purchaser to be relieved of any obligation hereunder, nor shall any compensation be allowed to the Purchaser in respect thereof.

15. Risk of Loss

The buildings and all other things being purchased shall be and remain until completion at the risk of the Vendor. The Property shall thereafter be at the risk of the Purchaser. Pending completion, the Vendor shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interest may appear

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and in the event of substantial damage to the Property before the completion of the Agreement which damage gives rise to any insurance proceeds, the Purchaser may either terminate this Agreement and have the Deposits returned with interest or deduction or else take the proceeds of insurance and complete the transaction. Where any damage is not substantial, the Purchaser shall be obliged to complete the Agreement and be entitled to the proceeds of insurance referenced to such damage. The Purchaser agrees that all the insurance maintained by the Vendor shall be cancelled on the Closing Date and that the Purchaser shall be responsible for placing its own insurance thereafter.

16. Planning Act

This Agreement is subject to the express condition that if the provisions of Section 50 of the *Planning Act* (Ontario) apply to the sale and purchase of the Property, then this Agreement shall be effective to create an interest in the Property only if such provision is complied with.

17. Harmonized Sales Tax

The Purchaser and the Vendor agree that the Purchase Price is inclusive of the goods and services tax/harmonized sales tax ("HST").

18. Closing

The completion of the purchase and sale transaction hereunder shall take place on October 5, 2020 or such earlier date as the parties or their respective solicitors may actually agree upon in writing (the "**Closing Date**" or "**Closing**"). Provided that the Vendor by written notice to the Purchaser or its solicitors may postpone the Closing Date on one occasion, upon at least ten (10) days prior written notice of the Purchaser, but in no event shall the date of Closing be postponed to a date more than thirty (30) days after the original Closing Date. The Vendor and the Purchaser acknowledge that the Teraview Electronic Registration System ("**TERS**") is operative and mandatory in the Land Titles Division for the Land Registry Office of Peel (No. 43). The Purchaser and Vendor shall each retain legal counsel who are authorized TERS users and who are in good standing with The Law Society of Ontario. The Vendor and Purchaser shall each authorize their respective legal counsel to enter into a document registration agreement in the form as adopted by the joint LSO-CBAO Committee of documents and closing funds and the release thereof to the Vendor and Purchaser, as the case may be:

- (a) shall not occur contemporaneously with the registration of the Transfer/Deed of Land or Application to Register the Approval and Vesting Order, and Receiver's certificate required by the Approval and Vesting

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Order (and other registerable documentation, if any) to be registered by the Purchaser's solicitor; and,

- (b) shall be governed by the document registration agreement pursuant to which legal counsel receiving any documents or funds will be required to hold same in escrow and will not be entitled to release except in strict accordance with provisions of the document registration agreement and the Purchaser shall be required to deliver the balance due on closing on the Closing Date to the Vendor's solicitors, to be held in escrow by them, whereupon the Vendor's solicitors shall after payment forthwith attend to have the signed Receiver's Certificate filed with the Court, which signed and entered Receiver's Certificate and Approval and Vesting Order shall form part of the Application – Vesting Order, and which shall be delivered by the Vendor's solicitors to the Purchaser's solicitors for immediate registration by the Purchaser's solicitors. Upon registration of the Application – Vesting Order, the Vendor shall release possession of the Property to the Purchaser and the balance due on Closing shall be released from escrow.

19. Vendor's Closing Deliveries

The Vendor shall execute and deliver or cause to be executed and delivered to the Purchaser on the Closing Date, against payment of the Purchase Price, the following:

- (a) a statement of adjustments;
 - (b) a direction for the payment of the balance of the Purchase Price due on Closing;
 - (c) an undertaking by the Vendor to readjust all items on the statement of adjustments within sixty (60) days from the date of Closing on written demand;
 - (d) a certificate of the Vendor to the effect that it is not at the Closing Date a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act*;
 - (e) a copy of the Approval and Vesting Order;
 - (f) keys to the Property;
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- (g) all Material Documents, if not already in the possession of the Purchaser; and
- (h) any other documents relative to the completion of this Agreement as may reasonably be required by the Purchaser or its solicitors.

20. Purchaser's Closing Deliveries

The Purchaser shall execute and deliver to the Vendor on the Closing Date the following:

- (a) wire transfer for the balance of the Purchase Price and any other monies required to be paid by the Purchaser pursuant to the Agreement, or the adjustments, including all applicable federal and provincial taxes, duties and registration fees unless the applicable exemption certificates in a form acceptable to the Vendor are presented to the Vendor on or before the Closing Date to exempt the Purchaser therefrom;
- (b) all certificates, indemnities, declarations and other evidences contemplated hereby in form and content satisfactory to the Vendor's solicitors, acting reasonably;
- (c) an undertaking by the Purchaser to readjust all items on the statement of adjustments within sixty (60) days from the date of Closing on written demand;
- (d) an agreement to assume all existing utility service and supply contracts in place as of Closing;
- (e) the indemnities required to be delivered by the Purchaser to the Vendor pursuant to Section 25 hereof;
- (f) the release and discharge required to be delivered by the Purchaser to the Vendor pursuant to Section 26 hereof; and,
- (g) any other documents relative to the completion of this Agreement as may reasonably be required by the Vendor or its solicitors.

21. Inspection

Without limitation, all of the Property shall be as it exists on the Closing Date with no adjustments to be allowed to the Purchaser for changes in conditions or qualities from the date of acceptance of this Offer by the Vendor to the Closing Date. The

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Purchaser acknowledges and agrees that the Vendor is not required to inspect the Property or any part thereof and the Purchaser shall be deemed, at its own expense to have relied entirely on its own inspection and investigation. The Purchaser acknowledges that no warranties or conditions, expressed or implied, pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in other jurisdictions apply hereto and all of the same are hereby waived by the Purchaser.

22. Encroachments

The Purchaser agrees that the Vendor shall not be responsible for any matters relating to encroachments on or to the Property, or encroachments of the Property onto adjoining lands, or to remove same, or for any matters relating to any applicable zoning regulations or by-laws in existence now or in the future affecting the Property.

23. Purchaser's Warranties

The Purchaser represents and warrants that:

- (a) if applicable, it is a corporation duly incorporated, organized and subsisting under the laws of Canada, Ontario or another province of Canada;
- (b) if applicable, it has the corporate power and authority to enter into and perform its obligations under the Agreement and all necessary actions and approvals have been taken or obtained by the Purchaser to authorize the creation, execution, delivery and performance of the Offer and resulting Agreement and the Offer has been duly executed and delivered by the Purchaser, and the resulting Agreement is enforceable against the Purchaser in accordance with its terms; and,
- (c) it is not a non-Canadian for the purpose of the *Investment Canada Act* (Canada) and it is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

24. Confidentiality

The Purchaser agrees that all information and documents supplied by the Vendor or anyone on its behalf to the Purchaser or anyone on the Purchaser's behalf (including but not limited to information in the schedules hereto) shall, unless and until Closing occurs, be received and kept by the Purchaser and anyone acting on the Purchaser's behalf on a confidential basis and shall not without the Vendor's prior written consent be disclosed to any third party. If for any reason Closing does not occur, all such documents (including without limitation, the Material

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Documents) shall forthwith be returned intact to the Vendor and no copies or details thereof shall be retained by the Purchaser or anyone acting on its behalf. The Purchaser further agrees that unless and until the terms of this Offer and the Agreement become public knowledge in connection with an application to the Court for Approval of the Agreement, the Purchaser shall keep such terms confidential and shall not disclose the same to anyone except the Purchaser's solicitors, agents or lenders acting in connection herewith and then only on the basis that such persons also keep such terms confidential as aforesaid.

25. Indemnification

The Purchaser shall indemnify and save harmless the Vendor and its directors, officers, employees and agents (collectively, the "Indemnitees") from and against any and all liabilities, obligations, losses, damages, penalties, notices, judgments, suits, claims, demands, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Indemnitees or any of them arising out of or in connection with the operations of the Purchaser on the Property or any order, notice, directive, or requirement under, or breaches, violations or non-compliance with any Environmental Laws after the Closing Date or as a result of the disposal, storage, release or threat of release or spill on or about the Property of any Hazardous Substance after the Closing Date. For the purposes of the foregoing, "Environmental Laws" shall mean all requirements under or prescribed by common law and all federal, provincial, regional, municipal and local laws, rules, statutes, ordinances, regulations, guidelines, directives, notices and orders from time to time with respect to the discharge, generation, removal, storage or handling of any Hazardous Substance. The obligation of the Purchaser hereunder shall survive the Closing Date.

The Purchaser shall indemnify the Vendor and save harmless the Indemnitees from and against any and all liabilities, obligations, losses, damages, penalties, notices, judgments, suits, claims, demands, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Indemnitees or any of them arising out of or in connection with the failure of the Purchaser to pay any taxes, duties, fees and like charges exigible in connection with the Offer or Agreement. It shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining, any consents, permits, licenses or other authorizations necessary or desirable relating to the Purchaser's completion of the dwelling being constructed on the Property.

26. Release

The Purchaser agrees to release and discharge the Vendor together with its officers, employees, agents and representatives from every claim of any kind that the

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Purchaser may make, suffer, sustain or incur in regard to any Hazardous Substance relating to the Property. The Purchaser further agrees that the Purchaser will not, directly or indirectly, attempt to compel the Vendor to clean up or remove or pay for the cleanup or removal of any Hazardous Substance, remediate any condition or matter in, on, under or in the vicinity of the Property or seek an abatement in the Purchase Price or damages in connection with any Hazardous Substance. This provision shall not expire with, or be terminated or extinguished by or merged in the Closing of the transaction of purchase and sale, contemplated by this Offer and the Agreement, and shall survive the termination of this Offer and the Agreement for any reason or cause whatsoever and the closing of this transaction.

27. Non-Registration

The Purchaser hereby covenants and agrees not to register this Offer or the Agreement or notice of this Offer or the Agreement or a caution, certificate of pending litigation, or any other document providing evidence of this Offer or the Agreement against title to the Property. Should the Purchaser be in default of its obligations under this Section, the Vendor may (as agent and attorney of the Purchaser) cause the removal of such notice of this Offer or the Agreement or other document providing evidence of this Offer or the Agreement or any assignment of this Offer or the Agreement from the title to the Property. The Purchaser irrevocably nominates, constitutes and appoints the Vendor as its agent and attorney in fact and in law to cause the removal of such notice of this Offer or the Agreement from title to the Property.

28. Assignment

Save and except for the completion of this transaction by a company to be incorporated by the Purchaser, the Purchaser shall not have the right to assign its rights under this Agreement without the Vendor's prior written consent, which consent may be unreasonably withheld. Notice of the Purchaser's intention to assign, with the assignee's name and address for service and the assignee's HST number shall be provided to the Vendor not less than seven (7) days prior to the Closing Date.

29. Notices

Any notice to be given or document to be delivered to the parties pursuant to this Agreement shall be sufficient if delivered personally or by email at the following addresses:

To Vendor:

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Rosen Goldberg Inc.
5255 Yonge Street, Suite 804
Toronto, ON M2N 6P4

Attention: Brahm Rosen
Email: brosen@rosengoldberg.com

with a copy to the Vendor's solicitors (which shall not constitute notice unless otherwise noted hereunder):

Dickinson Wright LLP
Barristers & Solicitors
199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario
M5L 1G4

Attention: David Preger
Email: dpreger@dickinsonwright.com

Attention: Paul A. Muchnik
Email: pmuchnik@dickinsonwright.com

Fax: (844) 670-6009

and in the case of a notice to the Purchaser, to:

Parmjit Sandhu and Sukhdeep Sandhu
43 Louvain Dr
Brampton, Ontario
L6P 1Y9

Email: Parm.Sandhu@dell.com and sukhi.sandhu2013@gmail.com

with a copy to the Purchaser's solicitors (which shall not constitute notice unless otherwise noted hereunder):

Law Office of Gina Ceci
Barristers & Solicitors
21 Queen Street East, Suite 404
Brampton, Ontario

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L6W 3P1

Attention: Tony Kiru
Email: kirutony@gmail.com

Any written notice or delivery of documents given in this manner shall be deemed to have been given and received on the day of delivery.

30. Entire Agreement

The Agreement shall constitute the entire agreement between the parties to it pertaining to the subject matter thereof and shall supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties and there shall be no agreements or understandings between the parties in connection with the subject matter thereof except as specifically set forth herein. No party hereto has relied on any express or implied representation, written or oral, of any individual or entity as an inducement to enter into the Agreement.

31. Amendment

No supplement, modification, waiver or termination of the Agreement shall be binding, unless executed in writing by the parties to be bound thereby, provided that the time provided for doing any matter or thing contemplated herein may be abridged or extended by written agreement, in letter form or otherwise, executed by the duly authorized solicitors for the parties.

32. Time of Essence

Time shall be of the essence in this Agreement in all respects and any waiver of any time provision shall not be effective unless in writing and signed by both parties.

33. Binding Agreement

This Offer, when accepted, shall constitute a binding agreement of purchase and sale subject to its terms. It is agreed that there is no representation, warranty, collateral agreement or condition affecting the Agreement or the Property supported hereby other than as expressed herein in writing.

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34. Governing Law

This Offer and the Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

35. Gender, Interpretive Matters

This Offer and the Agreement shall be read with all changes of gender or number required by the context. The titles to provisions do not form part of this Offer or the Agreement and are inserted for reference purposes only. Preparation and submission of the form of this Offer or any other material by the Vendor shall not constitute an offer to sell.

36. Severability

Any provision of this Agreement which is determined to be void, prohibited or unenforceable shall be severable to the extent of such avoidance, prohibition or unenforceability without invalidating or otherwise limiting or impairing the other provisions of this Agreement.

37. Non-Merger

The provisions of this Agreement (including, without limitation, the representations and warranties of the Purchaser), shall survive Closing and shall not merge in the Approval and Vesting Order or in any other documents delivered hereunder.

38. Counterparts

The parties hereto agree that this Agreement may be executed in counterparts and by email transmission and each such counterpart so executed by email transmission shall be deemed to be an original and when taken together shall constitute one and the same Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF the Purchaser has executed this Offer this 1st day of September, 2020.

Bk Rakkar
Witness:

Bk Rakkar
Witness:

PURCHASER:

) Pj Sandhu
)
) Parmjit Sandhu
)

) Sukdeep Sandhu
)
) Sukdeep Sandhu
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Subject to the Approval of the Court, the undersigned hereby accepts the foregoing Offer this 1st day of September, 2020.

ROSEN GOLDBERG INC.

in its capacity as Court-appointed receiver of the asset, property and undertakings of Elite Homes Inc. and Camilla Court Homes Inc. and not in its personal or corporate capacity

By: [Signature]

Name: BRANNA ROSEN
Title: PEL - adm

I have authority to bind the corporation.

SCHEDULE "A"**Legal Description**

PT B.L.K A, PL A27, DES PTS 2, 17, 18, PL43R35816; SUBJECT TO AN EASEMENT IN GROSS OVERPAR 18, PL 43R35816 AS IN PR2477172; SUBJECT TO AN EASEMENT IN GROSS AS IN PR1987587; SUBJECT TO AN EASEMENT AS IN PR2640845; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017; TOGETHER WITH AN EASEMENT OVER PART BLOCK A, PLAN A27, DESIGNATED AS PARTS 1, 22, 23, 234, PLAN 43R35816 AS IN PR3130178; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 43R35816 IN FAVOUR OF LOT 1, PLAN 846, DESIGNATED AS PARTS 1 & 2, PLAN 43R37562 AS IN PR3130488; SUBJECT TO AN EASEMENT OVER PARTS 2 TO 21 & 26 & 27, PLAN 43R35816 IN FAVOUR OF PART OF BLOCK A. PLAN A27, DESIGNATED AS PARTS 25, 28, & 29, PLAN 43R35816 AS IN PR3155396; CITY OF MISSISSAUGA

PIN 13348-0587 (LT)

SCHEDULE "B"
REGISTRATIONS TO BE DELETED

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR2940841	2016/06 30	CHARGE	\$920,000	CAMILLA COURT HOMES INC.	ZOOM CREDITMAY INC.
PR2940842	2016/06 30	NO ASSGN RENT GEN		CAMILLA COURT HOMES INC.	ZOOM CREDITMAY INC.
PR3052681	2016/12 22	POSTPONEMENT		ZOOM CREDITMAY INC.	FIRM CAPITAL MORTGAGE FUND INC.
PR3202137	2017/09 15	NOTICE		CAMILLA COURT HOMES INC. ELITE HOMES INC.	ZOOM CREDITMAY INC.
PR3409284	2018/11 16	TRANSFER OF CHARGE		ZOOM CREDITMAY INC.	BILWANI, SHAZAD
PR3409285	2018/11 16	NOTICE	\$1	CAMILLA COURT HOMES INC.	BILWANI, SHAZAD
PR3409292	2018/11 16	CHARGE	\$5,800,000	CAMILLA COURT HOMES INC. ELITE HOMES INC.	C & K MORTGAGE SERVICES INC.
PR3409293	2018/11 16	NO ASSGN RENT GEN		CAMILLA COURT HOMES INC. ELITE HOMES INC.	C & K MORTGAGE SERVICES INC.
PR3409324	2018/11 16	POSTPONEMENT		BILWANI, SHAZAD	C & K MORTGAGE SERVICES INC.
PR3559790	2019/10 25	CONSTRUCTION LIEN	\$18,732	CANADIAN CHOICE HOME SERVICES INC.	
PR3587113	2019/12 13	CONSTRUCTION LIEN	\$3,909	SUPER SAVE TOILET RENTALS INC.	
PR3644457	2020/04 28	CONSTRUCTION LIEN	\$70,372	VIA TRIM & DOORS INC.	
PR3664130	2020/06 15	CERTIFICATE		VIA TRIM & DOORS INC.	
PR3670945	2020/06 30	CONSTRUCTION LIEN	\$57,376	DAVCO DRYWALL SYSTEMS INC.	
PR3677688	2020/07 20	CONSTRUCTION LIEN	\$31,075	ULTRA ROOFING 1 INC.	

SCHEDULE "C"
REGISTRATIONS TO BE PERMITTED

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR1987587	2011/04/12	TRANSFER EASEMENT	S2	DI BLASIO, ADINA DIBLASIO, ANTONIO VITALI, CHRISTOPHER PASQUALE XHAFERRI, ALBANA XHAFERRI, LUAN	ENERSOURCE HYDRO MISSISSAUGA INC.
PR1987593	2011/04/12	NOTICE	S2	DI BLASIO, ADINA DIBLASIO, ANTONIO VITALI, CHRISTOPHER PASQUALE XHAFERRI, ALBANA XHAFERRI, LUAN	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR198566	2011/04/15	NOTICE	S2	DI BLASIO, ADINA DIBLASIO, ANTONIO VITALI, CHRISTOPHER PASQUALE XHAFERRI, ALBANA XHAFERRI, LUAN	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR2057203	2011/08/17	TRANSFER EASEMENT	S2	XHAFERRI, ALBANA XHAFERRI, LUAN VITALI, CHRISTOPHER PASQUALE DI BLASIO, ADINA DIBLASIO, ANTONIO	ROGERS COMMUNICATIONS INC.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR2477172	2013/12 13	TRANSFER EASEMENT	S2	VITALI, CHRISTOPHER PASQUALE	THE CORPORATION OF THE CITY OF MISSISSAUGA
43R35816	2014/03 03	PLAN REFERENCE			
PR2603640	2014/09 23	BYLAW		THE CORPORATION OF THE CITY OF MISSISSAUGA	
43R36245	2014/11 19	PLAN REFERENCE			
PR2633484	2014/11 19	APL ABSOLUTE TITLE		VITALI, CHRISTOPHER PASQUALE	
PR2640845	2014/12 01	TRANSFER EASEMENT	S2	VITALI, CHRISTOPHER PASQUALE	ENBRIDGE GAS DISTRIBUTION INC.
PR2697676	2015/04 14	NOTICE	S2	VITALI, CHRISTOPHER PASQUALE XHAFERRI, LUAN XHAFERRI, ALBANA	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR2697679	2015/04 14	NOTICE	S2	VITALI, CHRISTOPHER PASQUALE XHAFERRI, LUAN XHAFERRI, ALBANA	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR2714127	2015/05 20	NOTICE	S2	THE REGIONAL MUNICIPALITY OF PEEL	
PR2732587	2015/06 22	TRANSFER	S2	VITALI, CHRISTOPHER PASQUALE	VITALI, CHRISTOPHER PASQUALE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR2798752	2015/10 06	TRANSFER	\$3,955,000	VITALI, CHRISTOPHER PASQUALE	CAMILLA COURT HOMES INC.
PR3130177	2017/05 19	APL ANNEX REST COV		XHAFERRI, ALBANA XHAFERRI, LUAN CAMILLA COURT HOMES INC.	
PR3130488	2017/05 19	TRANSFER EASEMENT	\$2	XHAFERRI, ALBANA XHAFERRI, LUAN CAMILLA COURT HOMES INC.	GOLDEN TOWN COMPANY LIMITED
PCP1017	2017/06 29	CE CONDO PLN			
PR3155396	2017/06 29	CONDO DECLARATION		CAMILLA COURT HOMES INC.	
PR3164498	2017/07 14	CONDO BYLAW 98		PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017	
PR3164499	2017/07 14	CONDO BYLAW 98		PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017	
PR3164500	2017/07 14	NOTICE	\$2	XHAFERRI, LUAN XHAFERRI, ALBANA CAMILLA COURT HOMES INC	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR3671552	2020-07 02	APPL AMEND ORDER		ONTARIO SUPERIOR COURT OF JUSTICE, BRAMPTON	GOLDEN TOWN COMPANY LIMITED
PR3671684	2020/07 03	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	ROSEN GOLDBERG INC.

TAB G

OFFER TO PURCHASE

(PIN 13348-0589 (LT) – 180 Mateo Place, Mississauga)

TO: ROSEN GOLDBERG INC. in its capacity as court-appointed receiver (the “**Receiver**” or “**Vendor**”), without security, of certain real property of Camilla Court Homes Inc. (the “**Debtor**”), municipally known as 180 Mateo Place, Mississauga, Ontario, and all proceeds thereof pursuant to an Order of the Honourable Justice Conway of the Ontario Superior Court of Justice (Commercial List), dated July 2, 2020 in Court File No. CV-20-006643021-00CL at Toronto, (the “**Receivership Order**”) and not in its personal capacity or corporate capacity.

1. Offer to Purchase

The undersigned, Janak Bhawnani & Sharmila Bhawnani (the “**Purchaser**”), hereby offers to purchase from and through the Vendor all of the right, title and interest in and to the Property (hereinafter defined) which the Vendor is entitled to sell pursuant to the Receivership Order at the purchase price set out herein and upon and subject to the terms hereof.

2. Definitions

In this Offer and the Agreement arising from the acceptance hereof, the following terms have the meanings respectively ascribed to them:

“**Agreement**”, “**the Agreement**” or “**this Agreement**” means the agreement of purchase and sale resulting from the acceptance of the Offer by the Vendor.

“**Approval**” in relation to the Court means the making of an appropriate Order of the Court in respect of the particular matter submitted for approval approving the action or proposed action of the Vendor on terms satisfactory to the Vendor.

“**Approval and Vesting Order**” has the meaning ascribed thereto in Section 7 hereof.

“**Buildings**” means the building(s), if any, situate on the Lands (as hereinafter defined) together with all other structures situate thereon, including all improvements thereto and all fixtures forming a part thereof.

“**Business Day**” means a day other than Saturday, Sunday or a statutory holiday or any other day upon which the Vendor is not open for the transaction of business throughout normal business hours at its principal office.

“**Closing**” or “**Closing Date**” has the meaning ascribed thereto in Section 18 thereof.

“**Condition Date**” has the meaning ascribed thereto in Section 5 hereof.

“**Court**” means the Ontario Superior Court of Justice and includes a judge, master or registrar of that court and any appellate court judge having jurisdiction in any particular matter.

“**Deposits**”, the “**First Deposit**” and the “**Second Deposit**” have the meaning ascribed thereto in Section 3(a) and 3(b) hereof.

“**Environmental Laws**” has the meaning ascribed thereto in Section 25 hereof.

“**Hazardous Substances**” means any contaminant, pollutant, dangerous substance, potentially dangerous substances, noxious substance, toxic substance, hazardous waste, flammable material, explosive material, radioactive material, urea-formaldehyde foam insulation, asbestos, PCBs radiation and any other substance, material, effect, or thing declared or defined to be hazardous, toxic, a contaminant, or pollutant, in or pursuant to any Environmental Laws.

“**HST**” has the meaning ascribed thereto in Section 17 hereof.

“**Indemnitees**” has the meaning ascribed thereto in Section 25 hereof.

“**Lands**” means the lands legally described in Schedule “A” attached hereto.

“**Material Documents**” includes copies of all architectural drawings, site plans relating to the Property, existing plan of survey, if any, to the extent that such Material Documents are in the possession of the Vendor.

“**Offer**”, “**the Offer**” or “**this Offer**” means the offer to purchase the Property made by the Purchaser and contained in and comprised of this document.

“**Property**” means collectively, the Lands and Buildings.

“**Purchase Price**” has the meaning ascribed thereto in Section 3 hereof.

“**Purchaser’s Conditions**” has the meaning ascribed thereto in Section 5 hereof.

3. Purchase Price [REDACTED]

The purchase price for the Property shall be [REDACTED] dollars [REDACTED] payable in lawful money of Canada (the “**Purchase Price**”), subject to the adjustments hereinafter referred to in Section 9 hereof, and paid by the Purchaser as follows:

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- (a) a deposit (the “**First Deposit**”), which shall not be less than [REDACTED] of the Purchase Price, shall be delivered with submission of this Offer by certified cheque, irrevocable wire transfer or bank draft drawn on an account at a Canadian chartered bank or trust company payable to the Vendor;
- (b) a deposit (the “**Second Deposit**”, and combined with the First Deposit, the “**Deposits**”), which shall not be less than [REDACTED] of the Purchase Price, shall be delivered within two Business Days of the waiver of the Purchaser’s Conditions (if any); and,
- (b) the balance of the Purchase Price for the Property shall be paid, subject to the adjustments hereinafter referred to, to the Vendor on the Closing Date by irrevocable wire transfer to the Vendor’s lawyers (or as the Vendor or its lawyers may direct).

4. Deposits

The Deposits shall be held in trust by the Vendor and shall be:

- (a) returned to the Purchaser without interest or deduction if the Vendor does not accept this Offer; or,
- (c) credited to the Purchaser as an adjustment against the Purchase Price on the Closing Date if the purchase and sale of the Property is completed pursuant to the Agreement; or,
- (d) refunded to the Purchaser with interest and without deduction if the purchase and sale of the Property is not completed pursuant to the Agreement, provided that the Purchaser is not in default under this Offer or under the Agreement; or,
- (e) retained by the Vendor as a genuine pre-estimate of liquidated damages and not as a penalty, in addition to any other rights and remedies that the Vendor may have under this Offer, the Agreement and at law, including offering the Property for sale to another person, if the purchase and sale of the Property is otherwise not completed pursuant to this Offer and the Agreement, as a result of the Purchaser’s breach hereunder.

5. Purchaser’s Conditions

Notwithstanding anything to the contrary herein contained, the Agreement is conditional to the Purchaser until 5:00 o’clock p.m. (Toronto time) on NO conditions, 2020 (the “**Condition Date**”) and is subject to the

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Purchaser satisfying itself in its sole, absolute and unfettered discretion with all matters relating to the Property, including without limitation, zoning matters, the suitability of the Property for the Purchaser's use, the physical condition of the Property, soil conditions, the environmental condition of the Property and the surrounding real property and the results of its other due diligence tests, inspections and investigations (collectively, the "**Purchaser's Conditions**").

The Purchaser's Conditions are for the exclusive benefit of the Purchaser and may be waived in whole or in part by the Purchaser at any time on or before the Condition Date, any such waiver to be made in writing by the Purchaser or its solicitors. In the event that the Purchaser has not, on or before the Condition Date, waived the Purchaser's Conditions or provided the Vendor with written confirmation that the Purchaser's Conditions have been satisfied, this Agreement shall be null and void and the Deposit shall be returned to the Purchaser with interest and without deduction and the Vendor and the Purchaser shall have no further obligations to each other with respect hereto.

6. **Acceptance of Offer**

The Purchaser agrees that no agreement for the purchase and sale of the Property shall result from this Offer unless and until this Offer has been accepted by the Vendor and approved by the Court in accordance with the provisions of Section 7 hereof. The Purchaser agrees that this Offer shall be irrevocable by the Purchaser and open for acceptance by the Vendor until 5:00 o'clock p.m. (Toronto time) on 17th September, 2020, after which time, if not accepted by the Vendor, this Offer shall be null and void and the First Deposit shall be returned to the Purchaser in accordance with Section 4(a) hereof. The Vendor shall indicate the date on which it has accepted this Offer in the space provided on the execution of this Offer.

7. **Court Approval**

The Purchaser hereby acknowledges and agrees that the sale of the Property is by Order of, and is subject to, the Approval of the Court. The Vendor shall, forthwith after the waiver of the Purchaser's Conditions, or if there are no Purchaser's Conditions forthwith after the Vendor's acceptance of this Offer, bring a motion to the Court for Approval of the Agreement and an order vesting title to the Property in the Purchaser (the "**Approval and Vesting Order**"). The Vendor shall diligently pursue such motion on notice to the Purchaser and shall promptly notify the Purchaser of the disposition thereof. The Purchaser, at its own expense, shall promptly provide to the Vendor all such information and assistance within the Purchaser's power as the Vendor may reasonably require to obtain Approval of the Agreement. If the Court shall not have granted Approval of the Agreement within fourteen (14) Business Days of the Purchaser's waiver of the Purchaser's Conditions, the Agreement shall automatically be terminated. If the Agreement is

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terminated under any provision of this Section, the Deposits and any interest earned thereon shall be returned to the Purchaser and neither party shall have any further rights or liabilities hereunder.

8. Capacity of Receiver

The Vendor, by acceptance of the Offer, is entering into the Agreement solely in its capacity as the as court-appointed receiver of the assets, undertakings and properties of the Debtors and not in its personal or any other capacity. Any claim against the Vendor shall be limited to and only enforceable against the Property and assets then held by or available to it in its said capacity and shall not apply to its personal property and/or any assets held by it in any other capacity. The Vendor shall have no personal or corporate liability of any kind, whether in contract or in tort or otherwise. The term "Vendor" as used in this Agreement shall have no inference or reference to the present registered owner of the Property.

9. Adjustments

The Purchase Price for the Property shall be adjusted as of the Closing Date in respect of realty taxes, flat/fixed water and sewer rates and charges, if any, and all other items usually adjusted with respect to properties similar to the Property that apply. Such adjustments shall be pro-rated where appropriate for the relevant period on the basis of the actual number of days elapsed during such period to the Closing Date itself to be apportioned to the Purchaser.

10. Termination of Agreement

Notwithstanding anything to the contrary contained in this Agreement, if at any time or times prior to the Closing Date, the Vendor is unable to complete this Agreement as a result of any action taken by an encumbrancer, any action taken by the present registered owner, the refusal by the present registered owner, to take any action, the exercise of any right by the present registered owner or other party which is not terminated upon acceptance of this Agreement, a certificate of pending litigation is registered against the Property, a court judgment or order is made, or, if the Purchaser submits valid title requisition which the Vendor is unable or unwilling to satisfy prior to Closing, or if the sale of the Property is restrained at any time by a court of competent jurisdiction, or if the Property is occupied by the owner of the Property and the Vendor is unable to provide vacant possession on Closing Day, the Vendor may, in its sole and unfettered discretion, elect by written notice to the Purchaser, to terminate this Agreement, whereupon the Deposit and any interest earned thereon shall be returned to the Purchaser, and neither party shall have any further rights or liabilities hereunder.

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The obligation of the Vendor to complete the Agreement is subject to the satisfaction of the following terms and conditions on or prior to the Closing Date, which conditions are for the sole benefit of the Vendor and which may be waived by the Vendor in its sole discretion:

- (a) the representations and warranties of the Purchaser being true and accurate as of the Closing Date;
- (b) no action or proceeding at law or in equity shall be pending or threatened by any person, firm, government, government authority, regulatory body or agency to enjoin, restrict or prohibit the purchase and sale of the Property;
- (c) the Property shall not have been removed from the control of the Vendor by any means or process;
- (d) no party shall take any action to redeem the Property; and,
- (e) the Court shall have granted Approval of this Agreement and shall have granted the Approval and Vesting Order.

11. Purchaser's Acknowledgements

The Purchaser hereby acknowledges and agrees with and to be subject to the following:

- (a) it is responsible for conducting its own searches and investigations of the current and past uses of the Property;
- (b) the Vendor makes no representation or warranty of any kind that the present use of future intended use by the Purchaser of the Property is or will be lawful or permitted;
- (c) it is satisfied with the Property and all matters and things connected therewith or in any way related thereto;
- (d) it is relying entirely upon its own investigations and inspections in entering into this Agreement;
- (e) it is purchasing the Property on an "as is, where is" and "without recourse" basis including, without limitation, outstanding work orders, deficiency notices, compliance, requests, development fees, imposts, lot levies, sewer charges, zoning and building code violations and any outstanding requirements which have been or may be issued by any governmental authority having jurisdiction over the Property;

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- (f) it relies entirely on its own judgment, inspection and investigation of the Property and acknowledges that any documentation relating to the Property obtained from the Vendor has been prepared or collected solely for the convenience of prospective purchasers and is not warranted to be complete or accurate and is not part of this Offer;
- (g) it will provide the Vendor with all requisite information and materials, including proof respecting source or funds, at any time or times within forty-eight (48) hours of request by the Vendor so that the Vendor may determine the creditworthiness of the Purchaser and any related parties thereto;
- (h) the Vendor shall have no liability or obligation with respect to the value, state or condition of the Property, whether or not the matter is within the knowledge or imputed knowledge of the Vendor, its officers, employees, directors, agents, representatives and contractors;
- (i) the Vendor has made no representations or warranties with respect to or in any way related to the Property, including without limitation, the following: (i) the title, quality, quantity, marketability, zoning, fitness for any purpose, state, condition, encumbrances, description, present or future use, value, location or any other matter or thing whatsoever related to the Property, either stated or implied; and (ii) the environmental state of the Property, the existence, nature, kind, state or identity of any Hazardous Substances on, under, or about the Property, the existence, state, nature, kind, identity, extent and effect of any administrative order, control order, stop order, compliance order or any other orders, proceedings or actions under the *Environmental Protection Act* (Ontario), or any other statute, regulation, rule or provision of law now in existence, state, nature, kind, identity, extent and effect of any liability to fulfill any obligation to compensate any third party for any costs incurred in connection with or damages suffered as a result of any discharge of any Hazardous Substances whether on, under or about the Property or elsewhere;
- (j) the Material Documents are being provided to the Purchaser merely as a courtesy and without any representations or warranties whatsoever; and,
- (k) it will ensure that any environmental and/or structural reports on behalf of the Purchaser shall also be addressed to the Vendor and a copy of each such report shall be delivered to the Vendor promptly after the completion thereof, regardless of whether the transaction contemplated by this Offer closes. If for any reason such transaction is not consummated, the Purchaser agrees to deliver promptly to the Vendor any and all reports and

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other data pertaining to the Property and any inspections or examinations conducted hereunder.

12. Title to the Property

Provided that the title to the Property is good and free from all restrictions, charges, liens, claims and encumbrances, except as otherwise specifically provided in this Agreement, and save and except for:

- (a) any reservations, restrictions, rights of way, easements or covenants that run with the land;
- (b) any registered agreements with a municipality, region or supplier of utility service including, without limitations, electricity, water, sewage, gas, telephone or cable television or other telecommunication services;
- (c) all laws, by-laws and regulations and all outstanding work orders, deficiency notices and notices of violation affecting the Property;
- (d) any minor easements for the supply of utility services or other services to the Property or adjacent properties;
- (f) encroachments disclosed by any error or omission in existing surveys of the Property or neighbouring properties and any title defects, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Property and survey of the Property and survey matters generally;
- (g) the exceptions and qualifications set forth in the *Registry Act* (Ontario) or the *Land Titles Act* (Ontario), or amendments thereto;
- (h) any reservation(s) contained in the original grant from Crown;
- (i) the right of any tenant, occupant, lessee or licensee to remove fixed equipment or other fixtures;
- (j) subsection 44(1) of the *Land Titles Act* (Ontario) except paragraphs 11 and 14;
- (k) provincial succession duties and escheats or forfeiture to the Crown;
- (l) the rights of any person who would, but for the *Land Titles Act* (Ontario) be entitled to the Lands or any part of it through length of adverse

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possession, prescription, misdescription or boundaries settled by convention;

- (m) any lease to which subsection 70(2) of the *Registry Act* (Ontario) applies; and
- (n) those registrations set out in Schedule "C" attached hereto.

Notwithstanding the foregoing, the Approval and Vesting Order shall provide for the deletion of the instruments or registrations listed in Schedule "B" attached hereto, and for the deletion of any filings under the *Personal Property Security Act* (Ontario), as they affect the Property.

13. Authorizations

The Purchaser shall assume, at its cost, complete responsibility for compliance with all municipal, provincial and federal laws insofar as the same apply to the Property and the use thereof by the Purchaser. It shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Purchaser of the Vendor's right, title and interest, if any, in the Property.

14. Requisition Period

The Purchaser shall be allowed until the Condition Date to investigate the title to the Property and to satisfy itself that all present uses are the legal uses thereof or legal nonconforming uses which may be continued and that the Property may be insured against usual insurable risks, at the Purchaser's own expense. If within such time the Purchaser shall furnish the Vendor in writing with any valid objection to title to the Property, which the Vendor is unable or unwilling to remove, remedy or satisfy and which the Purchaser will not waive, then the Agreement shall be terminated, the Deposits and any interest earned thereon shall be returned to the Purchaser and neither party shall have any further rights or liabilities hereunder. Save as to any valid objection made as aforesaid or which the law allows to be made and is made after expiry of the aforesaid period, the Purchaser shall be conclusively deemed to have accepted the title to the Property to be vested in the Purchaser on Closing in accordance with the Agreement, and to have accepted the Property subject to all applicable laws, by-laws, regulations, easements and covenants affecting its use and the Purchaser shall assume responsibility from and after the Closing Date for compliance therewith. The Purchaser shall not call for the production of any title deed, abstract, survey or other evidence of title to the Lands, except as are in the control or possession of the Vendor. The Vendor shall not be required to produce any other document or report to the Purchaser, unless it is expressly provided for by this Agreement. The description of the Property is believed by the Vendor to be correct but, if any

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statement, error or omission shall be found in the particulars thereof, the same shall not cancel the sale or entitle the Purchaser to be relieved of any obligation hereunder, nor shall any compensation be allowed to the Purchaser in respect thereof.

15. Risk of Loss

The buildings and all other things being purchased shall be and remain until completion at the risk of the Vendor. The Property shall thereafter be at the risk of the Purchaser. Pending completion, the Vendor shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interest may appear and in the event of substantial damage to the Property before the completion of the Agreement which damage gives rise to any insurance proceeds, the Purchaser may either terminate this Agreement and have the Deposits returned with interest or deduction or else take the proceeds of insurance and complete the transaction. Where any damage is not substantial, the Purchaser shall be obliged to complete the Agreement and be entitled to the proceeds of insurance referenced to such damage. The Purchaser agrees that all the insurance maintained by the Vendor shall be cancelled on the Closing Date and that the Purchaser shall be responsible for placing its own insurance thereafter.

16. Planning Act

This Agreement is subject to the express condition that if the provisions of Section 50 of the *Planning Act* (Ontario) apply to the sale and purchase of the Property, then this Agreement shall be effective to create an interest in the Property only if such provision is complied with.

17. Harmonized Sales Tax

The Purchaser hereby represents and warrants to the Vendor that it is or will become registered for the purposes of Part IX of the *Excise Tax Act* (Canada) in accordance with the requirements of Subdivision (d) of Division V thereof and it will continue to be so registered as of the Closing Date. The Purchaser covenants to deliver to the Vendor drafts nor less than five (5) days before the Closing Date and originals upon Closing of: (i) a notarial copy of the certificate evidencing its registration for purposes of the goods and services tax / harmonized sales tax ("HST"), including the registration number assigned to it; and (ii) a declaration and indemnity of the Purchaser confirming the accuracy, as at Closing, of the representations and warranties set out herein and agreeing to indemnify the Vendor for any amounts for which the Vendor may become liable as a result of any failure by the Purchaser to pay the HST payable in respect of the sale of the Property under Part IX of the *Excise Tax Act* (Canada) and that the Purchaser is buying for its own account and not as trustee or agent for any other party. Provided that the Purchaser delivers a notarial copy of the certificate and the

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declaration and indemnity as set out above, the Purchaser shall not be required to pay to the Vendor, nor shall the Vendor be required to collect from the Purchaser, the HST in respect of the Property. In the event that the Purchaser shall fail to deliver the notarial copy of the certificate and the declaration and indemnity as set out above, then the Purchaser shall pay to the Vendor, in addition to the Purchase Price, in pursuance of the Purchaser's obligation to pay and the Vendor's obligation to collect HST under the provisions of the *Excise Tax Act* (Canada), an amount equal to thirteen (13%) percent of the Purchase Price, or such rate due and owing at the time of Closing.

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18. **Closing** Closing on November 5th, 2020

Closing shall take place on the date which is seven (7) Business Days following Approval of the Agreement by the Court and issuance of the Approval and Vesting Order, or such earlier date as the parties or their respective solicitors may actually agree upon in writing (the "**Closing Date**" or "**Closing**"). Provided that the Vendor by written notice to the Purchaser or its solicitors may postpone the Closing Date from time to time, but in no event shall the date of Closing be postponed to a date more than sixty (60) days after the original Closing Date. The Vendor and the Purchaser acknowledge that the Teraview Electronic Registration System ("**TERS**") is operative and mandatory in the Land Titles Division for the Land Registry Office of Peel (No. 43). The Purchaser and Vendor shall each retain legal counsel who are authorized TERS users and who are in good standing with The Law Society of Ontario. The Vendor and Purchaser shall each authorize their respective legal counsel to enter into a document registration agreement in the form as adopted by the joint LSO-CBAO Committee of documents and closing funds and the release thereof to the Vendor and Purchaser, as the case may be:

- (a) shall not occur contemporaneously with the registration of the Transfer/Deed of Land or Application to Register the Approval and Vesting Order, and Receiver's certificate required by the Approval and Vesting Order (and other registerable documentation, if any) to be registered by the Purchaser's solicitor; and,
- (b) shall be governed by the document registration agreement pursuant to which legal counsel receiving any documents or funds will be required to hold same in escrow and will not be entitled to release except in strict accordance with provisions of the document registration agreement and the Purchaser shall be required to deliver the balance due on closing on the Closing Date to the Vendor's solicitors, to be held in escrow by them, whereupon the Vendor's solicitors shall after payment forthwith attend to have the signed Receiver's Certificate filed with the Court, which signed and entered Receiver's Certificate and Approval and Vesting Order shall form part of the Application – Vesting Order, and which shall be delivered

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by the Vendor's solicitors to the Purchaser's solicitors for immediate registration by the Purchaser's solicitors. Upon registration of the Application – Vesting Order, the Vendor shall release possession of the Property to the Purchaser and the balance due on closing shall be released from escrow.

19. Vendor's Closing Deliveries

The Vendor shall execute and deliver or cause to be executed and delivered to the Purchaser on the Closing Date, against payment of the Purchase Price, the following:

- (a) a statement of adjustments;
- (b) a direction for the payment of the balance of the Purchase Price due on Closing;
- (c) an undertaking by the Vendor to readjust all items on the statement of adjustments within sixty (60) days from the date of Closing on written demand;
- (d) a certificate of the Vendor to the effect that it is not at the Closing Date a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act*;
- (e) a copy of the Approval and Vesting Order;
- (f) keys that may be in the possession of the Vendor;
- (g) all Material Documents, if not already in the possession of the Purchaser; and,
- (h) any other documents relative to the completion of this Agreement as may reasonably be required by the Purchaser or its solicitors.

20. Purchaser's Closing Deliveries

The Purchaser shall execute and deliver to the Vendor on the Closing Date the following:

- (a) wire transfer for the balance of the Purchase Price and any other monies required to be paid by the Purchaser pursuant to the Agreement, or the adjustments, including all applicable federal and provincial taxes, duties and registration fees unless the applicable exemption certificates in a form

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acceptable to the Vendor are presented to the Vendor on or before the Closing Date to exempt the Purchaser therefrom;

- (b) all certificates, indemnities, declarations and other evidences contemplated hereby in form and content satisfactory to the Vendor's solicitors, acting reasonably;
- (c) an undertaking by the Purchaser to readjust all items on the statement of adjustments;
- (d) a notarial copy of its HST registration and HST certificate and indemnity as required pursuant to this Agreement;
- (e) an agreement to assume all existing service and supply contracts in place as of Closing;
- (f) the indemnities required to be delivered by the Purchaser to the Vendor pursuant to Section 25 hereof;
- (g) the release and discharge required to be delivered by the Purchaser to the Vendor pursuant to Section 26 hereof; and,
- (h) any other documents relative to the completion of this Agreement as may reasonably be required by the Vendor or its solicitors.

21. Inspection

Without limitation, all of the Property shall be as it exists on the Closing Date with no adjustments to be allowed to the Purchaser for changes in conditions or qualities from the date hereof to the Closing Date. The Purchaser acknowledges and agrees that the Vendor is not required to inspect the Property or any part thereof and the Purchaser shall be deemed, at its own expense to have relied entirely on its own inspection and investigation. The Purchaser acknowledges that no warranties or conditions, expressed or implied, pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in other jurisdictions apply hereto and all of the same are hereby waived by the Purchaser.

22. Encroachments

The Purchaser agrees that the Vendor shall not be responsible for any matters relating to encroachments on or to the Property, or encroachments of the Property onto adjoining lands, or to remove same, or for any matters relating to any applicable zoning regulations or by-laws in existence now or in the future affecting the Property.

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23. Purchaser's Warranties

The Purchaser represents and warrants that:

- (a) if applicable, it is a corporation duly incorporated, organized and subsisting under the laws of Canada, Ontario or another province of Canada;
- (b) if applicable, it has the corporate power and authority to enter into and perform its obligations under the Agreement and all necessary actions and approvals have been taken or obtained by the Purchaser to authorize the creation, execution, delivery and performance of the Offer and resulting Agreement and the Offer has been duly executed and delivered by the Purchaser, and the resulting Agreement is enforceable against the Purchaser in accordance with its terms; and,
- (c) it is not a non-Canadian for the purpose of the *Investment Canada Act* (Canada) and it is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada).

24. Confidentiality

The Purchaser agrees that all information and documents supplied by the Vendor or anyone on its behalf to the Purchaser or anyone on the Purchaser's behalf (including but not limited to information in the schedules hereto) shall, unless and until Closing occurs, be received and kept by the Purchaser and anyone acting on the Purchaser's behalf on a confidential basis and shall not without the Vendor's prior written consent be disclosed to any third party. If for any reason Closing does not occur, all such documents (including without limitation, the Material Documents) shall forthwith be returned intact to the Vendor and no copies or details thereof shall be retained by the Purchaser or anyone acting on its behalf. The Purchaser further agrees that unless and until the terms of this Offer and the Agreement become public knowledge in connection with an application to the Court for Approval of the Agreement, the Purchaser shall keep such terms confidential and shall not disclose the same to anyone except the Purchaser's solicitors, agents or lenders acting in connection herewith and then only on the basis that such persons also keep such terms confidential as aforesaid.

25. Indemnification

The Purchaser shall indemnify and save harmless the Vendor and its directors, officers, employees and agents (collectively, the "Indemnitees") from and against any and all liabilities, obligations, losses, damages, penalties, notices, judgments, suits, claims, demands, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against

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the Indemnitees or any of them arising out of or in connection with the operations of the Purchaser on the Property or any order, notice, directive, or requirement under, or breaches, violations or non-compliance with any Environmental Laws after the Closing Date or as a result of the disposal, storage, release or threat of release or spill on or about the Property of any Hazardous Substance after the Closing Date. For the purposes of the foregoing, "**Environmental Laws**" shall mean all requirements under or prescribed by common law and all federal, provincial, regional, municipal and local laws, rules, statutes, ordinances, regulations, guidelines, directives, notices and orders from time to time with respect to the discharge, generation, removal, storage or handling of any Hazardous Substance. The obligation of the Purchaser hereunder shall survive the Closing Date.

The Purchaser shall indemnify the Vendor and save harmless the Indemnitees from and against any and all liabilities, obligations, losses, damages, penalties, notices, judgments, suits, claims, demands, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Indemnitees or any of them arising out of or in connection with the failure of the Purchaser to pay any taxes, duties, fees and like charges exigible in connection with the Offer or Agreement. It shall be the Purchaser's sole responsibility to obtain, and pay the cost of obtaining, any consents, permits, licenses or other authorizations necessary or desirable for the transfer to the Purchaser of the Property.

26. Release

The Purchaser agrees to release and discharge the Vendor together with its officers, employees, agents and representatives from every claim of any kind that the Purchaser may make, suffer, sustain or incur in regard to any Hazardous Substance relating to the Property. The Purchaser further agrees that the Purchaser will not, directly or indirectly, attempt to compel the Vendor to clean up or remove or pay for the cleanup or removal of any Hazardous Substance, remediate any condition or matter in, on, under or in the vicinity of the Property or seek an abatement in the Purchase Price or damages in connection with any Hazardous Substance. This provision shall not expire with, or be terminated or extinguished by or merged in the Closing of the transaction of purchase and sale, contemplated by this Offer and the Agreement, and shall survive the termination of this Offer and the Agreement for any reason or cause whatsoever and the closing of this transaction.

27. Non-Registration

The Purchaser hereby covenants and agrees not to register this Offer or the Agreement or notice of this Offer or the Agreement or a caution, certificate of pending litigation, or any other document providing evidence of this Offer or the

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Agreement against title to the Property. Should the Purchaser be in default of its obligations under this Section, the Vendor may (as agent and attorney of the Purchaser) cause the removal of such notice of this Offer or the Agreement, caution, certificate of pending litigation or other document providing evidence of this Offer or the Agreement or any assignment of this Offer or the Agreement from the title to the Property. The Purchaser irrevocably nominates, constitutes and appoints the Vendor as its agent and attorney in fact and in law to cause the removal of such notice of this Offer or the Agreement, any caution, certificate of pending litigation or any other document or instrument whatsoever from title to the Property.

28. Assignment

Save and except for the completion of this transaction by a company to be incorporated by the Purchaser, the Purchaser shall not have the right to assign its rights under this Agreement without the Vendor's prior written consent, which consent may be unreasonably withheld. Notice of the Purchaser's intention to assign, with the assignee's name and address for service and the assignee's HST number shall be provided to the Vendor not less than seven (7) days prior to the Closing Date.

29. Notices

Any notice to be given or document to be delivered to the parties pursuant to this Agreement shall be sufficient if delivered personally or by email at the following addresses:

To Vendor:

Rosen Goldberg Inc.
5255 Yonge Street, Suite 804
Toronto, ON M2N 6P4

Attention: Brahm Rosen
Email: brosen@rosengoldberg.com

with a copy to (which shall not constitute notice):

Dickinson Wright LLP
Barristers & Solicitors
199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario

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M5L 1G4

Attention: David Preger
Email: dpreger@dickinsonwright.com

Attention: Paul A. Muchnik
Email: pmuchnik@dickinsonwright.com

Fax: (844) 670-6009

and in the case of a notice to the Purchaser, to:

Ritika M Malkani

Broker, Right at Home Realty Inc.

Email: ritika.m.malkani@gmail.com

Fax: 905-637-1070

with a copy to the Purchaser's solicitors (which shall not constitute notice):

Tara Vasdani

Remote Law Canada

Email: tara@remotelawcanada.com

Any written notice or delivery of documents given in this manner shall be deemed to have been given and received on the day of delivery.

30. Entire Agreement

The Agreement shall constitute the entire agreement between the parties to it pertaining to the subject matter thereof and shall supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties and there shall be no agreements or understandings between the parties in connection with the subject matter thereof except as specifically set forth herein. No party hereto has relied on any express or implied representation, written or oral, of any individual or entity as an inducement to enter into the Agreement.

31. Amendment

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No supplement, modification, waiver or termination of the Agreement shall be binding, unless executed in writing by the parties to be bound thereby, provided that the time provided for doing any matter or thing contemplated herein may be abridged or extended by written agreement, in letter form or otherwise, executed by the duly authorized solicitors for the parties.

32. Time of Essence

Time shall be of the essence in this Agreement in all respects and any waiver of any time provision shall not be effective unless in writing and signed by both parties.

33. Binding Agreement

This Offer, when accepted, shall constitute a binding agreement of purchase and sale subject to its terms. It is agreed that there is no representation, warranty, collateral agreement or condition affecting the Agreement or the Property supported hereby other than as expressed herein in writing.

34. Governing Law

This Offer and the Agreement shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

35. Gender, Interpretive Matters

This Offer and the Agreement shall be read with all changes of gender or number required by the context. The titles to provisions do not form part of this Offer or the Agreement and are inserted for reference purposes only. Preparation and submission of the form of this Offer or any other material by the Vendor shall not constitute an offer to sell.

36. Severability

Any provision of this Agreement which is determined to be void, prohibited or unenforceable shall be severable to the extent of such avoidance, prohibition or unenforceability without invalidating or otherwise limiting or impairing the other provisions of this Agreement.

37. Non-Merger

The provisions of this Agreement (including, without limitation, the representations and warranties of the Purchaser), shall survive Closing and shall not merge in the Approval and Vesting Order or in any other documents delivered hereunder.

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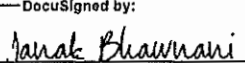
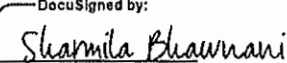
38. Counterparts

The parties hereto agree that this Agreement may be executed in counterparts and by facsimile transmission and each such counterpart so executed by facsimile transmission shall be deemed to be an original and when taken together shall constitute as one and the same Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF the Purchaser has executed this Offer this 10th day of September, 2020.

PURCHASER:

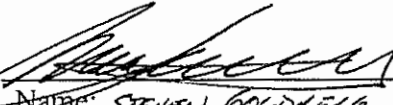
DocuSigned by:		DocuSigned by:	
By:	<u>Janak Bhawnani</u>		<u>Sharmila Bhawnani</u>
	<small>Name: JANAK BHAWNANI</small>		<small>Name: SHARMILA BHAWNANI</small>
	<small>Title: Janak Bhawnani</small>		<small>Title: Sharmila Bhawnani</small>

~~I have authority to bind the corporation.~~

Subject to the Approval of the Court, the undersigned hereby accepts the foregoing Offer this 11th day of September, 2020.

ROSEN GOLDBERG INC.

in its capacity as Court-appointed receiver of the Property and not in its personal or corporate capacity

By: 

Name: STEVEN GOLDBERG

Title: SR. VICE-PRESIDENT

I have authority to bind the corporation.

SCHEDULE "A"**Legal Description**

PT BLK A, PL A27, DES PTS 4, 15, 20 & 21, PL 43R35816; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 20 & 21, PL 43R35816 AS IN PR2477172; SUBJECT TO AN EASEMENT IN GROSS AS IN PR1987587; SUBJECT TO AN EASEMENT AS IN PR2057203; SUBJECT TO AN EASEMENT AS IN PR2640845; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017; TOGETHER WITH AN EASEMENT OVER PART BLOCK A, PLAN A27, DESIGNATED AS PARTS 1, 22, 23 & 24, PLAN 43R35816 AS IN PR3130176; SUBJECT TO AN EASEMENT OVER PARTS 15 & 21, PLAN 43R35816 IN FAVOUR OF LOT 1, PLAN 846, DESIGNATED AS PARTS 1 & 2, PLAN 43R37562 AS IN PR3130488; SUBJECT TO AN EASEMENT OVER PARTS 2 TO 21 & 26 & 27, PLAN 43R35816 IN FAVOUR OF PART OF BLOCK A, PLAN A27, DESIGNATED AS PARTS 25, 28 & 29, PLAN 43R35816 AS IN PR3155396; SUBJECT TO AN EASEMENT OVER PARTS 15 & 21, 43R35816 IN FAVOUR OF PARTS 1 & 2, 43R37562 AS IN PR3671552; CITY OF MISSISSAUGA

PIN 13348-0589 (LT)

SCHEDULE "B"
REGISTRATIONS TO BE DELETED

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR2940841	2016/06/30	CHARGE	\$920.000	CAMILLA COURT HOMES INC.	ZOOM CREDITMAY INC.
PR2940842	2016/06/30	NO ASSGN RENT GEN		CAMILLA COURT HOMES INC.	ZOOM CREDITMAY INC.
PR3052681	2016/12/22	POSTPONEMENT		ZOOM CREDITMAY INC.	FIRM CAPITAL MORTGAGE FUND INC.
PR3202137	2017/09/15	NOTICE	\$2	CAMILLA COURT HOMES INC. ELITE HOMES INC.	ZOOM CREDITMAY INC.
PR3409284	2018/11/16	TRANSFER OF CHARGE		ZOOM CREDITMAY INC.	BILWANI, SHAZAD
PR3409285	2018/11/16	NOTICE	\$1	CAMILLA COURT HOMES INC.	BILWANI, SHAZAD
PR3409292	2018/11/16	CHARGE	\$5,800.000	CAMILLA COURT HOMES INC. ELITE HOMES INC.	C & K MORTGAGE SERVICES INC.
PR3409293	2018/11/16	NO ASSGN RENT GEN		CAMILLA COURT HOMES INC. ELITE HOMES INC.	C & K MORTGAGE SERVICES INC.
PR3409324	2018/11/16	POSTPONEMENT		BILWANI, SHAZAD	C & K MORTGAGE SERVICES INC.
PR3644457	2020/04/28	CONSTRUCTION LIEN	\$70.372	VIA TRIM & DOORS INC.	
PR3670944	2020/06/30	CONSTRUCTION LIEN	\$57.376	DAVCO DRYWALL SYSTEMS INC.	
PR3677687	2020/07/20	CONSTRUCTION LIEN	\$29.832	ULTRA ROOFING I INC.	
PR3692824	2020/08/26	CONSTRUCTION LIEN	\$54.257	2078644 ONTARIO INC.	

SCHEDULE "C"
REGISTRATIONS TO BE PERMITTED

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR1987587	2011/04/12	TRANSFER EASEMENT	\$2	DI BLASIO, ADINA DIBLASIO, ANTONIO VITALI, CHRISTOPHER PASQUALE XHAFERRI, ALBANA XHAFERRI, LUAN	ENERSOURCE HYDRO MISSISSAUGA INC.
PR1987593	2011/04/12	NOTICE	\$2	DI BLASIO, ADINA DIBLASIO, ANTONIO VITALI, CHRISTOPHER PASQUALE XHAFERRI, ALBANA XHAFERRI, LUAN	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR198566	2011/04/15	NOTICE	\$2	DI BLASIO, ADINA DIBLASIO, ANTONIO VITALI, CHRISTOPHER PASQUALE XHAFERRI, ALBANA XHAFERRI, LUAN	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR2057203	2011/08/17	TRANSFER EASEMENT	\$2	XHAFERRI, ALBANA XHAFERRI, LUAN VITALI, CHRISTOPHER PASQUALE DI BLASIO, ADINA DIBLASIO, ANTONIO	ROGERS COMMUNICATIONS INC.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR2477172	2013/12/13	TRANSFER EASEMENT	\$2	VITALI, CHRISTOPHER PASQUALE	THE CORPORATION OF THE CITY OF MISSISSAUGA
43R35816	2014/03/03	PLAN REFERENCE			
PR2603640	2014/09/23	BYLAW		THE CORPORATION OF THE CITY OF MISSISSAUGA	
43R36245	2014/11/19	PLAN REFERENCE			
PR2633484	2014/11/19	APL ABSOLUTE TITLE		VITALI, CHRISTOPHER PASQUALE	
PR2640845	2014/12/01	TRANSFER EASEMENT	\$2	VITALI, CHRISTOPHER PASQUALE	ENBRIDGE GAS DISTRIBUTION INC.
PR2697676	2015/04/14	NOTICE	\$2	VITALI, CHRISTOPHER PASQUALE XHAFERRI, LUAN XHAFERRI, ALBANA	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR2697679	2015/04/14	NOTICE	\$2	VITALI, CHRISTOPHER PASQUALE XHAFERRI, LUAN XHAFERRI, ALBANA	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR2714127	2015/05/20	NOTICE	\$2	THE REGIONAL MUNICIPALITY OF PEEL	
PR2798752	2015/10/06	TRANSFER	\$3,955,000	VITALI, CHRISTOPHER PASQUALE	CAMILLA COURT HOMES INC.

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
PR3130177	2017/05/19	APL ANNEX REST COV		XHAFERRI. ALBANA XHAFERRI. LUAN CAMILLA COURT HOMES INC.	
PR3130488	2017/05/19	TRANSFER EASEMENT	\$2	XHAFERRI. ALBANA XHAFERRI. LUAN CAMILLA COURT HOMES INC.	GOLDEN TOWN COMPANY LIMITED
PCP1017	2017/06/29	CE CONDO PLN			
PR3155396	2017/06/29	CONDO DECLARATION		CAMILLA COURT HOMES INC.	
PR3164498	2017/07/14	CONDO BYLAW/98		PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017	
PR3164499	2017/07/14	CONDO BYLAW/98		PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017	
PR3164500	2017/07/14	NOTICE	\$2	XHAFERRI. LUAN XHAFERRI. ALBANA CAMILLA COURT HOMES INC	THE CORPORATION OF THE CITY OF MISSISSAUGA
PR3671552	2020/07/02	APL AMEND ORDER		ONTARIO SUPERIOR COURT OF JUSTICE. BRAMPTON	GOLDEN TOWN COMPANY LIMITED
PR3671684	2020/07/03	APL COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	ROSEN GOLDBERG INC.

TAB H

Rosen Goldberg Inc.; Receiver and Manager of
Camilla Court Homes Inc. et al
Statement of Receipts and Disbursements
For the period July 2, 2020 to September 30, 2020

Receipts

Deposits on sale of property	275,000
Receiver's borrowings	<u>50,000</u>
	325,000

Disbursements

Repairs and maintenance	36,842
HST paid	4,790
Filing fee	<u>70</u>
	41,702

Excess of receipts over disbursements

283,298

This schedule is prepared on the cash basis and does not include the obligations of the Receiver.

TAB 3

First Report of Rosen Goldberg Inc.



ROSEN GOLDBERG

Court File No. CV-20-00643021-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*,
R.S.O. 1990 C. C.43, AS AMENDED AND SECTION 68 OF THE *CONSTRUCTION ACT*,
R.S.O. 1990, C. C30**

BETWEEN:

C&K MORTGAGES SERVICES INC.

Applicants

- and -

CAMILLA COURT HOMES INC. and ELITE HOMES INC.

Respondents

FIRST REPORT OF ROSEN GOLDBERG INC.

I. INTRODUCTION

1. By Order of the Honourable Justice Conway dated July 2, 2020 (the "**Appointment Order**"), Rosen Goldberg Inc. was appointed receiver, pursuant to section 243(1) of the *Bankruptcy and*



ROSEN GOLDBERG

Insolvency Act and section 101 of the *Courts of Justice Act*, and trustee, pursuant to section 68 of the *Construction Act* (in such capacities, collectively, the “**Receiver**”) of all of the assets, undertakings and properties of the Respondents Camilla Court Homes Inc. and Elite Homes Inc. (“**Elite**”), acquired for, or used in relation to a business carried on by them including the lands and premises municipally known as 180 Mateo Place (the “**Mateo Property**”) and 2371 Camilla Road , Mississauga, Ontario (the “**Camilla Property**”), and all proceeds thereof. A copy of the Appointment Order is attached as **Appendix A**.

II. PURPOSE OF THIS REPORT

2. This First Report of the Receiver is being filed to provide this Honourable Court with certain background information in connection with the Motion of Yong Yeow (Jeremy) Tan (“**Tan**”) seeking an Order directing the Receiver to complete the agreement of purchase and sale (the “**APS**”) between the Elite and Mr. Tan, for the purchase and sale of the Mateo Property.

III. TERMS OF REFERENCE

3. In preparing this report, the Receiver has relied upon information from third party sources (collectively, the “**Information**”). Certain of the information contained herein may refer to, or be based on, the Information. As the Information has been provided by other parties or obtained from documents filed with the Honourable Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or



ROSEN GOLDBERG

otherwise attempted to verify the accuracy and completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the CPA Canada Handbook.

IV. AFFIDAVIT OF YONG YEOW TAN

4. In paragraph 13 of his Affidavit, Mr. Tan describes a telephone call he had with Brahm Rosen of the Receiver. The call took place on July 7, 2020. Mr. Tan's description of the Receiver's position in respect to the APS is generally accurate, although Mr. Tan neglects to describe that he was advised by the Receiver that the Applicant may be prepared to provide secondary financing to facilitate a sale of the Mateo Property to Mr. Tan, if Mr. Tan wished to submit an offer to purchase the Mateo Property from the Receiver.

V. MATEO PROPERTY

5. Following its appointment, the Receiver attended to inspect the Mateo Property and determined that certain work was required to ready that Property for sale and certain repairs were required to the existing work.

6. The Receiver undertook the following:

- Purchase and installation of garage door;



ROSEN GOLDBERG

- Purchase and installation of insulation;
- Purchase and installation of lighting fixtures;
- Plumbing work, including hook up of sink;
- Installation of humidifiers;
- Tile repairs;
- Rerouting of downspouts;
- Drywall repair;
- Installation of countertops.

7. The Receiver has spent approximately \$40,000 to date in respect of the above-noted work.

VI. LETTER OF OPINION OF VALUE

8. The Receiver has obtained a letter of opinion of value of the Mateo Property from its listing broker, Right At Home Realty, a copy of which is attached as **Confidential Appendix 1**. As the opinion is commercially sensitive and the Receiver does not wish to limit realization on any sale of the Mateo Property, the Receiver recommends that that the opinion be sealed pending the completion of the sale of the Mateo Property. The Receiver notes that the opinion of value is higher than the purchase price payable under the APS.



ROSEN GOLDBERG

VII. MARKETING AND SALE PROCESS

9. The Receiver intends to list the Mateo Property for sale during the week of August 17, 2020, subject a bid deadline of 14 days from the date of listing. The Mateo Property will be listed on the MLS, and the broker will institute advertising that will include online and newspaper advertising which will include a virtual tour. In addition, the Receiver has retained a company to stage the house.

VIII. LEGAL OPINION REGARDING VALIDITY OF APPLICANT'S SECURITY

10. The Receiver's independent counsel, Blaney McMurtry LLP, has provided an opinion, subject to the usual qualifications, that the Applicant's mortgage security is valid and enforceable. A copy of the opinion is attached as **Appendix B**.

IX. PROJECTED REALIZATIONS AND DISTRIBUTIONS

11. The Receiver has prepared an analysis of the estimated realizations from the sale of Mateo Property and the Camilla Property and distributions to the Applicant, which is attached as **Confidential Appendix 2**.

12. The analysis assumes that the Mateo Property will be sold at fair market value and that the net sale proceeds will be distributed to the Applicant. According to the analysis, ignoring the accrual of



ROSEN GOLDBERG

interest under its mortgage since the Receiver's appointment, the Applicant will suffer a shortfall. The Receiver recommends that the analysis be sealed pending completion of the sale of properties.

All of which is respectfully submitted,

Dated at Toronto, Ontario, this 17th day of August 2020.

**ROSEN GOLDBERG INC., SOLELY IN ITS CAPACITY AS
COURT-APPOINTED RECEIVER OF
CAMILLA COURT HOMES INC. AND ELITE HOMES INC.**

Rosen Goldberg Inc.

Confidential Appendix A
Appointment Order of Justice Conway
dated July 2, 2020

TAB A

APPENDIX A

Court File No. CV-20-00643021-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, C. B-3, AS AMENDED, SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990 C. C.43, AS AMENDED AND SECTION 68 OF THE *CONSTRUCTION ACT*, R.S.O. 1990, C. C30

THE HONOURABLE MADAM	)	THURSDAY, THE 2 nd
)	
JUSTICE CONWAY	)	DAY OF JULY, 2020

BETWEEN:

C & K MORTGAGE SERVICES INC.

Applicant

- and -

CAMILLA COURT HOMES INC. and ELITE HOMES INC.

Respondents

**ORDER
(Appointing Receiver)**

THIS APPLICATION made by the Applicant for an Order appointing Rosen Goldberg Inc. as Receiver of the assets, property and undertakings of the Respondents acquired for, or used in relation to a business carried on by the Debtors, pursuant to section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c.B-3 (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43 (the "CJA"), and as Trustee pursuant to section 68 of the *Construction Act*,

R.S.O. 1990, C. C30 (the "CA"), was heard this day by videoconference due to the COVID-19 crisis.

ON READING the Affidavit of Gary Gruneir sworn June 12, 2020 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, counsel for the Debtors, counsel for Via Trim & Doors Inc., counsel for Jeremy Tan, no one else on the service list appearing, although served as appears from the Affidavit of Service of Jennifer Samuels sworn June 15, 2020 and on reading the consent of Rosen Goldberg Inc. to act as the Receiver,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and Application Record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Rosen Goldberg Inc. is hereby appointed as receiver, and as trustee pursuant to section 68 of the CA (collectively, the "Receiver"), without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including the lands and premises legally described in Schedule "A" hereto, and all proceeds thereof (the "Property").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

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- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or disclaim or cease to perform any contracts of the Debtors, including, without limitation, agreements of purchase and sale entered into by the Debtors with respect to the Property ;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;

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- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) with the approval of this Court, to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business, and in each such case, notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;
- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;

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- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that

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nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

7. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

8. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to

the Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal

information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may

consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

24. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

SERVICE AND NOTICE

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further

orders that a Case Website shall be established in accordance with the Protocol with the following URL: www.rosengoldberg.com/admin/companyview.php?company_id=56.

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

27. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

29. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

30. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within

proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

31. THIS COURT ORDERS that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estates with such priority and at such time as this Court may determine.

32. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

33. THIS COURT ORDERS that this Order is effective from today's date and is not required to be entered.

PRIORITY OVER EXISTING AGREEMENTS OF PURCHASE AND SALE

34. THIS COURT DECLARES that the Applicant's security over the Property ranks in priority to the interests, if any, of the purchasers under the agreement of purchase and sale between Elite Homes Inc. and Yong Yeow Tan, aka Jeremy Tan dated February 11, 2020, and the agreement of purchase and sale between Elite Homes Inc. and Sukhdeep Sandhu dated December 13, 2019.



SCHEDULE "A"**LANDS AND PREMISES****Legal Description - Camilla Property**

PT BLK A, PL A27, DES PTS 2, 17 & 18, PL 43R35816; SUBJECT TO AN EASEMENT IN GROSS OVER PART 18, PL 43R35816 AS IN PR2477172; SUBJECT TO AN EASEMENT IN GROSS AS IN PR1987587; SUBJECT TO AN EASEMENT AS IN PR2057203; SUBJECT TO AN EASEMENT AS IN PR2640845; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017; TOGETHER WITH AN EASEMENT OVER PART BLOCK A, PLAN A27, DESIGNATED AS PARTS 1, 22, 23 & 24, PLAN 43R35816 AS IN PR3130178; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 43R35816 IN FAVOUR OF LOT 1, PLAN 846, DESIGNATED AS PARTS 1 & 2, PLAN 43R37562 AS IN PR3130488; SUBJECT TO AN EASEMENT OVER PARTS 2 TO 21 & 26 & 27, PLAN 43R35816 IN FAVOUR OF PART OF BLOCK A. PLAN A27, DESIGNATED AS PARTS 25, 28 & 29, PLAN 43R35816 AS IN PR3155396; CITY OF MISSISSAUGA

Legal Description - Mateo Property

PT BLK A, PL A27, DES PTS 4, 15, 20 & 21, PL 43R35816; SUBJECT TO AN EASEMENT IN GROSS OVER PARTS 20 & 21, PL 43R35816 AS IN PR2477172; SUBJECT TO AN EASEMENT IN GROSS AS IN PR1987587; SUBJECT TO AN EASEMENT AS IN PR2057203; SUBJECT TO AN EASEMENT AS IN PR2640845; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017; TOGETHER WITH AN EASEMENT OVER PART BLOCK A, PLAN A27, DESIGNATED AS PARTS 1, 22, 23 & 24, PLAN 43R35816 AS IN PR3130176; SUBJECT TO AN EASEMENT OVER PARTS 15 & 21, PLAN 43R35816 IN FAVOUR OF LOT 1, PLAN 846, DESIGNATED AS PARTS 1 & 2, PLAN 43R37562 AS IN PR3130488; SUBJECT TO AN EASEMENT OVER PARTS 2 TO 21 & 26 & 27, PLAN 43R35816 IN FAVOUR OF PART OF BLOCK A. PLAN A27, DESIGNATED AS PARTS 25, 28 & 29, PLAN 43R35816 AS IN PR3155396; CITY OF MISSISSAUGA

SCHEDULE "B"**RECEIVER CERTIFICATE**

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Rosen Goldberg Inc., the receiver (the "Receiver") of the assets, undertakings and properties of Camilla Court Homes Inc. and Elite Homes Inc. (the "Debtors") acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 2nd day of July, 2020 (the "Order") made in an application having Court file number CV-20-00643201-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the _____ day of each month after the date hereof at a notional rate per annum equal to the rate of _____ per cent.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 2020.

Rosen Goldberg Inc., solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

C & K MORTGAGE SERVICES INC.

-and- **CAMILLA COURT HOMES INC. et al**

Applicant

Respondents

Court File No. CV-20-00643021-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT
TORONTO

**ORDER
(Appointing Receiver)**

DICKINSON WRIGHT LLP

Barristers & Solicitors
199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario, M5L 1G4

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Lawyers for the Applicant

TAB B

APPENDIX B

August 17, 2020

Rosen Goldberg Inc.
5255 Yonge Street, Suite 804
Toronto, Ontario
M2N 6P4

Dear Sirs:

Re: Opinion to Rosen Goldberg Inc. ("RG") as Court-Appointed Receiver of all of the assets, undertakings and properties of Camilla Court Homes Inc. and Elite Homes Inc. (together, the "Borrowers") regarding the validity and enforceability of security held by C & K Mortgage Services Inc., c.o.b. as Rescom Capital (the "Lender") over the real property at 180 Mateo Place, Mississauga, Ontario (the "Property")

We have been provided with a copy of an order of the Ontario Superior Court of Justice (Commercial List) made July 2, 2020 (the "**Appointment Order**"), appointing RG as Receiver of all of the assets, undertakings and properties of the Borrowers acquired for, or used in relation to a business carried on by the Borrowers, including the Property, pursuant to proceedings (the "**Proceedings**") commenced by the Lender, and a copy of the Notice of Application filed with the Ontario Superior Court of Justice (Commercial List) on June 18, 2020 (the "**Application**"), including the Affidavit of Gary Gruneir sworn June 20, 2020 attached at Tab "B" of the Application.

We have also been provided with copies of the following documents:

1. the Motion Record filed on behalf of Yong Yeow (Jeremy) Tan with the Ontario Superior Court of Justice on August 6, 2020 (the "**Tan Motion**"), regarding, among other things, a request for an order directing RG as Receiver to complete the agreement of purchase and sale between Elite Homes Inc. and Yong Yeow (Jeremy) Tan (the "**Tan APS**") regarding the sale of the Property, which Tan Motion included the Affidavit of Yong Yeow (Jeremy) Tan sworn August 6, 2020; and
2. the Responding Motion Record dated August 11, 2020, filed on behalf of the Lender with the Ontario Superior Court of Justice (the "**Responding Motion**")

(collectively, the "**Documents**").

You have asked us to provide you with an opinion in connection with the security set out in Schedule "A" relating to the Property (the "**Security**"). Specifically, you have asked us to opine on the enforceability of the Security in the Province of Ontario. We do not act for the Borrowers or the Lender in this matter and did not act in the preparation of the Security or the registration of it.

Examination of Documents

For the purposes of the opinions set out herein, we have examined:

- (a) copies of the Security;
- (b) copies of search results conducted in the Province of Ontario against each of the Borrowers under the *Execution Act* (Ontario) and the *Bankruptcy and Insolvency Act* (Canada), the results and currency of which are set out in Schedule "B";
- (c) subsearch of title against the Property, the results of which are set out in Schedule "C". Please note that a subsearch of title is not a full search of title upon which a title opinion can be given. Our subsearch also did not include a search of adjoining lands to confirm *Planning Act* (Ontario) compliance nor did we confirm whether there was access to the real property; and
- (d) such statutes and public records, original or copies (certified or otherwise identified to our satisfaction) of corporate records, certificates and such other instruments as we have deemed necessary or appropriate for the purposes of this opinion.

For the purposes of the opinions expressed below we have considered the questions of law, made the searches and investigations, and examined originals or copies, certified or otherwise identified to our satisfaction, of the certificates of public officials and other certificates, documents and records, that we considered necessary or relevant, and we have relied without independent verification or investigation on all statements as to matters of fact contained in the certificates, documents and records we examined.

Assumptions and Reliances

For the purposes of the opinions expressed below, we have assumed, without independent investigation or inquiry:

- (a) that with respect to all documents examined by us, the signatures are genuine, the individuals signing those documents had legal capacity at the time of signing, all documents submitted to us as originals are authentic, and certified, conformed or photocopied copies, or copies transmitted electronically or by facsimile, conform to the authentic original documents;
- (b) the completeness, truth, accuracy and currency of the indices and filing systems maintained by the public offices and registries where we have searched or enquired or have caused searches or enquiries to be made and upon the information and advice provided to us by appropriate government, regulatory or other similar officials with respect to those matters referred to in this letter;
- (c) that there is and was at all relevant times a valid, legal, enforceable and subsisting debt or other obligation owing by the each of the Borrowers to the Lender;
- (d) that each of the parties to the Security other than the Borrowers is validly constituted and existing in accordance with the laws under which it is constituted and has all

- 3 -

necessary power and capacity to execute and deliver the Security and perform its obligations under the Security;

- (e) that the Security constitutes a legal, valid and binding obligation of each of the parties to it other than the Borrowers, enforceable against each of those other parties under the laws of the applicable jurisdiction governing the Security in accordance with its terms, subject to the qualifications below;
- (f) that the Security executed by each of the Borrowers has not been amended, restated, replaced, terminated or released, and remains in full force and effect;
- (g) that there are no:
 - (i) agreements, judgments, rulings, instruments, facts or understandings affecting or concerning the Security and/or the various principal obligations for which the Security is granted; or
 - (ii) statutory or regulatory prohibitions on, and no consents, licenses, approvals, authorizations or exemptions of any federal or provincial governmental body or regulatory authority required for or in connection with, the execution, delivery and performance by each of the Borrowers of the Security and/or the various principal obligations with respect to which the Security is granted;

which are not apparent from a review of the Security and which would or might affect the validity or enforceability of the Security;

- (h) that the execution and delivery by each of the Borrowers of the Security, and the performance by it of its rights and obligations under the Security did not and do not breach or contravene, and were not and are not in conflict with, any law or regulation applicable to such Borrower or any other agreement to which such Borrower is a party;
- (i) that the execution, delivery and performance of obligations under the Security by each of the Borrowers did not and does not constitute a preference, fraudulent preference, conveyance, fraudulent conveyance, settlement or reviewable transaction under sections 91 or 95 of the *Bankruptcy and Insolvency Act* (Canada) or any similar provincial legislation relating to those issues;
- (j) that the Lender has not by implicit or explicit course of conduct, waiver, release, discharge, cancellation, forbearance or other means, oral or written, taken any action or steps which have, or which could or would have, altered, diminished, suspended or otherwise affected the terms, conditions of enforceability of the Security or the indebtedness, liabilities and obligations secured by the Security or any of it; and
- (k) that Junaid Sadiq had authority to execute the Security on behalf of each of the Borrowers and that all necessary corporate acts and proceedings of each of the Borrowers were taken to authorize the valid execution and delivery of the Security by each of the Borrowers.

Laws Addressed

Except as stated below, the opinions expressed in this letter are limited to the laws of, and the federal laws of Canada applicable in, the Province of Ontario, In particular, without limiting the preceding statement, we express no opinion:

- (a) with respect to the laws of any other jurisdiction, to the extent those laws may govern any aspect of the Security or govern the validity, the perfection, the effect of perfection or non-perfection, or the enforcement of any Security, as a result of the conflict of laws rules of the Province of Ontario; or
- (b) whether, under the conflict of laws rules of the Province of Ontario, the laws of the Province of Ontario would govern the validity, perfection, effect of perfection or non-perfection or enforcement of any of the Security.

It is our understanding that each of the Borrowers only has assets in the Province of Ontario, so as instructed by you we have limited our review to Ontario law.

Opinions

Based upon the assumptions and reliances stated above, and subject to the qualifications and limitations stated below, we are of the opinion that:

1. The Charge (as defined in Schedule "A") constitutes a legal, valid and binding obligation of Camilla Court Homes Inc., enforceable against Camilla Court Homes Inc. in accordance with its terms, and would be valid and enforceable against a trustee in bankruptcy of Camilla Court Homes Inc.
2. With respect only to the mortgages that are registered against title to the Property, assuming that there are no other postponements or other agreements among the parties to the mortgages registered against title to the Property other than those that appear on the parcel register of the Property as of August 14, 2020, we confirm that the Charge is the first ranking mortgage registered against title to the Property.
3. We confirm that pursuant to the Appointment Order, the Charge ranks in priority to the interest, if any, of the purchasers under the Tan APS.

Qualifications and Limitations

The opinions in the letter are subject to the following qualifications and limitations:

1. The legality, validity, binding effect and enforceability of the Security are subject to and may be limited by applicable bankruptcy, insolvency, reorganization, arrangement, winding-up, liquidation, moratorium, preference and other similar laws of general application affecting the enforcement of creditors' rights generally.
2. The enforceability of the obligations of each of the Borrowers under the Security is subject to general equitable principles, including those relating to the conduct of parties such as reasonableness and good faith in the exercise of discretionary powers, to laws relating to

laches, undue influence, unconscionability, duress, misrepresentation and deceit, estoppel and waiver, and to the powers of courts to stay proceedings before them, to stay the execution of judgments to relieve from penalties or the consequences of default (particularly if the default is minor or non-substantive) and to grant relief against forfeiture, and the principle that equitable remedies such as injunctive relief and specific performance are only available in the discretion of the court.

3. A secured creditor may be required to give a debtor reasonable time to satisfy any demand for payment or performance of its obligations under any of the Security before exercising any rights or remedies under it.
4. We express no opinion regarding the existence of, or the right, title or interest of each of the Borrowers in and to, any real property or personal property. There is no title registry system in the Province of Ontario with respect to personal property, and no office of public record in which the title to personal property situate in the Province of Ontario may be examined.
5. We express no opinion regarding the priority of the Security or other interests expressed to be created by the Security, subject to Opinion no. 2 and Opinion no. 3 above on the ranking of the mortgages registered against title to the Property.
6. We express no opinion with respect to any equitable mortgage or any unregistered postponements or other agreements not disclosed by the registered title of the Property.
7. We express no opinion as to whether the provisions of Part VII of the *Financial Administration Act* (Canada) have been complied with. An assignment of federal Crown debts which does not comply with that Act is ineffective as between the assignor and assignee and as against the Crown. Consequently, the Lender would not have a valid security interest in federal Crown debts unless that Act is complied with.
8. The federal laws of Canada require or permit notices, filings or registrations to be made or other steps or actions to be taken in order to preserve, perfect or protect security interests in certain types of property, including, without limitation, rolling stock, vessels registered under the *Canada Shipping Act, 2001*, patents, trade-marks and copyrights. To the extent that security interests are created by the Security in any of that property, then notices, filings or registrations under those laws may be necessary or desirable in order to preserve, perfect or protect those security interests. We have not searched for the existence of any interests or rights against that property under any of those federal laws, and accordingly we express no opinion as to the creation of security interests in that property.
9. We express no opinion as to the enforceability of any provision of the Security which requires any Borrower to pay, or to indemnify the Lender for, the costs and expenses of the Lender in connection with judicial proceedings, since those provisions are subject to the discretion of the court to determine by whom and to what extent those costs should be paid.
10. We express no opinion on any provision in the Security which:
 - (a) purports to restrict the access to, or waive the benefit of, statutory, legal or equitable rights, remedies or defences;

- (b) limits rights of set-off otherwise than in accordance with applicable law;
 - (c) states that amendments or waivers of or with respect to the Security that are not in writing will be ineffective;
 - (d) purports to bind or affect, or confer a benefit upon, persons who are not parties to the Security;
 - (e) purports to exculpate a party from a liability or duty otherwise owed by it to another party; or
 - (f) provides that a certificate or a similar document will be treated as conclusive, final or binding.
11. The enforceability of any provision in the Security which:
- (a) purports to sever any provision which is invalid or unenforceable under applicable law without affecting the validity or enforceability of the remainder of the relevant Security;
 - (b) stipulates or limits the level of damages to which a party is entitled; or
 - (c) selects the jurisdiction whose laws are to apply or where a dispute is to be resolved; is subject to the discretion of a court.
12. The enforceability of the Security is subject to the *Limitations Act, 2002* (Ontario).
13. The following mortgage is registered against title to the Property subsequent in priority to the Charge (as a result of the postponement described below):
- (a) Instrument No. PR2940841 registered June 30, 2016, being a Charge/Mortgage to and in favour of Zoom Creditmay Inc. in the original principal amount of \$920,000, as amended pursuant to Instrument No. PR3202137 registered September 15, 2017. This Charge/Mortgage has been transferred to Shazad Bilwani under Instrument No. PR3409284 registered on November 16, 2018, was further amended pursuant to Instrument No. PR3409285 registered on November 16, 2018 and was postponed to the Charge on November 16, 2018 pursuant to Instrument No. PR3409324.
14. The following construction liens are registered against title to the Property:
- (a) Instrument No. PR3559790 registered October 25, 2019, being a Construction Lien registered by Canadian Choice Homes Services Inc. in the amount of \$18,732.00;
 - (b) Instrument No. PR3587113 registered December 13, 2019, being a Construction Lien registered by Super Save Toilet Rentals Inc. in the amount of \$3,909.00;
 - (c) Instrument No. PR3644457 registered April 28, 2020, being a Construction Lien registered by Via Trim & Doors Inc. in the amount of \$70,372.00. A Certificate of Action related to this Construction Lien was registered against title to the Property

as Instrument No. PR3664130 on June 15, 2020;

- (d) Instrument No. PR3670945 registered June 30, 2020, being a Construction Lien registered by Ultra Roofing 1 Inc. in the amount of \$57,376.00; and
- (e) Instrument No. PR3677688 registered July 20, 2020, being a Construction Lien registered by Ultra Roofing 1 Inc. in the amount of \$31,075.00.

The Security may or may not have priority to these construction liens and to any other liens that may exist that may shelter under these liens.

- 15. The Charge is granted by the Borrowers in favour of the Lender. The only registered owner of the Property is Camilla Court Homes Inc. So, it is unclear why the other Borrower, Elite Homes Inc., is listed as Chargor under the Charge when it does not appear to have a registered interest in the Property, except that it may be a registered owner of one or more of the other parcel registers that were subject to the Charge at the time of its registration.
- 16. Our opinion is subject to the findings of the Court in the Yan Motion with respect to, among other things, the priority of the Security vis-à-vis the Tan APS.
- 17. The Charge refers to a commitment letter dated October 16, 2018 and any amendments thereto (collectively, the "**Commitment**"). Although the Commitment is addressed to, and executed by, the Borrowers, it does not specifically name any borrowers. Instead, under the Security section of the Commitment, each Borrower is to provide the Lender with its corporate guarantee.

This opinion is solely for the benefit of its addressees in connection with the Security. This opinion may not be relied upon in any manner by any other person and may not be disclosed, quoted, filed with a governmental agency or otherwise referred to without our prior written consent.

Yours very truly,

BLANEY McMURTRY LLP

SCHEDULE "A"**SECURITY**

Instrument No. PR3409292 registered November 16, 2018, being a Charge/Mortgage from the Borrowers to and in favour of the Lender in the original principal amount of \$5,800,000 (the "**Charge**").

SCHEDULE "B"

Search Results

1. Our search of executions against Camilla Court Homes Inc. (the registered owner of the Property) confirms that there are no active Writs of Execution filed with the Sheriff's Office of the Regional Municipality of Peel (Brampton).
2. Our search of executions against Elite Homes Inc. confirms that there is one Writ of Execution filed with the Sheriff's Office of the Regional Municipality of Peel (Brampton) in favour of KHAN, SHAHBAZ MAHMOOD for \$110,000 plus interest and costs.
3. Our search against Camilla Court Homes Inc. with the Office of the Superintendent of Bankruptcy reveals, for the period 1978 to 2020-08-13, a filing by RG.
4. Our search against Elite Homes Inc. with the Office of the Superintendent of Bankruptcy reveals, for the period 1978 to 2020-08-13, no filings.

SCHEDULE "C"**REAL PROPERTY SEARCHES**

Municipal Address: 180 Mateo Place, Mississauga, Ontario

Registered Owner: Camilla Court Homes Inc.

Subsearch as of: August 14, 2020

Legal Description: PT BLK A, PL A27, DES PTS 2, 17 & 18, PL 43R35816; SUBJECT TO AN EASEMENT IN GROSS OVER PART 18, PL 43R35816 AS IN PR2477172; SUBJECT TO AN EASEMENT IN GROSS AS IN PR1987587; SUBJECT TO AN EASEMENT AS IN PR2057203; SUBJECT TO AN EASEMENT AS IN PR2640845; TOGETHER WITH AN UNDIVIDED COMMON INTEREST IN PEEL COMMON ELEMENTS CONDOMINIUM CORPORATION NO. 1017; TOGETHER WITH AN EASEMENT OVER PART BLOCK A, PLAN A27, DESIGNATED AS PARTS 1, 22, 23 & 24, PLAN 43R35816 AS IN PR3130178; SUBJECT TO AN EASEMENT OVER PART 17, PLAN 43R35816 IN FAVOUR OF LOT 1, PLAN 846, DESIGNATED AS PARTS 1 & 2, PLAN 43R37562 AS IN PR3130488; SUBJECT TO AN EASEMENT OVER PARTS 2 TO 21 & 26 & 27, PLAN 43R35816 IN FAVOUR OF PART OF BLOCK A. PLAN A27, DESIGNATED AS PARTS 25, 28 & 29, PLAN 43R35816 AS IN PR3155396; SUBJECT TO AN EASEMENT OVER PART 17, 43R35816 IN FAVOUR OF PARTS 1 & 2, 43R37562 AS IN PR3671552; CITY OF MISSISSAUGA, BEING all of PIN 13348-0587 (LT)

Registered Encumbrances:

1. Instrument No. PR1987587 registered on April 12, 2011, being a Transfer of Easement to and in favour of Enersource Hydro Mississauga Inc. to enter on and construct, repair, replace, operate and maintain its underground and/or overhead lines of electrical power and services, telecommunications facilities and service.
2. Instrument No. PR1987593 registered on April 12, 2011, being a Notice of a Development Agreement between Christopher Vitali, Antonio Di Blasio, Adina Di Blasio, Luan Xhaferri, Albana Xhaferri and The Corporation of the City of Mississauga.

3. Instrument No. PR1989566 registered on April 15, 2011, being a Notice of a Development Agreement between Christopher Vitali, Antonio Di Blasio, Adina Di Blasio, Luan Xhaferri, Albana Xhaferri and The Corporation of the City of Mississauga.
4. Instrument No. PR2057203 registered on August 17, 2011, being a Transfer of Easement to and in favour of Rogers Communications Inc. to enter on and construct, repair, replace, operate and maintain its lines of cable television, telecommunications, electric power and service wires and facilities including all necessary aerial, buried and surface service wires and cables, conduits, markers, fixtures and equipment and all appurtenances or accessories thereto.
5. Instrument No. PR2477172 registered on December 13, 2013, being a Transfer of Storm Sewer Easement to and in favour of The Corporation of the City of Mississauga.
6. Instrument No. PR2603640 registered on September 23, 2014, being By-Law No. 0234-2014 of The Corporation of the City of Mississauga to remove the property from Part Lot Control.
7. Instrument No. PR2640845 registered on December 1, 2014, being a Transfer of Easement to and in favour of Enbridge Gas Distribution Inc. for the purposes of survey, lay, construct, install, operate, use, inspect, remove, renew, replace, alter, enlarge, reconstruct, repair, expand and maintain pipelines and all works, appurtenances, attachments, apparatus, appliances, markers, fixtures and equipment.
8. Instrument No. PR2697676 registered on April 14, 2015, being a Notice of a Site Plan Agreement between The Corporation of the City of Mississauga, Christopher Vitali, Luan Xhaferri and Albana Zhaferri.
9. Instrument No. PR2697679 registered on April 14, 2015, being a Notice of a Common Elements Condominium Servicing Agreement between The Corporation of the City of Mississauga, Christopher Vitali, Luan Xhaferri and Albana Zhaferri.
10. Instrument No. PR2714127 registered on May 20, 2015, being a Notice of a Development Agreement between Christopher Vitali, Luan Xhaferri, Albana Zhaferri and The Regional Municipality of Peel.
11. Instrument No. PR2732587 registered on June 22, 2015, being a Transfer to and from Christopher Pasquale Vitali pursuant to Instrument No. PR2603640.

12. Instrument No. PR2798752 registered on October 6, 2015, being a Transfer from Christopher Pasquale Vitali to Camilla Court Homes Inc. for consideration of \$3,955,000.00, with land transfer tax of \$57,860.00.
13. Instrument No. PR2940841 registered on June 30, 2016, being a Charge from Camilla Court Homes Inc. to Zoom Creditmay Inc. in the amount of \$920,000.00.
14. Instrument No. PR2940842 registered on June 30, 2016, being a Notice of Assignment of Rents – General to and in favour of Zoom Creditmay Inc. as additional security in connection with Charge No. PR2940841.
15. Instrument No. PR3052681 registered on December 22, 2016, being a Postponement of Interest from Zoom Creditmay Inc. to and in favour of Firm Capital Mortgage Fund Inc.
16. Instrument No. PR3130177 registered on May 19, 2017, being an Application to Annex Restrictive Covenant.
17. Instrument No. PR3130488 registered on May 19, 2017, being a Transfer of Easement to and in favour of Golden Town Company Limited, for the purposes of construction, installation, placement, operation, use, maintenances, repair and replacement of Private Roadways.
18. Instrument No. PR3155396 registered on June 29, 2017, being a Condominium Declaration.
19. Instrument No. PR3164498 registered on July 14, 2017, being a Condominium By-Law No. 1.
20. Instrument No. PR3164499 registered on July 14, 2017, being a Condominium By-Law No. 2.
21. Instrument No. PR3164500 registered on July 14, 2017, being a Notice of Municipal Obligations Agreement between Christopher Pasquale Vitali, Luan Xhaferri, Albana Xhaferri, Camilla Court Homes Inc., and The Corporation of the City of Mississauga.
22. Instrument No. PR3202137 registered on September 15, 2017, being a Notice Amending Charge extending the maturity date of Charge registered as Instrument No. PR2940841 to September 3, 2018.
23. Instrument No. PR3409284 registered on November 16, 2018, being a Transfer of Charge from Zoom Creditmay Inc. to Shazad Bilwani, as trustee for Bilwani Family Trust related to a Charge PR2940841.
24. Instrument No. PR3409285 registered on November 16, 2018, being a Notice of Charge Amending Agreement between Camilla Court Homes Inc., Shazad Bilwani, Bilwani

- Family Trust, Elite Homes Inc., Camilla Court Homes Inc., Junaid Sadiq and Kamran Iqbal related to a Charge PR2940841.
25. Instrument No. PR3409292 registered on November 16, 2018, being a Charge from Camilla Court Homes Inc. and Elite Homes Inc. to C & K Mortgage Services Inc. in the amount of \$5,800,000.00.
 26. Instrument No. PR3409293 registered on November 16, 2018, being a Notice of Assignment of Rents General as additional security in connection with Charge No. PR3409292.
 27. Instrument No. PR3409324 registered on November 16, 2018, being a Postponement of Interest from Shazad Bilwani postponing Charge PR2940841 to Charge PR3409292.
 28. Instrument No. PR3559790 registered on October 25, 2019, being a Construction Lien registered by Canadian Choice Home Services Inc. in the amount of \$18,732.43.
 29. Instrument No. PR3587113 registered on December 13, 2019, being a Construction Lien registered by Super Save Toilet Rentals Inc. in the amount of \$3,909.75.
 30. Instrument No. PR3644457 registered on April 28, 2020, being a Construction Lien registered by Via Trim & Doors Inc. in the amount of \$70,372.63.
 31. Instrument No. PR3664130 registered on June 15, 2020, being a Certificate of Action registered by Via Trim & Doors Inc. This document relates to a Construction Lien registered as Instrument No. PR3644457.
 32. Instrument No. PR3670945 registered on June 30, 2020, being a Construction Lien registered by DAVCO Drywall Systems Inc. in the amount of \$57,376.00.
 33. Instrument No. PR3671552 registered on July 2, 2020, being an Application to Amend Based on Court Order, granting an easement to and in favour of Golden Town Company Limited.
 34. Instrument No. PR3671684 registered on July 3, 2020, being an Application to Register Court Order to appoint Rosen Goldberg Inc. as Receiver of assets, property and undertakings of Camilla Court Homes Inc and Elite Homes Inc.
 35. Instrument No. PR3677688 registered on July 20, 2020, being a Construction Lien registered by Ultra Roofing 1 Inc. in the amount of \$31,075.00.

C & K MORTGAGE SERVICES INC.
Applicant

-and- **CAMILLA COURT HOMES INC. et al**
Respondents

Court File No. CV-20-00643021-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD OF THE RECEIVER
ROSEN GOLDBERG INC.

DICKINSON WRIGHT LLP

Barristers & Solicitors
199 Bay Street
Suite 2200, P.O. Box 447
Commerce Court Postal Station
Toronto, Ontario, M5L 1G4

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Lawyers for the Court-appointed Receiver,
Rosen Goldberg Inc.