



SUPERIOR COURT OF JUSTICE
COUNSEL SLIP

COURT FILE

NO.: CV-22-00677227-00CL

DATE: 14-SEP-2022

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TITLE OF
PROCEEDING

PRUDENT EXCELLENCE MORTGAGE INVESTMENT CORPORATION
v.
TRIUMPH DEVELOPMENT HK BRADFORD TWIN REGENCY INC. ET AL.

BEFORE JUSTICE CAVANAGH

NAMES OF COUNSEL AND PARTY:

APPLICANT(S)
 - Maya Poliak (Counsel to PRUDENT EXCELLENCE MORTGAGE INVESTMENT CORPORATION) PHONE (416) 218-1161

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NAMES OF COUNSEL AND PARTY:

RESPONDENT(S)
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RESPONDENT(S) _____

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NAMES OF COUNSEL AND OTHER PARTIES:

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- Eric Gionet (Counsel to LIEN CLAIMANT, GERRITS ENGINEERING) EMAIL egionet@dllaw.ca; phancock@dv-law.com; ckopach@blaney.com

- Paul Hancock (Counsel to INTERESTED PARTIES, DELBROOK TRIUMPHANT BUILDERS INC. and 10853828 CANADA INC.) PHONE _____

- Chad Kopach (Counsel to SECURED CREDITOR OF THE RESPONDENT, CTBC BANK CORP.) EMAIL _____

- Dom Michaud (Counsel to BDO CANADA LIMITED) _____

- Catherine Qin (Counsel to the THIRD MORTGAGEES, MENG SUN and XIAOFENG FU) _____

ENDORSEMENT OF JUSTICE CAVANAGH:

[1] The Receiver brings this motion for (a) an approval and vesting order approving a sale transaction as described in the Receiver's First Report dated September 8, 2022, and (b) an ancillary order (i) approving the Receiver's activities, (ii) sealing the Confidential Supplemental Record until completion of the transaction or further order of this Court; (iii) approving the Receiver's fees and disbursements and those of its counsel as set out in the First Receiver's Report; and (iv) approving the proposed distribution set out in para. 53 of the First Receiver's Report.

[2] I have reviewed the First Receiver's Report and other motion materials and I heard submissions from counsel for the Receiver. The Receiver's motion is not opposed.

[3] With respect to the proposed sale, I am satisfied that the principles approved by the Court of Appeal in *Royal Bank of Canada v. Soundair Corp.*, 1991 CanLII 2727 (Ont. C.A.) have been satisfied. In this respect, I accept the submissions made by counsel for the Receiver at paragraphs 40-53 of the Receiver's factum.

[4] With respect to the request for a sealing order, I am satisfied that the Receiver has satisfied the requirements set out in *Sherman Estate v. Donovan*, 2021 SCC 25. The information sought to be sealed discloses confidentially sensitive information such as sale price and appraised values. If the transaction was not to close, the disclosure of the information would seriously impair the Receiver's ability to negotiate an agreement to sell the properties with a future third party. In the circumstances, the sealing order sought is the least restrictive means to maintain the confidentiality of this commercially sensitive information. I am satisfied that the salutary effects of the sealing order outweigh the deleterious effects of restricting access to the Confidential Report, and that the requested sealing order, which is time limited (until closing or further court Order) is appropriate.

[5] I am also satisfied that the proposed distributions are proper, and that the Receiver's fees and disbursements and those of its counsel are reasonable and should be approved. I also approve the activities of the Receiver as requested.

[6] Orders to issue in forms of Orders signed by me today.

[7] The Receiver intends to bring a motion for directions with respect to certain construction lien claims. The Receiver will serve its motion record during the week of October 3, 2022.

[8] A scheduling conference will be held on October 12, 2022 at 9:30 for 15 minutes to approve the timetable and set a hearing date for this motion.