

COURT FILE NUMBER 1501-00955
COURT COURT OF QUEEN'S BENCH OF ALBERTA IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE
COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985,
c. C-36, as amended

I hereby certify this to be a true copy of
the original order
dated this 26 day of OCT. 2017

APPLICANTS LUTHERAN CHURCH –
CANADA, THE ALBERTA –
BRITISH COLUMBIA DISTRICT,
ENCHARIS COMMUNITY
HOUSING AND SERVICES,
ENCHARIS MANAGEMENT
AND SUPPORT SERVICES, AND
LUTHERAN CHURCH –
CANADA, THE ALBERTA –
BRITISH COLUMBIA DISTRICT
INVESTMENTS LTD.

for Clerk of the Court

DOCUMENT **ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **Fasken Martineau DuMoulin LLP**
First Canadian Centre
3400, 350 - 7th Avenue S.W.
Calgary, AB T2P 3N9

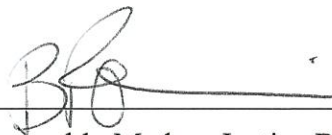
Attention: Travis Lysak / Hannah Roskey
Phone: (403) 261-5350
Facsimile: (403) 261-5351
File No.: 307842.00001

Date on which Order was pronounced: October 25, 2017
Location where Order was pronounced: Calgary, Alberta
Name of Justice who made this Order: Madam Justice B.E.C. Romaine

UPON HEARING the Application of the Lutheran Church - Canada, Alberta - British Columbia District; **AND UPON REVIEWING** the Affidavit sworn by Cameron Sherban in support of the Application of the District; **AND UPON HEARING** submissions from counsel for the District;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Service of the Application for this Order, and all supporting materials respecting the Application, filed October 17, 2017 is good and sufficient, and the time of notice hereof is shortened to the time actually given.
2. All capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Initial Order granted by the Honourable Justice K.D. Yamauchi in this Action dated January 23, 2015, and in the Affidavit of Cameron Sherban sworn October 17, 2017.
3. The District is authorized to undertake all steps and actions required to implement the Assumption Agreement, attached to the Order as Schedule "A".
4. The Monitor will file with the Court a Monitor's Certificate confirming that all of the terms of the Assumption Agreement and the settlement contemplated in the Assumption Agreement have been fully performed, including but not limited to obtaining a fully executed copy of the City Agreement.
5. Upon being presented with a filed copy of the Monitor's Certificate, the Registrar of the Alberta Land Titles Office is hereby directed to cancel the existing title to Lot 129 and to issue a new title for Lot 129 in the name of the Lutheran Church - Canada, the Alberta - British Columbia District, having an address of 7040 Ada Boulevard, Edmonton, Alberta, T5B 4E3.



The Honourable Madam Justice B.E.C. Romaine

ASSUMPTION AGREEMENT

THIS ASSUMPTION AGREEMENT is made as of the 16TH day of OCTOBER, 2017.

BETWEEN:

FOOTHILLS LUTHERAN CHURCH OF CALGARY
(hereinafter called the "Vendor")

OF THE FIRST PART

- and -

**LUTHERAN CHURCH-CANADA, THE ALBERTA –
BRITISH COLUMBIA DISTRICT**
(hereinafter called the "Purchaser")

OF THE SECOND PART

- and -

ROCKFORD TUSCANY INC.
(hereinafter called "Rockford")

OF THE THIRD PART

WHEREAS pursuant to an Option to Repurchase Agreement (the "Repurchase Agreement") between the Vendor and the Purchaser dated February 29, 2008 and registered by way of Caveat at the Land Titles Office on April 28, 2009 as Instrument No. 091 111 298, and pursuant to a Land Partnership Agreement (the "Land Agreement") between the Vendor and the Purchaser dated February 29, 2008, the Vendor agreed to transfer to the Purchaser the following lands in the event that the Vendor did not meet the Time Condition, as defined in the Land Agreement, or determines not to construct the Mission Development, as defined in the Repurchase Agreement:

PLAN 0614543
BLOCK 90
LOT 127
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 3.161 HECTARES (7.81 ACRES) MORE OR LESS
(the "Original Lands")

AND WHEREAS the Original Lands were subdivided into the following land parcels:

PLAN 1610744
BLOCK 90
LOT 128
EXCEPTING THEREOUT ALL MINES AND MINERALS
("Lot 128")

and

PLAN 1610744
BLOCK 90
LOT 129
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 1.65 HECTARES (4.08 ACRES) MORE OR LESS
(the "Subject Lands")

(and collectively, the "Subdivided Lands")

AND WHEREAS as a condition of the approval of The City of Calgary (the "City") for the subdivision of the Original Lands, the Vendor entered into an Emergency Access Agreement dated the 26th day of November, 2015 (the "Access Agreement") with the City with respect to the Subdivided Lands registered at the Land Titles Office by way of Caveat on March 10, 2016 as Instrument No. 161 063 933. The Access Agreement requires that an emergency access road (the "Emergency Road") be built for use by the City pursuant to City Specifications as defined in the Access Agreement and provides that the rights and privileges granted under the Access Agreement continue for as long as is required by the Development or Subdivision Authority of the City in connection with the approval of SB2014-0378;

AND WHEREAS pursuant to paragraph 7 of the Access Agreement, in the event of the sale of the Original Lands, the Vendor was required to cause any transferee thereof to enter into an Assumption Agreement with said transferee assuming the obligations of the transferor pursuant to the Access Agreement;

AND WHEREAS Lot 128 was transferred to Rockford on or about February 21, 2017, subject to the terms of an Offer to Purchase and Agreement for Sale dated March 28, 2013, as amended (the "PSA") with a closing date of January 31, 2017 (the "Closing Date");

AND WHEREAS pursuant to an Amending Agreement (the "Purchase Amending Agreement") dated August 11, 2016 entered into between the Vendor and Rockford amending the PSA, Rockford's solicitors maintain a holdback in the amount of \$300,000.00 (the "Holdback") as security for the construction of the Emergency Road on the Subject Lands. The Purchase Amending Agreement requires an assumption agreement be entered into by any transferee with respect to the Subject Lands if the Vendor sells, transfers or otherwise disposes of the Subject Lands prior to commencing or completing the construction of the Emergency Road, otherwise Rockford's solicitors shall be at liberty to release the Holdback to Rockford and the obligations of the Vendor to construct the Emergency Road shall be null and void;

AND WHEREAS the Purchase Amending Agreement entered into between the Vendor and Rockford further requires the Vendor to maintain, repair, and replace the Emergency Road;

AND WHEREAS the Vendor has notified the Purchaser that it will not proceed with the Mission Development on the Subject Lands, and the Purchaser has declared its intention to exercise its option to repurchase the Subject Lands pursuant to the Repurchase Agreement;

AND WHEREAS pursuant to the Land Agreement, the Purchaser agreed to pay to the Vendor 25.61% of the net sale proceeds of the Original Lands (the "Compensation") in accordance with the Land Agreement upon the sale of the Original Lands or any portion thereof to any third party;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of TEN (\$10.00) DOLLARS paid by each of the parties to the other and of the mutual covenants of the parties herein contained and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the parties):

1. The Purchaser acknowledges that the Access Agreement runs with the Subject Lands and the obligations of the registered owner of the Subject Lands have been assumed by the Purchaser by virtue of being a successor in title to the Subject Lands.
2. The Purchaser hereby agrees to assume and be bound by and perform or cause to be performed all of the covenants, terms and conditions contained in the Access Agreement, including the construction of the Emergency Road in accordance with the terms thereof, from and after the date of its acquisition of the Subject Lands. The Purchaser further agrees to assume and be bound by and perform or cause to be performed the covenants, terms and conditions contained in the Purchase Amending Agreement that pertain to the maintenance, repair, and replacement of the Emergency Road in accordance with the terms thereof, from and after the date of its acquisition of the Subject Lands.
3. The Purchaser agrees to indemnify and hold harmless the Vendor from any claim, demand, account, suit, action, liability and costs of a financial nature made or brought against the Vendor as a result of the non-performance or breach by the Purchaser of any of the obligations of the Purchaser under the Access Agreement from and after the date hereof.
4. If the Purchaser subsequently sells the Subject Lands to a third party, the Purchaser agrees to pay to the Vendor Compensation in the amount of 25.61% of the net sale proceeds of the Subject Lands, and the Vendor agrees that the Purchaser will be entitled to deduct its expenses from the gross sale proceeds of the Subject Lands.
5. The Purchaser and the Vendor acknowledge that the sale proceeds of Lot 128 to Rockford are in the amount of \$3,456,748.94, plus accrued interest (the "Lot 128 Proceeds"). The Purchaser and the Vendor agree that the Vendor will be reimbursed for its reasonable expenses in the amount of \$653,613.59 (the "Expenses") from the Lot 128 Proceeds. The Vendor may also be reimbursed for additional expenses in the amount of \$63,510.03 from the Lot 128 Proceeds, subject to agreement between the

Purchaser and the Vendor (the "Additional Expenses"). Should the Vendor and the Purchaser not agree in respect of the reimbursement of the Additional Expenses before October 25, 2017, the sum of \$63,510.03 from the sale proceeds of Lot 128 shall be held in trust by the Vendor's legal counsel pending Court Order or agreement between the Vendor, the Purchaser, and the Purchaser's Creditors' Committee in respect of the disbursement of such funds. The Purchaser and the Vendor agree that the Vendor will be paid 25.61% and that the Purchaser will be paid 74.39% of the Lot 128 Proceeds after deduction of the Expenses and, if applicable, the Additional Expenses. Such proportionate distribution shall be subject to subsequent agreement or Court Order in respect of the Additional Expenses.

6. In the event that there is an increase in the purchase price of Lot 128, as contemplated in sections 6 and 7 of the Purchase Amending Agreement, the Vendor agrees to pay to the Purchaser 74.39% of the amount of the increase to the purchase price. The Vendor and the Purchaser agree that there will be no deduction for expenses from any increase to the purchase price, except that the Vendor will be entitled to deduct its reasonable legal fees incurred in corresponding with Rockford in resolving the adjustment to the purchase price and reporting out to the Purchaser.
7. In the event that the Purchaser complies with the obligations of the Vendor with respect to the Holdback as outlined in section 9 of the Purchase Amending Agreement, the Vendor agrees that the Purchaser will be reimbursed for its reasonable expenses for construction of the Access Road from the Holdback. After the Purchaser's reasonable expenses have been paid from the Holdback, 25.61% of the remaining amount of the Holdback will be paid to the Vendor, and 74.39% will be paid to the Purchaser.
8. The parties acknowledge that the Purchaser intends to market the Subject Lands for sale shortly after the closing of the sale of the Subject Lands to the Purchaser. The parties further acknowledge that the Access Road may not be constructed prior to the resale of the Subject Lands by the Purchaser. In the event that the Purchaser sells the Subject Lands to a third party prior to the completion of the terms of this Assumption Agreement, the parties agree to enter into an agreement substantially in the form attached as Schedule "A".
9. This Assumption Agreement shall be construed in accordance with the laws of the Province of Alberta and the parties hereto hereby attorn to the jurisdiction of the courts in the Province of Alberta.
10. This Assumption Agreement is subject to the approval of the City of Calgary, as required by the Access Agreement. This Assumption Agreement is also subject to the approval of the Alberta Court of Queen's Bench.
11. Each party agrees that it will at all times hereafter at the request of the other party, execute and deliver all such further documents, deeds and instruments, and shall do

and perform all such further acts, as may be reasonably necessary to give full effect to the intent and meaning of this Assumption Agreement.

12. Any notice or communication to be given or made under this Assumption Agreement to any of the parties shall be in writing and may be sufficiently given if couriered or faxed or e-mailed to such party at the following addresses or facsimile numbers:

<p>To the Vendor:</p> <p>Foothills Lutheran Church of Calgary Attention: President 3104 – 34 Avenue NW Calgary, AB T2L 2A3</p> <p>Fax: E-mail: office@foothillsLutheran.com</p>	<p>With a copy to:</p> <p>Warren Benson Amantea LLP Barristers & Solicitors Attention: Jonathan D. Warren 1413 – 2 Street SW Calgary, AB T2R 0W7</p> <p>Fax: 403-244-1948 E-mail: jwarren@wbalaw.ca</p>
<p>To the Purchaser:</p> <p>Lutheran Church-Canada, the Alberta-British Columbia District 7100 Ada Boulevard Edmonton, AB T5B 4E4</p> <p>Fax: E-mail:</p>	<p>With a copy to:</p> <p>Fasken Martineau DuMoulin LLP Barristers & Solicitors Attention: Hannah Roskey 3400, 350 - 7 Avenue SW Calgary, AB T2P 3N9</p> <p>Fax: 403-261-5351 E-mail: hroskey@fasken.com</p>
<p>To Rockford:</p> <p>Rockford Tuscany Inc. 250, 7460 Springbank Blvd SW Calgary, AB T3H 0W4</p> <p>Fax: E-mail:</p>	<p>With a copy to:</p> <p>Cameron Horne Law Office Barristers & Solicitors Attention: Geoff Horne 820, 10201 Southport Road SW Calgary, AB T2W 4X9</p> <p>Fax: 403-531-2707 E-mail: geoff@cameronhorne.ca</p>

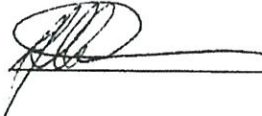
13. All capitalized terms not defined herein shall have the meanings ascribed to them in the Repurchase Agreement, the Land Agreement, the Access Agreement, the PSA or the Purchase Amending Agreement, as applicable.

14. This Assumption Agreement may be executed in counterparts and each such counterpart shall constitute one and the same instrument. An executed copy of this Assumption Agreement transmitted by facsimile or electronically shall have the same force and effect as an originally executed copy.
15. This Assumption Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
16. If any provision of this Assumption Agreement shall be found to be or be deemed illegal or invalid, the remainder of this Assumption Agreement shall not be affected thereby.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF the parties hereto have executed these presents as of the date first above written.

FOOTHILLS LUTHERAN CHURCH OF CALGARY

Per:  resident

Per: _____

**LUTHERAN CHURCH-CANADA, THE ALBERTA –
BRITISH COLUMBIA DISTRICT**

Per: _____

Per: _____

ROCKFORD TUSCANY INC.

Per: _____

Per: _____

IN WITNESS WHEREOF the parties hereto have executed these presents as of the date first above written.

FOOTHILLS LUTHERAN CHURCH OF CALGARY

Per: _____

Per: _____

**LUTHERAN CHURCH-CANADA, THE ALBERTA –
BRITISH COLUMBIA DISTRICT**

Per:  _____

Per: _____

ROCKFORD TUSCANY INC.

Per: _____

Per: _____

IN WITNESS WHEREOF the parties hereto have executed these presents as of the date first above written.

FOOTHILLS LUTHERAN CHURCH OF CALGARY

Per: _____

Per: _____

LUTHERAN CHURCH-CANADA, THE ALBERTA –
BRITISH COLUMBIA DISTRICT

Per: _____

Per: _____

ROCKFORD TUSCANY INC.

Per: _____

Per: _____



Schedule "A"

ASSUMPTION AGREEMENT

THIS ASSUMPTION AGREEMENT is made as of the ____ day of _____, ____.

BETWEEN:

FOOTHILLS LUTHERAN CHURCH OF CALGARY
(hereinafter called "Foothills")

OF THE FIRST PART

- and -

**LUTHERAN CHURCH-CANADA, THE ALBERTA –
BRITISH COLUMBIA DISTRICT**
(hereinafter called the "District")

OF THE SECOND PART

- and -

ROCKFORD TUSCANY INC.
(hereinafter called "Rockford")

OF THE THIRD PART

- and -

(hereinafter called the "Purchaser")

OF THE FOURTH PART

WHEREAS the lands described as Plan 0614543, Block 90, Lot 127 (the "Original Lands") were subdivided by Foothills into the following land parcels:

PLAN 1610744
BLOCK 90
LOT 128
EXCEPTING THEREOUT ALL MINES AND MINERALS
("Lot 128")

and

PLAN 1610744
BLOCK 90
LOT 129
EXCEPTING THEREOUT ALL MINES AND MINERALS

AREA: 1.65 HECTARES (4.08 ACRES) MORE OR LESS
("Lot 129")

AND WHEREAS Rockford purchased Lot 128 from Foothills;

AND WHEREAS the District purchased Lot 129 from Foothills;

AND WHEREAS the Purchaser has agreed to purchase Lot 129 from the District;

AND WHEREAS as a condition of the approval of The City of Calgary (the "City") for the subdivision of the Original Lands into Lot 128 and Lot 129, Foothills entered into an Emergency Access Agreement dated the 26th day of November, 2015 (the "Access Agreement") with the City registered at the Land Titles Office by way of a Caveat on March 10, 2016 as Instrument No. 161 063 933. The Access Agreement requires that an emergency access road (the "Emergency Road") be built for use by the City pursuant to City Specifications as defined in the Access Agreement and provides that the rights and privileges granted under the Access Agreement continue for as long as is required by the Development or Subdivision Authority of the City in connection with the approval of SB2014-0378;

AND WHEREAS pursuant to paragraph 7 of the Access Agreement, in the event of the sale of the Original Lands, Foothills was required to cause any transferee thereof to enter into an Assumption Agreement with said transferee assuming the obligations of the transferor pursuant to the Access Agreement;

AND WHEREAS the District, Foothills, and Rockford entered into an Assumption Agreement dated _____, 2017, whereby the District assumed the obligations of Foothills under the Access Agreement;

AND WHEREAS pursuant to an Amending Agreement (the "Purchase Amending Agreement") dated August 11, 2016 entered into between Foothills and Rockford, Foothills is required to maintain, repair, and replace the Emergency Road;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of TEN (\$10.00) DOLLARS paid by each of the parties to the other and of the mutual covenants of the parties herein contained and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the parties):

1. The Purchaser acknowledges that the Access Agreement runs with Lot 129 and the obligations of the registered owner of Lot 129 have been assumed by the Purchaser by virtue of being a successor in title to Lot 129.
2. The Purchaser hereby agrees to assume and be bound by and perform or cause to be performed all of the covenants, terms and conditions contained in the Access Agreement, including the construction of the Emergency Road in accordance with the terms thereof, from and after the date of its acquisition of Lot 129. The Purchaser further agrees to assume and be bound by and perform or cause to be performed the

covenants, terms and conditions contained in the Purchase Amending Agreement that pertain to the maintenance, repair, and replacement of the Emergency Road in accordance with the terms thereof, from and after the date of its acquisition of Lot 129.

3. The Purchaser agrees to indemnify and hold harmless Foothills and the District from any claim, demand, account, suit, action, liability and costs of a financial nature made or brought against Foothills or the District as a result of the non-performance or breach by the Purchaser of any of the obligations of the Purchaser under the Access Agreement from and after the date hereof.
4. This Assumption Agreement shall be construed in accordance with the laws of the Province of Alberta and the parties hereto hereby attorn to the jurisdiction of the courts in the Province of Alberta.
5. Each party agrees that it will at all times hereafter at the request of the other party, execute and deliver all such further documents, deeds and instruments, and shall do and perform all such further acts, as may be reasonably necessary to give full effect to the intent and meaning of this Assumption Agreement.
6. Any notice or communication to be given or made under this Assumption Agreement to any of the parties shall be in writing and may be sufficiently given if couriered or faxed or e-mailed to such party at the following addresses or facsimile numbers:

<p>To Foothills:</p> <p>Foothills Lutheran Church of Calgary Attention: President 3104 – 34 Avenue NW Calgary, AB T2L 2A3</p> <p>Fax: E-mail: office@foothillsLutheran.com</p>	<p>With a copy to:</p> <p>Warren Benson Amantea LLP Barristers & Solicitors Attention: Jonathan D. Warren 1413 – 2 Street SW Calgary, AB T2R 0W7</p> <p>Fax: 403-244-1948 E-mail: jwarren@wbalaw.ca</p>
<p>To the District:</p> <p>Lutheran Church-Canada, the Alberta-British Columbia District 7100 Ada Boulevard Edmonton, AB T5B 4E4</p> <p>Fax: E-mail:</p>	<p>With a copy to:</p> <p>Fasken Martineau DuMoulin LLP Barristers & Solicitors Attention: Hannah Roskey 3400, 350 - 7 Avenue SW Calgary, AB T2P 3N9</p> <p>Fax: 403-261-5351 E-mail: hroskey@fasken.com</p>

<p>To Rockford:</p> <p>Rockford Tuscany Inc. 250, 7460 Springbank Blvd SW Calgary, AB T3H 0W4</p> <p>Fax: E-mail:</p>	<p>With a copy to:</p> <p>Cameron Horne Law Office Barristers & Solicitors Attention: Geoff Horne 820, 10201 Southport Road SW Calgary, AB T2W 4X9</p> <p>Fax: 403-531-2707 E-mail: geoff@cameronhorne.ca</p>
<p>To the Purchaser:</p>	<p>With a copy to:</p>

7. This Assumption Agreement may be executed in counterparts and each such counterpart shall constitute one and the same instrument. An executed copy of this Assumption Agreement transmitted by facsimile or electronically shall have the same force and effect as an originally executed copy.
8. This Assumption Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
9. If any provision of this Assumption Agreement shall be found to be or be deemed illegal or invalid, the remainder of this Assumption Agreement shall not be affected thereby.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF the parties hereto have executed these presents as of the date first above written.

FOOTHILLS LUTHERAN CHURCH OF CALGARY

Per: _____

Per: _____

**LUTHERAN CHURCH-CANADA, THE ALBERTA –
BRITISH COLUMBIA DISTRICT**

Per: _____

Per: _____

ROCKFORD TUSCANY INC.

Per: _____

Per: _____

Per: _____

Per: _____