

Clerk's stamp:
**CLERK OF THE COURT
FILED
SEP 19 2013
JUDICIAL CENTRE
OF CALGARY**

COURT FILE NUMBER: 1001-03215

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE OF CALGARY

PLAINTIFF: FIRST CALGARY SAVINGS & CREDIT UNION LTD.

DEFENDANTS: PERERA SHAWNEE LTD., PERERA DEVELOPMENT CORPORATION, DON L. PERERA and SHIRANIE M. PERERA

PLAINTIFFS BY COUNTERCLAIM PERERA SHAWNEE LTD., DON L. PERERA and SHIRANIE M. PERERA

DEFENDANTS BY COUNTERCLAIM FIRST CALGARY SAVINGS & CREDIT UNION LTD. and DELOITTE & TOUCHE LLP

DOCUMENT: **FINAL APPROVAL AND VESTING ORDER**
(Re: Purchase by The Statesman Group of Companies Ltd. of Phases II and III)

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Barristers & Solicitors
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File Number: 1121689

DATE ON WHICH ORDER WAS PRONOUNCED: September 19th, 2013

NAME OF JUDGE WHO MADE THIS ORDER: Honourable Justice Romaine

I hereby certify this to be a true copy of
the original order
Dated this 19 day of Sept 2013
Anderson
for Clerk of the Court

FINAL APPROVAL AND VESTING ORDER
(Re: Purchase by The Statesman Group of Companies Ltd. of Phases II and III)

UPON the application dated September 19, 2013 (the “**Application**”) of Deloitte Restructuring Inc., formerly Deloitte & Touche Inc., in its capacity as Court-appointed receiver and manager of Perera Development Corporation (“**PDC**”) and Perera Shawnee Ltd. (“**PSL**”, or when reference is being made to PDC and PSL collectively, the “**Debtors**”), and not in its personal capacity (the “**Receiver**”); **AND UPON** noting the Order issued by Madam Justice A. Kent on March 3, 2010 as amended and restated on January 31, 2011 (the “**Receivership Order**”); **AND UPON** noting the Order (Re: Distribution of Funds) issued by Madam Justice A. Kent on January 31, 2011 (the “**Distribution Order**”); **AND UPON** noting the Order (Re: Distribution of Funds to the Plaintiff) issued by Madam Justice A. Kent on May 5, 2011 (the “**Plaintiff Distribution Order**”); **AND UPON** noting the Order (Re: Approval of the Amending Agreement and Directions regarding the 120 Offer) issued by Madam Justice Romaine on August 14, 2013 (the “**August 14 Order**”); **AND UPON** reading the Sixty-Seventh Report of the Receiver, dated September 16, 2013 (the “**Sixty-Seventh Receiver’s Report**”); **AND UPON** reading the Confidential Sixty-Eighth Report of the Receiver, dated September 16, 2013 (the “**Confidential Sixty-Eighth Receiver’s Report**”); **AND UPON** reading the Sixty-Second Report of the Receiver dated August 13, 2013; **AND UPON** reading the Confidential Sixty-Third Report of the Receiver dated August 13, 2013; **AND UPON** noting the Agreement of Purchase and Sale (the “**Statesman Agreement**”) dated February 13, 2013, entered into between the Receiver and The Statesman Group of Companies Ltd. (the “**Purchaser**”) for the sale by the Receiver to the Purchaser of Phases II and III (defined below) and that the Statesman Agreement, as amended (the “**Phases II and III Purchase Contract**”) is subject to Court approval; **AND UPON** noting that the Purchaser seeks subdivision approval of the Lands (defined below) and amendments of Condominium Plan No. 0915321 (the “**Condominium Plan**”) in respect of the Purchaser’s development plan described in Schedule “1” to the Confidential Sixty-Eighth Receiver’s Report (the “**Development Plan**”); **AND UPON** noting that pursuant to the Development Plan, the amenities centre (the “**Amenities Centre**”) described in the Phased Disclosure Statement will not be built; **AND UPON** noting that the Phases II and III Purchase Contract contemplates that the Purchaser will present the Development Plan to the owners (the “**Owners**”) of Condominium Corporation No. 0915321 (the “**Corporation**”) for their approval; **AND UPON** noting that the Purchaser presented the Development Plan to the Owners on September 4, 2013 and the Owners

did not oppose the Development Plan but have not passed special resolutions to: (i) terminate the phased disclosure statement registered on title as instrument no. 101 157 679 (the “**Phased Disclosure Statement**”) and subdivide the Lands, (ii) authorize the Corporation to enter into an access agreement with the City; or (iii) authorize the Purchaser to apply for subdivision approval on their behalf, pending the resolution of issues unrelated to Subdivision (defined below) or the Phases II and III Purchase Contract; **AND UPON** noting that the Purchaser has not yet applied to the City for subdivision approval and Phases II and III have not yet been subdivided from the Condominium Plan; **AND UPON** reference being made to a letter from Statesman to the City dated September 17, 2013, which reads in part: “2. Statesman acknowledges and agrees that the entering into an LOA [License of Occupation agreement] on terms acceptable to the City of Calgary may be imposed by the City as a condition precedent to development and/or building permit approval for the Property, or if the City requests it, also as a condition of subdivision approval with respect to the Property.”; **AND UPON** reference to s. 37 of the *Condominium Property Regulation*, AR 168/2000; **AND UPON** reference being made to other materials filed by the Receiver; **IT IS HEREBY ORDERED, ADJUDGED AND DECLARED THAT:**

TERMINATION OF DEVELOPMENT, AUTHORIZATION, AND AMENDMENT TO THE CONDOMINIUM PLAN

1. Development of Phases II and III in accordance with the Phased Disclosure Statement is terminated.
2. The Purchaser is hereby authorized to apply to the City of Calgary (the “**City**”) for subdivision (“**Subdivision**”) of the Lands (defined below) in accordance with its Development Plan to, *inter alia*:
 - (a) incorporate portions of Phases II and III into the common property of Phase I (defined below);
 - (b) remove the remainder of Phases II and III from the Condominium Plan; and
 - (c) amend the Condominium Plan to effect the foregoing, including, without limitation, reallocating all 10,000 unit factors of the Condominium Plan only to units in Phase I.

3. Statesman is hereby authorized to apply to the City for any required development permits and building permits, including variances of any of the foregoing currently in force with respect to the Lands, (collectively “**Permits**”) to permit the development of the Lands in accordance with the Development Plan.
4. No authorization, consent or approval from any Owner other than the Purchaser is or shall be required for the application to the City for Subdivision or for approvals of either Subdivision or the Permits by the City.
5. If the City approves Subdivision of the Lands, any amendments to the Condominium Plan required to implement and/or give effect to the Subdivision may be made by ordinary resolution of the Owners, or failing such resolution being passed within 14 days of a request in writing by the Purchaser for such resolution, such amendments shall be as this Court may hereafter direct upon application by the Purchaser on notice to the Owners.
6. With respect to any agreements that the City may request be entered into with Owners and/or Condominium Corporation No. 0915321 (the “**Condo Corp**”) relating to the Condominium Plan, the Development Plan, the Subdivision and/or the Permits, including without limitation a new easement/access agreement to the Lands, if approval of the Owners is sought by the Board of Directors of the Condo Corp, such approval may be obtained by ordinary resolution of the Owners and failing execution of any such agreement(s) by Owners and/or the Condo Corp (or if such ordinary resolution is sought, failure of the Owners to pass the ordinary resolution) within 14 days of a request in writing by the Purchaser for the execution of such agreement(s), such agreement(s) shall be as this Court may hereafter direct upon application by the Purchaser upon notice to the Owners and the City.
7. Paragraphs 2, 3, 4, 5 and 6 of this Order shall not be operative until the Purchaser becomes the registered owner of Phases II and III.

APPROVAL OF THE SALE OF PHASES II AND III

8. The Phases II and III Purchase Contract, and the sale of Phases II and III to the Purchaser for the Purchase Price (as that term is defined in the Phases II and III Purchase Contract)

on the terms and conditions contained in the Phases II and III Purchase Contract is hereby approved and the Receiver is hereby authorized to close the Phases II and III Purchase Contract in accordance with its terms.

9. For greater clarity, Phase I and Phases II and III are described using their legal description as they exist as of the date of this Order and are defined as:

CONDOMINIUM PLAN 0915321

UNITS 1 – 141

(Collectively comprising 2661 undivided one ten thousandth shares in the common property excepting thereout all mines and minerals)

(“Phase I”)

CONDOMINIUM PLAN 0915321

UNIT A

AND 3660 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY EXCEPTING THEREOUT ALL MINES AND MINERALS

(“Phase II ”)

and

CONDOMINIUM PLAN 0915321

UNIT B

AND 3679 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY EXCEPTING THEREOUT ALL MINES AND MINERALS

(“Phase III ”),

10. Phase I, Phase II and Phase III are collectively referred to as the “**Lands**”. Phase II and Phase III are collectively referred to as “**Phases II and III**”.

CLOSING OF THE TRANSACTION AND VESTING OF PHASES II AND III

11. The closing of the Phases II and III Purchase Contract and conveyance of title to Phases II and III to the Purchaser (the “**Transaction**”) shall be effected in accordance with the terms of the Phases II and III Purchase Contract and upon such trust conditions as may be agreed upon between the conveyancing solicitors for the Receiver, Kathleen Davis (the “**Receiver’s Conveyancing Solicitors**”) and the solicitors for the Purchaser, Morgan F. Tingle Professional Corporation (the “**Purchaser’s Solicitors**”).

12. The closing date for the Transaction shall be as provided for in the Phases II and III Purchase Contract (the “**Closing Date**”). There shall be an adjustment, in accordance with sections 2.2, 2.10, 2.11, and 2.12 of the Phases II and III Purchase Contract as required on the Closing Date.
13. Prior to the closing of the Transaction, the Receiver’s Conveyancing Solicitors shall provide to the Registrar of the South Alberta Land Titles Office (the “**Registrar**”) a letter (the “**Written Request**”) that instructs the Registrar to take the steps outlined in paragraph 14.
14. Subject to paragraphs 13 and 16, upon the delivery of a certified copy of this Order to the Registrar and the Written Request from the Receiver’s Conveyancing Solicitors, the Registrar shall promptly:
 - (a) cancel the existing certificates of title for Phases II and III (the “**Old Titles**”);
 - (b) issue new certificates of title (the “**New Titles**”) for Phases II and III in the name of the Purchaser (or such nominee as may be described in the Written Request) which shall include only:
 - (i) the Permitted Encumbrances listed in Schedule “A” to this Order (the “**Permitted Encumbrances**”); and
 - (ii) any encumbrances registered after September 19, 2013 which are found on either of the Old Titles for Phases II and III.
 - (c) discharge, as it pertains to Phases II and III including the Purchaser’s share in the common property, on the condominium additional plan sheet certificate (the “**CAPSC**”), all encumbrances registered against the CAPSC on or before September 19, 2013, other than the Permitted Encumbrances listed in Schedule “B” to this Order (collectively, the “**Discharged CAPSC Encumbrances**”).
15. Subject to paragraphs 13 and 16, the Registrar shall perform the steps specified in paragraph 14 of this Order:
 - (a) in the order specified in paragraph 14 of this Order; and

(b) notwithstanding the requirements of section 191(1) of the *Land Titles Act*, R.S.A. 2000, c. L – 4 (the “LTA”).

16. Unless expressly instructed to do so by the Written Request, the Registrar shall not perform the steps directed by paragraph 14 above if there are any encumbrances (other than Permitted Encumbrances) registered against the CAPSC or the Old Titles after September 19, 2013.

VESTING OF TITLE TO PHASES II AND III

17. Upon the Registrar issuing a certified copy of the New Titles for Phases II and III in accordance with paragraph 14 and 15 of this Order all right, title, interest, estate and equity of redemption of either of the Debtors, if any, and any persons claiming by, through or under either of the Debtors, in and to Phases II and III shall vest absolutely in the Purchaser free and clear of and from 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: (a) any encumbrances or charges created by the Receivership Order or by any other Order(s) in these or any other proceedings, and (b) any encumbrances other than Permitted Encumbrances that are found on the Old Titles (all of which are collectively referred to as the “**Encumbrances**”, which term shall include the Claims but shall not include the Permitted Encumbrances) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to Phases II and III or the CAPSC are hereby expunged as against Phases II and III and the CAPSC.
18. Upon the Registrar completing the steps identified in paragraph 14 of this Order, the Registrar shall forthwith make available to the Receiver’s Conveyancing Solicitors a certified copy of the New Titles for Phases II and III, and the CAPSC.
19. The Receiver shall be entitled to assign to the Purchaser the benefit of any contractor or supplier warranties for work or supplies made to Phases II and III.

AMENITIES HOLDBACK

20. There shall be no requirement to deduct, and the Receiver shall not be required to deduct from the amounts paid by the Purchaser's Solicitors to the Receiver's Conveyancing Solicitors pursuant to the Phases II and III Purchase Contract (collectively, the "**Total Proceeds**") any holdback related to the Amenities Centre.

HOLDING OF THE NET PROCEEDS

21. The Receiver shall hold the Total Proceeds, less closing costs including real estate commissions, taxes, legal and other conveyancing costs of the Receiver, and other usual closing costs (the "**Net Proceeds**") pursuant to and in accordance with the terms of this Order.
22. The Net Proceeds shall stand in the place and stead of Phases II and III and any holder of the Encumbrances ("**Encumbrancers**") may assert their Claims against the Net Proceeds with the same right and priority that the Encumbrancers had against Phases II and III immediately prior to the sale of Phases II and III, as if Phases II and III had not been sold and remained in the possession and control of the Debtors.
23. Unless otherwise ordered, the Net Proceeds may be disbursed by the Receiver in accordance with the Distribution Order and the Plaintiff Distribution Order.

FEES ASSOCIATED WITH THE ISSUANCE OF THE NEW TITLE

24. All costs, fees and disbursements associated with the steps outlined in paragraph 14 of this Order, including the registration of any mortgage against Phases II and III in favour of the Purchaser's lender, shall be for the Purchaser's account.

SEALING OF THE CONFIDENTIAL SIXTY-EIGHTH RECEIVER'S REPORT

25. The Confidential Sixty-Eighth Receiver's Report shall be sealed on the Court file and shall not form part of the public record until further order of the Court.
26. The Clerk of this Honourable Court shall file the Confidential Sixty-Eighth Receiver's Report in a sealed envelope attached to a notice that sets out the style of cause of these proceedings and states that:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS FILED BY
DELOITTE RESTRUCTURING INC., formerly DELOITTE & TOUCHE INC., IN ITS
CAPACITY AS RECEIVER OF PERERA SHAWNEE LTD. AND PERERA
DEVELOPMENT CORPORATION; and

THE CONFIDENTIAL MATERIALS ARE SEALED PURSUANT TO THE
ORDER ISSUED BY _____
ON _____, 2013.

27. Any interested party shall be at liberty to apply on reasonable notice to the Purchaser, the Receiver and the Plaintiff to unseal the Confidential Sixty-Eighth Receiver's Report.
28. The Receiver is empowered and authorized, but not obligated or directed, to provide the Confidential Sixty-Eighth Receiver's Report to the Plaintiff, or others on confidentiality arrangements satisfactory to the Receiver.

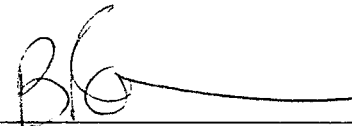
SERVICE OF THIS ORDER

29. Service of this Order shall be deemed good and sufficient by serving the same on:
 - (a) the persons listed on the Service List (as the Service List may be amended from time to time and found at Schedule "C" to this Order);
 - (b) all current Owners of the Condominium Plan, other than those units for which the Debtor is the registered owner;
 - (c) the Purchaser or on the Purchaser's solicitors; and
 - (d) by posting a copy of this Order on the Receiver's website at:

http://www.deloitte.com/view/en_CA/ca/specialsections/insolvencyandstructuringproceedings/perera/index.htm

and no other persons are entitled to be served with a copy of this Order.

30. Service of this Order shall be deemed good and sufficient regardless of whether service is effected by PDF email, facsimile, courier, personal delivery or ordinary mail.



J.C.Q.B.A.

SCHEDULE "A" TO THIS ORDER
PERMITTED ENCUMBRANCES TO PHASES II AND III

REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
861 205 323	11/12/1986	UTILITY RIGHT OF WAY GRANTEE – THE CITY OF CALGARY AS TO PORTION OR PLAN: 8611330
871 142 214	10/08/1987	CAVEAT RE: SEE CAVEAT CAVEATOR – FRANCES LORRAINE REHMAN
071 476 257	24/09/2007	CAVEAT RE: RESTRICTIVE COVENANT
091 088 418	02/04/2009	UTILITY RIGHT OF WAY GRANTEE – ENMAX POWER CORPORATION AS TO PORTION OR PLAN: 0911884 THAT PORTION SHOWN AS R/W "B"
091 368 708	07/12/2009	CAVEAT RE: RESTRICTIVE COVENANT

SCHEDULE "B" TO THIS ORDER

**PERMITTED ENCUMBRANCES AS TO THE CONDOMINIUM ADDITIONAL PLAN
SHEET CERTIFICATE FOR PHASES II AND III**

REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
091 372 552	10/12/2009	CHANGE OF DIRECTORS
091 372 553	10/12/2009	CHANGE OF BY-LAWS

**SCHEDULE "C" TO THIS ORDER
SERVICE LIST**

Clerk's stamp:

COURT FILE NUMBER: 1001-03215

COURT OF QUEEN'S BENCH OF
ALBERTA

JUDICIAL CENTRE OF CALGARY

PLAINTIFF: FIRST CALGARY SAVINGS & CREDIT UNION
LTD.

DEFENDANTS: PERERA SHAWNEE LTD., PERERA
DEVELOPMENT CORPORATION, DON L.
PERERA and SHIRANIE M. PERERA

PLAINTIFFS BY COUNTERCLAIM PERERA SHAWNEE LTD., DON L. PERERA and
SHIRANIE M. PERERA

DEFENDANTS BY COUNTERCLAIM FIRST CALGARY SAVINGS & CREDIT UNION
LTD. and DELOITTE & TOUCHE LLP

DOCUMENT: **SERVICE LIST**

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