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August 28, 2013

**E. Jane Sidnell**

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File No.: 10049-008

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DELIVERED BY COURIER

Calgary Courts Centre  
601 – 5<sup>th</sup> Street SW  
Calgary, AB T2P 5P7

**Attention: Honourable Madam Justice C.A. Kent**

Dear Madam:

**Re: UBG Builders Inc. et al  
Action No. 1201-05843  
Sale Application: August 29, 2013 at 3:30 p.m.**

We are the solicitors for Streetside Development Corporation, an interested party in relation to the above-noted Sale Application.

We will be appearing at the Sale Application on behalf of Streetside Development Corporation and will be relying on the enclosed Affidavit of Glynn Hendry, which we undertake to file, and such other and further materials as this honourable Court may allow.

Yours truly,

E. Jane Sidnell

**Rose LLP**

EJS/jk

Encl.

cc: Parties on Schedule "A" and Schedule "B" (with enclosure)

COURT FILE NUMBER

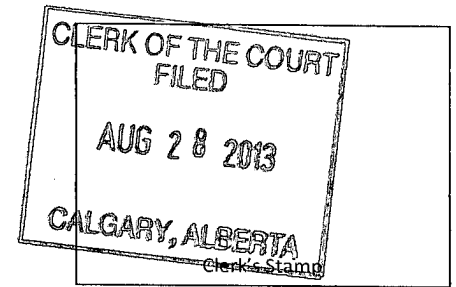
1201-05843

COURT

Queen's Bench of Alberta

JUDICIAL CENTRE

Calgary



IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT, RSC 1985, c C-36, AS AMENDED*

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF UBG BUILDERS INC., ALBERTA BUILDERS  
CAPITAL INC., ALPINE HOMES (2006) INC., AMERICAN BUILDERS  
CAPITAL (US) INC., EDGEWATER AT GRIESBACH INC.,  
ELITE HOMES (2006) LTD., EVOLUTION BY GREENBORO INC.,  
GREENBORO COMMUNITIES (2006) INC., GREENBORO ESTATE  
HOMES (2006) LTD., GREENBORO HOMES (2006) LTD.,  
GREENBORO LUXURY HOMES INC., HIGH POINTE INC.,  
MOUNTAINEERS VILLAGE (2006) INC., MOUNTAINEERS VILLAGE  
II INC., ORIGINS AT CRANSTON INC., SOUTH TERWILLEGAR  
VILLAGE INC., THE BRIDGES MANAGEMENT INC., THE LEDGES  
INC., TIMBERLINE LODGES (2006) INC., TODAY'S COMMUNITIES  
(2006) INC., TODAY'S HOMES (2006) INC., TUSCANY  
DEVELOPMENTS (2006) INC., UBG ALBERTA BUILDERS (2006)  
INC., UBG ALPINE HOMES (2006) LTD., UBG BRIDGES INC.,  
UBG BUILDERS (USA) INC., UBG COMMERCIAL INC., UBG LAND  
INC., UBG LOT DEPOSIT CORP., UBG 4500 CALGARY INC.,  
UBG 75 CAN MORE INC., UBG 808 CALGARY INC., UNITY  
INVESTMENTS (2012) INC., VALMONT AT ASPEN STONE INC.,  
VALOUR PARK AT CURRIE INC., VILLAGE AT THE HAMPTONS  
INC., VILLAGE ON THE PARK INC., WILDERNESS HOMES BY  
RIVERDALE INC., WILDERNESS RIDGE AT STEWART  
CREEK INC.

(COLLECTIVELY, THE "APPLICANTS")

DOCUMENT

**AFFIDAVIT**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS  
DOCUMENT

**Rose LLP**  
810, 333 - 5th Avenue S.W.  
Calgary, Alberta T2P 3B6  
Telephone: (403) 776-0515  
Attention: E. Jane Sidnell  
File No.: 10049-008

**AFFIDAVIT OF GLYNN HENDRY**

Sworn (~~or Affirmed~~) on August 28, 2013

I, GLYNN HENDRY of Calgary, Alberta, SWEAR AND SAY THAT:

1. I am the Regional Vice President, Calgary, of Qualico, which includes its wholly owned subsidiary Streetside Development Corporation ("**Streetside**").
2. The Applicants, in accordance with an Order granted in this Action on July 10, 2013 (the "**Stalking Horse Order**"), commenced a sale process for the lands ("**Stalking Horse Sales Process**") legally described as Condominium Plan 0813651, Units 2, 3 and 4, all related common property and all appurtenances thereto (the "**Lands**"), which consists of lands and partially complete multi-family residential units (the "**Valmont Project**").
3. The Stalking Horse Sales Process incorporated an initial Offer to Purchase the Lands by 7711280 Alberta Ltd. ("**7711280**") from the owner, Valmont at Aspen Stone Limited Partnership, by its general partner Valmont at Aspen Stone Inc., dated June 20, 2013, in the amount of \$10,837,596.00 (the "**Stalking Horse Bid**"). That offer was broken down as:
  - (a) \$200,000.00 initial deposit;
  - (b) Assumption of Bank of Nova Scotia Mortgage in the amount of \$7,837,595.00, plus construction draws prior to closing ("**BNS Obligations**"); and
  - (c) \$2,800,000.00, balance owing, subject to adjustments in the Offer to Purchase.

The Stalking Horse Order, in Schedule "A", provided for a break fee of \$200,00.00, payable to 7711280, in the event the Stalking Horse Bid is not accepted, as "fair and reasonable compensation to 7711280 ... for its costs and providing the [Stalking Horse Bid]" in the amount of \$10,837,596.00.

4. Streetside has been interested in the purchase of the Lands and actively pursued information and investigation of the Lands in the short time frame between July 18, 2013, when notice was received, and August 9, 2013, when the bidding closed (22 days).
5. As part of the Stalking Horse Sales Process, the Monitor requested that a form of Asset Purchase Agreement be used by potential bidders and this was posted by the Monitor on the Valmont Project information website (Firmex data site) on July 26, 2013 (the "**Asset Purchase Agreement**"). The Asset Purchase Agreement was different than the Stalking Horse Bid in that it required that the BNS Obligations be expanded to encompass:
  - (a) satisfy the Bank of Nova Scotia Mortgage in the amount of \$7,837,595.00 (same as the Stalking Horse Bid);
  - (b) plus all outstanding letters of credit (additional to the Stalking Horse Bid);
  - (c) plus construction draws advanced after July 10, 2013 (same as the Stalking Horse Bid);
  - (d) plus all fees and interest accrued prior to the Close Date (additional to the Stalking Horse Bid).

6. Before the closing deadline on August 9, 2013, Streetside submitted a bid for the Lands of \$13,500,000.00 (which amount is disclosed in the Affidavit of Robert Friesen, dated August 22, 2013 (the "**Friesen Affidavit**"), as being the second highest offer), together with the Asset Purchase Agreement (in substantially same form as requested) and the required deposit of \$200,000.00 (the "**Streetside Offer**").
7. The Friesen Affidavit states that an offer was received from 7711280 on the closing date of August 9, 2013, but attached to the Friesen Affidavit is an Asset Purchase Agreement from 7711280 dated August 12, 2013 ("**7711280's Second Offer**"), which is after the closing date, indicating that a comparable offer from 7711280 was not made until after closing. 7711280's Second Offer states that is for \$13,509,000.00, which is \$9,000.00 more than the Streetside Offer.
8. The Monitor is required to follow the Stalking Horse Order; however:
  - (a) 7711280's Second Offer was not received until August 12, 2013, so the offer from 7711280 before closing was not in the correct form of Asset Purchase Agreement or comparable to the offer from Streetside; and
  - (b) without being in the form of the Asset Purchase Agreement, there is no evidence before the court that the offer from 7711280 received before the closing date included the expanded BNS Obligations as provided for in the Asset Purchase Agreement.
9. Even if the 7711280 Second Offer is not disqualified, the Stalking Horse Order requires the Monitor to select the most favourable competing bid as the successful bidder as of the closing date of August 9, 2013; however, it is not clear that this has been done, because:
  - (a) the Stalking Horse Order is silent as to whether the break-fee payable to 7711280 should be considered in determining the successful bidder, but does require bids to be at least \$225,000.00 higher than the Stalking Horse Bid of \$10,837,596.00; however:
    - (i) based on the Stalking Horse Order, Schedule A, the break fee is payable to 7711280 for submitting the Stalking Horse Bid regardless of whether it also submits a competing bid, so the analysis that 7711280's bid is \$209,000.00 better than the Streetside Offer is wrong; and
    - (ii) 7711280's Second Offer is *different* than the Stalking Horse Bid and it should be evaluated on the same terms as the other competing bidders and not given a \$200,000.00 credit for the payment of the break fee for the Stalking Horse Bid;
  - (b) 7711280's Second Offer, while on its face is \$9,000.00 higher than the Streetside Offer, was amended by an Amending Agreement dated August 21, 2013, which added a new paragraph stating:

**Trade Payment Adjustment.** The Purchaser will be responsible for payment of all new trade payment invoices dated from and after August 23, 2013 and the Vendor will be responsible for all trade payable invoices dated prior to August 23, 2013."

This amendment reduces 7711280's Second Offer by an unknown amount. The bid information was clear that the bidder was required to cover the BNS Obligations in the form of construction draws after July 10, 2013, but this new clause would negate that obligation from July 10, 2013 to August 23, 2013 as the draws would be used to pay these same accounts. There is no evidence as to the value of this discount to 7711280 as a result of the Monitor taking on the liability of the trade invoices from July 10, 2013 to August 23, 2013. Without evidence, the bids cannot be comparatively analysed.

- 10. I make this Affidavit in opposition to the selection of the 7711280 Second Offer as the superior offer pursuant to the Stalking Horse Order and in support of the Court accepting the Streetside Offer as the superior offer or considering further offers for the Valmont Project.

SWORN (OR AFFIRMED) BEFORE ME at the  
Calgary, Alberta, this 28<sup>th</sup> day of August, 2013

EChang  
(Commissioner for Oaths in and for the  
Province of Alberta)

EVELYN CHANG  
A Commissioner for Oaths  
in and for the Province of Alberta  
My Commission Expires MAY 24, 2014

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R.H. Hendry  
Signature  
Glynn Hendry, Regional Vice President, Calgary,  
Qualico