

Clerk's stamp: **CLERK OF THE COURT**
FILED
DEC 14 2012
JUDICIAL CENTRE
OF CALGARY

COURT FILE NUMBER 1201-05843

COURT OF 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 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 CANMORE INC., UBG Timberline 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")

I hereby certify this to be a true copy of the original Order

Dated this 14 day of Dec 2012
[Signature]
for Clerk of the Court

DOCUMENT

Order
(re: Timberline)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

FRASER MILNER CASGRAIN LLP
Bankers Court
15th Floor, 850 - 2nd Street S.W.
Calgary, Alberta T2P 0R8
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File No.: 549362-1

DATE ON WHICH ORDER WAS PRONOUNCED

December 14, 2012

LOCATION WHERE ORDER WAS PRONOUNCED

Calgary Courts Centre, Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER

Madam Justice K.M. Horner

ORDER
(re: Timberline)

UPON the application of the Applicants in these proceedings (collectively, "**UBG**"); AND UPON having read the Application of the Applicants, dated December 11, 2012, the Affidavit of Robert Friesen, dated December 11, 2012 (the "**Friesen Affidavit**"), the Seventh Report of the Monitor, dated December 11, 2012, the Affidavit of Anna Collister, dated December 13, 2012 (the "**Service Affidavit**"), and such other material in the pleadings and proceedings as deemed necessary; AND UPON hearing counsel for UBG, counsel for Canada ICI Capital Corporation ("**Canada ICI**"), counsel for the Monitor, and other interested parties; IT IS HEREBY ORDERED AND DECLARED THAT:

Service

1. The time for service of notice of this application is abridged to the time actually given and service of the Application and supporting material as described in the Service Affidavit is good and sufficient, and this hearing is properly returnable before this Honourable Court today and further service thereof is hereby dispensed with.
2. All capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Initial Order granted in these proceedings on May 9, 2012 (the "**Initial Order**"), and the following terms shall have the following meaning:
 - (a) "**Borrower's Costs**" means the sum of \$85,000 to be paid by Canada ICI to the Monitor in keeping with the Order of this Honourable Court on June 15, 2012 and in respect of the effort, fees, and disbursements expended by UBG in connection with the preservation, marketing, and conveyance of the Property to the benefit of Canada ICI in these proceedings;
 - (b) "**Borrower's Costs Charge**" means the charge hereby created in favour of Timberline as security for the payment of the Borrower's Costs owed to it. The Borrower's Costs Charge shall constitute a charge on the Lands and shall rank in priority to all other security interests, trusts, liens, charges, encumbrances and claims of secured creditors, statutory or otherwise, in favour of any person or entity.
 - (c) "**Lands**" means the lands legally described as:

Condominium Plan 0810854, Units 21, 50, 51, 54, 81, 82, 83, 85, 86, and 87;
 - (d) "**Property**" means all of UBG's right, title and interest in and to the Lands;
 - (e) "**Quit Claim**" means the quit claim pursuant to which the Property shall be vested in Canada ICI in full satisfaction of all amounts now or hereafter owing by Timberline in favour of Canada ICI in respect of the Property, all in accordance with the terms and conditions of this Order; and
 - (f) "**Timberline**" means Timberline Lodges Limited Partnership, by its general partner, Timberline Lodges (2006) Inc.

Approval of Quit Claim and Vesting of the Property

3. Concurrently with Canada ICI's obligations pursuant to paragraph 4 hereof, Timberline is hereby ordered and directed to forthwith transfer the Property to Canada ICI pursuant to the Quit Claim.
4. The Borrower's Costs Charge is hereby created and, concurrently with Timberline's obligations pursuant to paragraph 3 hereof, Canada ICI is hereby ordered and directed to forthwith pay the Borrower's Costs to Timberline, which obligation shall be secured by the Borrower's Costs Charge.
5. Canada ICI, UBG and the Monitor are hereby authorized and directed to execute all deeds, documents, and agreements, and to do all things reasonably necessary to complete the conveyance of the Property and carry out the terms of this Order.
6. Upon the Monitor delivering a certificate (the "**Monitor's Certificate**") certifying that: (i) that the transfer of the Property has occurred in accordance with the Quit Claim, and (ii) the Borrower's Costs Charge has been registered against the Lands, then:
 - (a) the Property shall be vested in the name of Canada ICI free of all estate, right, title, interest, royalty, rental, and equity of redemption of UBG and all persons who claim by, through or under UBG in respect of the Property whose interests are subordinate to those of Canada ICI by virtue of its security on the Property, subject only to the permitted encumbrances outlined in Schedule "A" of this Order (the "**Permitted Encumbrances**") and the Borrower's Costs Charge;
 - (b) UBG and all persons who claim by, through or under UBG in respect of the Property, save and except the Permitted Encumbrances and the Borrower's Costs Charge, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental, and equity of redemption of the Property and, to the extent that any such person remains in possession or control of any of the Property, they shall forthwith deliver possession of same to Canada ICI or its nominee;
 - (c) all amounts owing by Timberline to Canada ICI shall be deemed to be satisfied and discharged such that there shall be no further amounts owing by Timberline to Canada ICI, or by any UBG party to Canada ICI in respect of such obligations;
 - (d) Canada ICI shall be entitled to enter into and upon, hold and enjoy the Property for its own use and benefit without any interference of or by UBG, or any person claiming by or through or against UBG, save and except as expressly permitted in this Order; and
 - (e) the Registrar of the Land Titles Office of Alberta shall discharge all encumbrances in respect of the Lands, save and except the Permitted Encumbrances and the Borrower's Costs Charge, and shall register the Property in the name of Canada ICI.
7. UBG is authorized and empowered, in respect of the Property, to execute and deliver: (a) such additional, related and ancillary documents and assurances governing or giving effect to the conveyance of the Property, which, in UBG's discretion are reasonably necessary or advisable to conclude the transactions contemplated in or in furtherance of the transfer of the Property

and/or this Order; and (b) any and all instruments and documents in respect of the Property as may be required by the Registrar of the Land Titles Office of Alberta or deemed necessary by UBG, and the Registrar is hereby directed, notwithstanding any restrictions in the *Land Titles Act* (Alberta) (the "LTA"), including but not limited to s. 191(1) of the LTA, to effect registration of any such instrument or document so executed by UBG or its solicitors.

8. Upon the filing of the Monitor's Certificate, the Monitor may discharge, or authorize the discharge of, any security registration or registrations in the Personal Property Registry of the Province where the Property is located as may be required to properly convey clear title of the Property to Canada ICI.

Miscellaneous

9. Any conveyance or transfer of the Property made pursuant to the provisions of this Order shall be valid and enforceable and not be rendered invalid or unenforceable and the rights and remedies of the parties thereto shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declaration of insolvency made herein; (ii) any Bankruptcy Order sought or issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) ("BIA") in respect of any of the Petitioners; or (iii) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances, contained in any existing agreement, lease, sub-lease, offer to lease or other arrangement which binds any of the Petitioners (a "Third Party Agreement"), and notwithstanding any provision to the contrary in any Third Party Agreement:
 - (a) the transaction contemplated hereby shall not create or be deemed to constitute a breach by any of the Petitioners of any Third Party Agreement to which they are a party; and
 - (b) Canada ICI shall not have liability to any person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation, execution, delivery or performance of any transaction contemplated hereby.
10. Notwithstanding (i) the pendency of these proceedings and the declaration of insolvency made herein, (ii) any Bankruptcy Order sought or issued pursuant to the BIA in respect of any of the Petitioners, and (iii) the provisions under the BIA, or any other applicable federal or provincial legislation or common law, the transactions contemplated herein shall constitute legal, valid and binding obligations of the Petitioners enforceable against them in accordance with the terms thereof, and no transaction contemplated herein will be void or voidable at the instance of creditors and claimants and do not constitute nor shall they be deemed to constitute settlements, fraudulent preferences, assignments, fraudulent conveyances, oppressive conduct, or other reviewable transactions under the BIA, or any other applicable federal or provincial legislation or common law.
11. UBG, the Monitor, Canada ICI, or any interested party may apply to this Court for advice and direction on notice to any party likely to be affected by the Order sought or on such notice as this Court directs.

General

12. UBG shall serve, by courier, facsimile transmission, e-mail transmission, or ordinary post, a copy of this Order on all parties present at this application and on all parties who received notice of this application or who are presently on the service list established in these proceedings, and service on any or all other parties is hereby dispensed with. Service affected as aforesaid shall be good and sufficient service..



Justice of the Court of Queen's Bench of Alberta

**Schedule A
Permitted Encumbrances**

All encumbrances, that at law, exist in priority to the mortgage of Canada ICI Capital Corporation, with the exception of the mortgage of Alberta Builders Capital Inc. (Registration No. 101 077 235), as well as the following:

Registration Number	Date (D/M/Y)	Encumbrances, Liens & Interests
121 090 970	19/04/2012	CAVEAT
121 123 904	23/05/2012	CERTIFICATE OF LIS PENDENS
121 090 967	19/04/2012	CAVEAT
121 123 963	23/05/2012	CERTIFICATE OF LIS PENDENS
121 090 974	19/04/2012	CAVEAT
121 123 905	23/05/2012	CERTIFICATE OF LIS PENDENS
121 090 968	19/04/2012	CAVEAT
121 123 907	23/05/2012	CERTIFICATE OF LIS PENDENS
121 090 777	18/04/2012	CAVEAT
121 123 915	23/05/2012	CERTIFICATE OF LIS PENDENS
121 090 776	18/04/2012	CAVEAT
121 123 917	23/05/2012	CERTIFICATE OF LIS PENDENS
121 090 953	19/04/2012	CAVEAT
121 123 918	23/05/2012	CERTIFICATE OF LIS PENDENS
121 090 955	19/04/2012	CAVEAT
121 123 916	23/05/2012	CERTIFICATE OF LIS PENDENS
121 090 956	19/04/2012	CAVEAT
121 123 912	23/05/2012	CERTIFICATE OF LIS PENDENS
121 090 957	19/04/2012	CAVEAT
121 123 899	23/05/2012	CERTIFICATE OF LIS PENDENS