

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

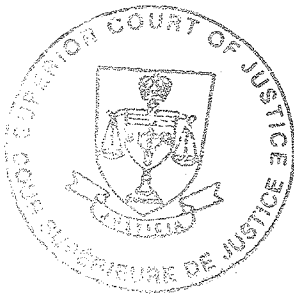
THE HONOURABLE MR.) MONDAY, THE 7th DAY OF
JUSTICE CUMMING) JANUARY, 2013

BETWEEN:

FIRM CAPITAL MORTGAGE FUND INC.

Applicant

- and -



2012241 ONTARIO LIMITED

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, as amended and SECTION 101 of the *COURTS OF JUSTICE ACT*, R.S.O. c. D.43, as amended

APPROVAL, VESTING AND DISTRIBUTION ORDER

THIS MOTION, made by DELOITTE & TOUCHE INC. in its capacity as the court-appointed receiver (the "**Receiver**") of all of the assets, undertakings and properties of the respondent (the "**Debtor**"), for an order (i) approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (the "**New Bond Purchase Agreement**") between the Receiver and New Bond Properties Inc. in Trust (the "**Purchaser**") dated as of December 12, 2012 and attached in redacted form as

Appendix "M" to the Second Report of the Receiver dated December 14, 2012 (the "**Second Report**"), (ii) vesting in the Purchaser, or its nominee, the Debtor's right, title and interest in and to the Assets, as such term is defined in the New Bond Purchase Agreement (the "**Assets**"), (iii) authorizing the law firm of Meyer, Wassenaar & Banach LLP to make certain payments from the trust funds held by them with respect to the purchase of units in the Debtor's condominium project at 50 Sunny Meadow Blvd., Brampton, Ontario in accordance with Appendix "P" to the Second Report, (iv) approving the Receiver's Statement of Receipts and Disbursements attached as Appendix "Q" to the Second Report, and (v) approving the Receiver's activities, fees and disbursements as set forth in the Second report, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report and the appendices attached thereto, the affidavit of Bryan A. Tannenbaum sworn December 7, 2012 (the "**Tannenbaum Fee Affidavit**") and the affidavit of John D. Marshall sworn December 13, 2012 (the "**Marshall Fee Affidavit**"), and on hearing the submissions of counsel for the Receiver, the Applicant, the Purchaser, and such other persons as noted on the record herein, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service filed herein,

APPROVAL AND VESTING

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the New Bond Purchase Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Assets described in the New Bond Purchase Agreement and listed on Schedule "B"

hereto shall vest absolutely in the Purchaser, or in whomsoever it may direct or nominate, free and clear of and from any and 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, and all agreements of purchase and sale, reservation contracts and leases (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Initial Receivership Order herein of The Honourable Mr. Justice C. L. Campbell dated November 15, 2011 as amended by the Amended and Restated Receivership Order herein of the Honourable Mr. Justice C.L. Campbell dated May 10, 2012; (ii) all charges, security interests, agreements, leases or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Land Titles Act* (Ontario) or any other personal or real property registry system; and (iii) those Claims listed on Schedule "C" hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances listed on Schedule "D" hereto) and (iv) any other Claims registered or arising prior to the registration of this Order (the "**Additional Encumbrances**") and, for greater certainty, this Court orders that effective upon the delivery of the Receiver's Certificate all of the Encumbrances and Additional Encumbrances affecting or relating to the Assets are hereby expunged and discharged as against the Assets.

3. THIS COURT ORDERS that the Receiver is hereby authorized and directed to direct the person nominated by the Purchaser to take title to the Assets to draw the mortgage representing the full purchase price under the Transaction in favour of, and deliver it to, Firm Capital Mortgage Fund Inc. in accordance with the provisions of the New Bond Purchase Agreement.

4. THIS COURT ORDERS that upon the registration in the Brampton Land Registry Office (No. 43) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser, or whomsoever it may nominate or direct, as the owner of the subject real property identified in Schedule B hereto (the "**Real Property**") in fee

simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule "C" hereto.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such application; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute or be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

8. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

APPROVAL OF ACTIVITIES

9. **THIS COURT ORDERS** that (i) the Second Report of the Receiver, (ii) the activities of the Receiver described therein, (iii) the statement of receipts and disbursements contained therein, and (iv) the fees and disbursements of the Receiver described therein and in the Tannenbaum Fee Affidavit and the Marshall Fee Affidavit be and are hereby approved.

SEALING

10. **THIS COURT ORDERS** that the Confidential Information Memorandum and the summary of the offers received and marked as Confidential Appendices "I" and "L" respectively to the Second Report, be and are hereby sealed until the filing with the Court of the Receiver's Certificate, or upon further order of the Court.

TRUST DEPOSITS

11. **THIS COURT ORDERS** that the law firm of Meyer, Wassenaar & Banach LLP is hereby authorized and directed (i) to make payments from the trust funds received and held by it in trust pursuant to the order herein of the Honourable Mr. Justice C. L. Campbell dated May 10, 2012 (the "Trust Funds") to the persons, and in the amounts, set forth in Schedule "E" attached hereto, together with any interest earned on such amounts from November 25, 2011 to the date of payment, (ii) to pay from the Trust Funds the amount of \$32,572.58 to the Receiver on account of occupancy fees, and (iii) to pay the remaining balance of the Trust Funds, less the sum of \$1000 for its costs, into court to the credit of this proceeding to be held pending further order of this court.

AID AND RECOGNITION

12. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying

out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Jan. 7, 2012 Peter A. Cumming Q.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:



JAN 09 2013

SCHEDULE "A"

Court File No. CV-11-9456-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

FIRM CAPITAL MORTGAGE FUND INC.

Applicant

- and -

2012241 ONTARIO LIMITED

Respondent

RECEIVER'S CERTIFICATE

RECITALS

A. Pursuant to an order herein of The Honourable Mr. Justice C. L. Campbell of the Ontario Superior Court of Justice (the "**Court**") dated November 15, 2011 as amended and restated by an order herein of the said Honourable Mr. Justice C. L. Campbell dated May 10, 2012, Deloitte & Touche Inc. was appointed as the receiver (the "**Receiver**") of the assets, undertakings, and properties of the respondent 2012241 Ontario Limited (the "**Debtor**") as described in the said orders.

B. Pursuant to an order of the Court dated January 7, 2013, the (the "**Approval Order**") the Court approved the agreement of purchase and sale made as of December 12, 2012 (the "**New Bond Purchase Agreement**") between the Receiver and New Bond Properties Inc. in Trust (the "**Purchaser**") and provided for the vesting in the Purchaser, or whomsoever it may direct or nominate, of the Debtor's right, title and interest in and to the Assets as defined in the New Bond Purchase Agreement, which vesting is to be effective with respect to the Assets upon the delivery by the Receiver to

the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Assets; (ii) that the conditions to Closing as set out in section 4 of the New Bond Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the New Bond Purchase Agreement and the Approval Order.

THE RECEIVER CERTIFIES the following:

1. The Purchaser or its nominee has paid and the Receiver has received the Purchase Price for the Assets payable on the Closing Date pursuant to the New Bond Purchase Agreement;
2. The conditions to Closing as set out in section 4 of the New Bond Purchase Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**DELOITTE & TOUCHE INC., in its
capacity as Receiver of the assets,
undertakings and properties of 2012241
Ontario Limited, and not in its personal
capacity**

Per: _____

Name:

Title:

SCHEDULE "B" -ASSETS

The Lands

The right, title and interest of the Debtor in the real property described as PIN No.14223-0956 (LT) being PT of LT 11, Con 5 East of Hurontario St. DES as PTS 6 and 7, PL 43R21902. S/T easement in favour of Brampton Hydro Electric Commission and the Corporation of the City of Brampton over PT of LT 11, Con 5 EHS, DES as PT 7, PL 43R21902 as in LT1615145. Subject to an Easement in gross over parts 3 & 4 on reference plan 43R33711 as in PR2106932, City of Brampton, Regional Municipality of Peel

Brampton Land Registry Office (No. 43)

Municipally known as 50 Sunny Meadow Circle, Brampton, Ontario;

and

The Plans.

SCHEDULE C – Claims to be deleted and expunged from title to the Real Property

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
PR1418741	2008/02/21	Charge	\$400,000.00	2012241 Ontario Limited	1448037 Ontario Limited
PR1418749	2008/02/21	Notice of Assignment of Rents - General		2012241 Ontario Limited	1448037 Ontario Limited
PR1539845	2008/09/25	Charge	\$864,070.00	2012241 Ontario Limited	1448037 Ontario Limited
PR1539924	2008/09/26	Notice of Assignment of Rents – General		2012241 Ontario Limited	1448037 Ontario Limited
PR1554408	2008/10/20	Charge	\$12,500,000.00	2012241 Ontario Limited	The Toronto- Dominion Bank
PR1569920	2008/11/18	Postponement		1448037 Ontario Limited	The Toronto- Dominion Bank
PR1569921	2008/11/18	Postponement		1448037 Ontario Limited	The Toronto- Dominion Bank
PR1569922	2008/11/18	Postponement		1448037 Ontario Limited	The Toronto- Dominion Bank
PR1569923	2008/11/18	Postponement		1448037 Ontario Limited	The Toronto- Dominion Bank
PR1681378	2009/08/05	Notice	\$2.00	The Toronto- Dominion Bank	
PR1720150	2009/10/15	Notice	\$2.00	The Toronto- Dominion Bank	
PR1720151	2009/10/15	Transfer of Charge		14480317 Ontario Limited	The Toronto- Dominion Bank

PR1720152	2009/10/15	Transfer of Charge		14480317 Ontario Limited	The Toronto-Dominion Bank
PR1785468	2010/03/03	Application (General)		H S G Properties Incorporated	
PR1803331	2010/04/12	Postponement		H S G Properties Incorporated	The Toronto-Dominion Bank
PR2176035	2012/04/10	Transfer of Charge		The Toronto-Dominion Bank	Firm Capital Mortgage Fund Inc.
PR2176036	2012/04/10	Transfer of Charge		The Toronto-Dominion Bank	Firm Capital Mortgage Fund Inc.
PR2176037	2012/04/10	Transfer of Charge		The Toronto-Dominion Bank	Firm Capital Mortgage Fund Inc.

PPSA REGISTRATIONS

FILE NUMBER	SECURED PARTY
647532792	Firm Capital Mortgage Fund Inc.
648818028	1448037 Ontario Limited
652974381	1448037 Ontario Limited

**SCHEDULE D – Permitted Encumbrances related to the Real Property
(unaffected by the Vesting Order)**

Permitted Encumbrances for PIN No. 14223-0956 (LT)

Reg. Num.	Date	Instrument Type	Parties From	Parties To
43R18419	1991/03/07	Plan Reference		
43R21191	1995/09/11	Plan Reference		
LT1615145	1996/02/01	Transfer Easement		Brampton Hydro Electric Commission The Corporation of the City of Brampton
43R21902	1996/11/14	Plan Reference		
LT2057426	2000/03/27	Notice (Pearson Airport Zoning Regulation)	Her Majesty the Queen in right of the Department of Transport Canada	
PR1138739	2006/09/19	Notice	The Corporation of the City of Brampton	
PR1591143	2009/01/08	Notice	The Corporation of the City of Brampton	
43R33711	2010/12/23	Plan Reference		
PR2106932	2011/11/14	Transfer Easement	2012241 Ontario Limited	Hydro One Brampton Networks Inc.

SCHEDULE "E"

PAYEE NAME	UNIT	DEPOSIT	INTEREST
1253237 Ontario Inc. & Pirthi Singh Samra jointly	213	\$48,018.75	\$403.94
Amargit Masuta	200	\$32,633.70	\$0.00
Teri Ote Consulting Corp. & Gurcharan Singh jointly	314	\$42,918.75	\$385.54
Ranvinder Singh & Rajbir Singh jointly	318, 319	\$53,616.75	\$481.27
2262248 Ontario Inc. & Ranbir Singh Gill	206, 207	\$68,835.00	\$171.56
Dr. Surinder Singh Sidhu Medicine Professional Corporation, Five Rivers Rehabilitation Centre Ltd. and Surinder Sidhu, jointly	220, 221	\$54,570.00	\$314.04
Taranjit Atwal	214	\$46,500.00	\$76.00
2238104 Ontario Inc.	110	\$47,200.00	\$379.97
2140822 Ontario Inc. and Harmanjot Dhillon, jointly	109	\$79,050.00	\$436.27
Navdeep Singh Johal	205	\$25,545.00	\$262.99
Harvinder Singh Gill	208, 209	\$44,118.75	\$326.45
2263105 Ontario Inc. & Daljit Singh Gill, jointly	202	\$35,997.00	\$221.27
Balwant Singh Brar	201	\$28,420.50	\$257.88
1827107 Ontario Inc. & Lakhbir Singh Dhaliwal, jointly	218, 219	\$40,135.08	\$291.93
Sumit Kaur Hansra, Harmanjot Dhillon, Jagvinder Hansra and Major Hansra, jointly	308, 309	\$36,091.00	\$315.65

Gurdev Singh Dhaliwal & Majit Dhaliwal, jointly	216, 217	\$38,418.42	\$273.10
Taranjit Basra & Narinder Basra, jointly	320, 321	\$55,590.00	\$504.39
Jasbir Singh Chahal & Gagandeep K. Chahal, jointly	323, 324	\$30,514.00	\$60.89
1553351 Ontario Inc.	302	\$58,372.00	\$0.00
Top Kat Investments Inc.	303	\$57,732.00	\$0.00
2231772 Ontario Ltd. & Charnjit Singh Gill, jointly	211	\$34,466.25	\$143.04

FIRM CAPITAL MORTGAGE FUND INC.

2012241 ONTARIO LIMITED

-and-

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PROCEEDING COMMENCED AT TORONTO

**APPROVAL, VESTING AND DISTRIBUTION
ORDER**

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Lawyers for Receiver Deloitte & Touche Inc.