

SUPERIOR COURT

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

NO: 500-11-041305-117

DATE: January 12, 2012

PRESENT: THE HONOURABLE MARK SCHRAGER

IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF:

HOMBURG INVEST INC.

HOMBURG SHARECO INC.

CHURCHILL ESTATES DEVELOPMENT LTD.

INVERNESS ESTATES DEVELOPMENT LTD.

CP DEVELOPMENT LTD.

Debtors / Petitioners

- and -

HOMCO REALTY FUND (52) LIMITED PARTNERSHIP

HOMCO REALTY FUND (88) LIMITED PARTNERSHIP

HOMCO REALTY FUND (89) LIMITED PARTNERSHIP

HOMCO REALTY FUND (92) LIMITED PARTNERSHIP

HOMCO REALTY FUND (94) LIMITED PARTNERSHIP

HOMCO REALTY FUND (105) LIMITED PARTNERSHIP

HOMCO REALTY FUND (121) LIMITED PARTNERSHIP

HOMCO REALTY FUND (122) LIMITED PARTNERSHIP

HOMCO REALTY FUND (142) LIMITED PARTNERSHIP

HOMCO REALTY FUND (199) LIMITED PARTNERSHIP

HOMBURG CANADA INCORPORATED

HOMBURG L.P. MANAGEMENT INCORPORATED

HOMBURG SERVICES GROUP (EUROPE) B.V.

HOMBURG REAL ESTATE SERVICES B.V.

**HSBC BANK CANADA
ROMSPEN INVESTMENT CORPORATION
NOVA SCOTIA SECURITIES COMMISSION
THE ENTITIES LISTED IN ANNEX I**

Mis-en-cause

SAMSON BÉLAIR/DELOITTE & TOUCHE INC.

Monitor

JUDGMENT

[1] The Petitioners present a *Motion for Approval of a Purchase Agreement and for ancillary orders* dated November 26, 2011 (the "**Motion**") pursuant to sections 11 and 36 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 ("**CCAA**");

[2] **CONSIDERING** the Motion, the exhibits and affidavit in support thereof, and the representations of counsel;

[3] **CONSIDERING** the Monitor's Fourth Report dated December 2, 2011;

[4] **CONSIDERING** the provisions of the CCAA;

FOR THESE REASONS, THE COURT:

[5] **GRANTS** the present Motion for approval of a Purchase Agreement and for ancillary orders (the "**Motion**") and the orders sought by the Petitioners therein;

[6] **DECLARES** that the service of the Motion constitutes good and sufficient service on all persons and further **DECLARES** that the Petitioners are relieved of any other requirements for service of the Motion;

[7] **APPROVES** and **RATIFIES** the execution of the Purchase Agreement dated November 17, 2011 by and among certain Petitioners, namely Homburg Invest Inc. ("**HI**") , Churchill Estates Development Ltd., CP Development Ltd. and Inverness Estates Development Ltd. (collectively the "**Signing Petitioners**") and Homburg Canada Incorporated, Homburg L.P. Management Incorporated, Richard Homburg, Homburg Services Group (Europe) B.V., Homburg Real Estate Services B.V. and the parties listed in Annex I hereto (the "**Purchase Agreement**");

[8] **DECLARES** that all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement;

[9] **AUTHORIZES** the Signing Petitioners to perform all of their obligations under the Purchase Agreement, including without limitation and conditionally upon the closing of the transactions contemplated by the Purchase Agreement (the "**Transaction**"), payment of the Purchase Price and any and all sales tax payable with respect thereto;

[10] **AUTHORIZES** the Signing Petitioners, subject to closing of the Transaction following the satisfaction or waiver by the HII Group and the Monitor of all conditions precedent in favour of the HII Group:

- (a) to proceed with closing of the Transaction and to execute and deliver any documents and assurances governing or giving effect to the Transaction as the Signing Petitioners in their discretion, may deem to be reasonably necessary or advisable to conclude the Transaction, including the execution of such deeds, contracts, or documents as may be contemplated in the Transaction, including any alterations, changes, amendments, deletions or additions to the Purchase Agreement, as may be agreed to with the consent of the Monitor; and
- (b) to take steps, as are, in the opinion of the Signing Petitioners, necessary or incidental to the performance of their obligations pursuant to the Transaction;

[11] **AUTHORIZES** Samson Bélair/Deloitte & Touche Inc., in its capacity of Monitor to the Petitioners and without any personal or corporate liability (the "**Monitor**"), to take any and all actions necessary in connection with the Transaction, including the right to participate in the due diligence process contemplated by the Transaction;

[12] **AUTHORIZES** the Signing Petitioners, subject to the closing of the Transaction following the satisfaction or waiver by the HII Group and the Monitor of all conditions precedent in favour of the HII Group, to irrevocably renounce and forever waive all rights to payment of the demand promissory note dated October 19, 2010 owed to HII by Resolution Real Estate Limited in the amount seven million four hundred and eight thousand nine hundred and four dollars (\$7,408,904) (the "**Note**") in accordance with the Purchase Agreement and DECLARE that upon renunciation and waiver of the Note by HII, the Note will be deemed to be free and clear of any Encumbrances including any CCAA Charges;

[13] **AUTHORIZES** the Purchaser to transfer and assign all of its right, title and interest in the properties described in Schedule C-1 of the Purchase Agreement (the "**Condominiums**") to the Vendor Group, in accordance with the terms of the Purchase Agreement;

[14] **DECLARES** that the conveyance of the Condominiums, as the case may be (the "**Conveyance**"), shall be made in accordance with the terms and conditions of the Purchase Agreement and shall be made free and clear of any and all CCAA Charges and, for greater certainty, **DECLARES** that upon the Conveyance, any and all CCAA Charges encumbering the Condominiums shall be discharged;

[15] **DECLARES** that the Order sought constitutes the only authorization required by the Signing Petitioners to proceed with the Transaction and, for greater certainty, **DECLARES** that the Signing Petitioners are exempted from requiring or obtaining any formal valuation or authorization that may have been required from any person or authority whatsoever, including without limitation any formal valuation or approval pursuant to *Multilateral Instrument 61-101 - Protection of minority security holders in special transactions*;

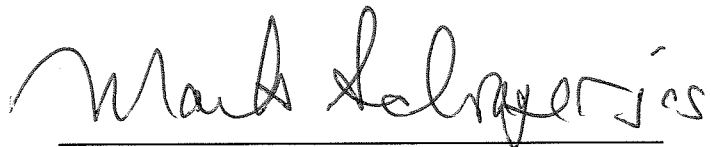
[16] **ORDERS** and **DECLARES** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "**BIA**") in respect of the Signing Petitioners and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Signing Petitioners;

the Transaction contemplated under the Purchase Agreement shall be binding on any Trustee in bankruptcy that may be appointed in respect of the Signing Petitioners and shall not be void or voidable and shall not be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA, article 1631 and following of the *Civil Code of Québec*, S.Q. 1991, c. 64 or any other applicable federal or provincial legislation;

[17] **ORDERS** the provisional execution of the Order notwithstanding any appeal therefrom and without the necessity of furnishing any security;

THE WHOLE WITHOUT COSTS.



MARK SCHRAGER

Hearing date : January 12, 2012

Me Martin Desrosiers
Me Sandra Abitan
Osler, Hoskin & Harcourt LLP
Counsel to Petitioners

ANNEX I
Additional Parties

Castello Development Ltd.	Homburg LT LP1 GP1 Inc.
High River Development Ltd.	Homburg LT LP1 GP2 Inc.
Holland Garden Development Ltd.	Homburg LT LP2 GP1 Inc.
Homburg (185) L.P. Management Inc.	Homburg LT LP2 GP2 Inc.
Homburg (190) L.P. Management Inc.	Homburg LT LP3 GP1 Inc.
Homburg (191) L.P. Management Inc.	Homburg LT LP3 GP2 Inc.
Homburg Realty Funds Incorporated	Homburg Estonia Latvia GP Inc.
Homburg Holdings (U.S.) Inc.	Homburg Real Estate Trust
Richard Homburg	North Calgary Land Limited