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COURT OF QUEEN'S BENCH OF
ALBERTA

JUDICIAL CENTRE OF CALGARY

PLAINTIFFS: 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: **THIRTY-FIFTH REPORT OF THE COURT APPOINTED RECEIVER
OF PERERA SHAWNEE LTD. AND PERERA DEVELOPMENT
CORPORATION, DATED APRIL 23, 2012.**

OSLER, HOSKIN & HARCOURT LLP

Barristers & Solicitors

Suite 2500, 450 – 1st Street SW

Calgary, AB T2P 5H1

Solicitor: A. Robert Anderson, Q.C.

Telephone: (403) 260-7004

Facsimile: (403) 260-7024

File Number: 1121689

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SCHEDULE 2 Copy of the Presale Vesting Order – Unit 302
SCHEDULE 3 Copy of the Unit 504 Purchase Contract – Redacted
SCHEDULE 4 Copy of the title search Unit 504
SCHEDULE 5 Copy of the Condominium Additional Plan Sheet Certificate
SCHEDULE 6 Copy of the Unit 302 Purchase Contract - Redacted
SCHEDULE 7 Copy of the title search Unit 302
SCHEDULE 8 Copy of Receiver’s *ex parte* application made by letter dated April
23, 2012 (excluding attachments)

INTRODUCTION

1. On March 3, 2010, Deloitte & Touche Inc. was appointed by the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**"), as receiver and manager (the "**Receiver**"), without security, of all the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all proceeds thereof of Perera Shawnee Ltd. ("**PSL**") and Perera Development Corporation ("**PDC**") (PSL and PDC are collectively referred to as "**Perera**" or "**PSL**") (the "**Receivership Order**") in Action No. 1001-03215 (the "**Receivership Proceedings**").
The Receivership Order was amended and restated on January 31, 2011.
2. Perera is a condominium real estate developer which has assets that consist of a three phase condominium real estate project located at 30 Shawnee Hill SW, Calgary, Alberta known as the "Highbury" (the "**Project**").
3. There are 70 units in Phase One of the Project: 40 of which have been sold and conveyed to purchasers (the "**Sold Units**"); 21 of which were subject to purchase contracts entered into prior to the Receivership Proceedings by PSL and various purchasers and Vesting Orders (the "**21 Units**"); and 9 of which were unsold (the "**Unsold Units**") at the date of the Receivership Proceedings. Closing notices were issued to most of the purchasers of the 21 Units, however the associated closing dates in respect of those units have passed.
4. Two of the 21 Units, namely "**Unit 504**" and "**Unit 302**", were the subject of a presale purchase contracts (collectively, the "**Presale Purchase Contracts**") between PSL and Balraj Sanghera for Unit 504 and PSL and Philip Soo for Unit 302 (collectively, the "**Initial Purchasers**"). On November 29, 2010, vesting orders were granted for Unit 504 and Unit 302 (collectively, the "**Presale Vesting Orders**") allowing for, among other

things, the Receiver to convey Unit 504 and Unit 302 to the respective Initial Purchasers and to discharge any and all of the encumbrances that were registered on title, other than those that were permitted. Copies of the Unit 504 and Unit 302 Presale Vesting Orders are attached as **Schedule "1"** and **Schedule "2"**, respectively.

5. Closing notices were issued to the Initial Purchasers. The closing date for the sale of Unit 504 to Balraj Sangera was set at December 7, 2010. The closing date for the sale of Unit 302 to Philip Soo was set at December 7, 2010. The Initial Purchasers of Unit 504 and Unit 302 each failed to close the transaction on their respective closing dates.
6. In the event that the Initial Purchasers did not close on the Presale Purchase Contracts, the Presale Vesting Orders empowered and authorized the Receiver to, among other things, sell and convey the unit to a third party. The Initial Purchasers did not close on the Presale Purchase Contracts. The Receiver sought from the Court a revised closing process which would allow the 21 Units, including Unit 504 and Unit 302 and the Unsold Units, to be conveyed to new purchasers, and to begin actively marketing these units for sale.
7. On November 29, 2010, an Amended and Restated Closing Process Order (the "**Amended and Restated Closing Process Order**") was granted. Among other things, the Amended and Restated Closing Process Order permits the Receiver to make an *ex parte* application whereby the Court may grant a vesting order to effect the closing of any purchase contracts that the Receiver has or may enter into with any persons for the purchase of units in Phase One of the Project, provided that:

- (a) the sale price of each unit is in compliance with Schedule “4”, Column “F” of the Confidential Fourth Receiver’s Report dated October 7, 2010 (the “**Confidential Fourth Report**”);
 - (b) an unredacted purchase contract is filed under seal pursuant to the Third Sealing Order granted October 29, 2010;
 - (c) a redacted purchase contract is filed with the purchaser’s address redacted; and
 - (d) the certificate of title to the unit is in the same state as on the date the Amended and Restated Closing Process order was granted, except for New Builder’s Registrations (as defined in the Amended and Restated Closing Process Order), in which case, notice must be provided to those lien holders.
8. After the Amended and Restated Closing Process Order was granted, the Receiver actively marketed Unit 504 and Unit 302 for sale. Unit 504 became subject to a new purchase contract on March 12, 2012. Unit 302 became subject to a new purchase contract on March 26, 2012.

NOTICE TO READER

9. This report constitutes the Thirty-Fifth Report of the Receiver (the “**Report**”).

PURPOSE OF REPORT

10. The purpose of this Report is to:
- (a) disclose to the Court the conditional sale of Unit 504 and Unit 302 and to obtain its approval of same; and

- (b) request from the Court a new vesting order in respect of Unit 504 and Unit 302 pursuant to the Amended and Restated Closing Process Order so that the Receiver may convey Unit 504 and Unit 302 to the new purchasers, free and clear of all encumbrances, other than permitted encumbrances.

SALE OF UNIT 504

- 11. On March 12, 2012, the Receiver entered into a conditional purchase contract with Matthew Chow (the “**Unit 504 Purchaser**”) in respect of Unit 504 (the “**Unit 504 Purchase Contract**”).
- 12. A copy of the Unit 504 Purchase Contract (excluding the schedules thereto), with the Unit 504 Purchaser’s address redacted, is attached to this Report as **Schedule “3”**. An unredacted copy of the Unit 504 Purchase Contract (excluding the schedules thereto) is attached to the Confidential Thirty-Sixth Report of the Receiver dated April 23, 2012 as Schedule “1”.
- 13. The closing date for Unit 504 is set at April 30, 2012 in the Unit 504 Purchase Contract (the “**Unit 504 Closing Date**”).
- 14. The Unit 504 Purchase Contract is subject to the satisfaction of the following condition precedent on or before the Unit 504 Closing Date:
 - (a) The issuance of an Order of the Court authorizing the Receiver to enter into the Unit 504 Purchase Contract and approve the transfer of Unit 504 to the Unit 504 Purchaser free and clear of all encumbrances, other than Permitted Encumbrances.

15. The purchase price for Unit 504 (as set out in the Unit 504 Purchase Contract) is, in the opinion of the Receiver, commercially reasonable. Further, the Receiver confirms that the Purchase Price for Unit 504 is in compliance with Schedule "4", Column "F" of the Confidential Fourth Report.
16. As at April 19, 2012, the title to Unit 504, attached hereto as **Schedule "4"**, and the Condominium Additional Plan Sheet Certificate, which forms part of the title to Unit 504, and attached hereto as **Schedule "5"**, is in the same state as it was on the date that the Amended and Restated Closing Process Order was granted (except for discharges and a builders' lien that was registered against the title as Instrument No. 101 350 204 that ceased to exist and was cancelled by the Land Titles Office on June 21, 2011 at the Receiver's request).
17. First Calgary Savings & Credit Union, as first secured creditor of Perera, has no objection to this sale.
18. Accordingly, by *ex parte* application, the Receiver seeks the Court's approval of the sale of Unit 504 as well as a vesting order in respect of same in the form provided for and all pursuant to the Amended and Restated Closing Process Order in respect thereof.
19. The schedules to the Unit 504 Purchase Contract are the same as the schedules to the Unit 601 Purchase Contract, as described in paragraphs 18-21 of the Fifteenth Report of the Receiver dated July 6, 2011.

SALE OF UNIT 302

20. On March 26, 2012, the Receiver entered into a conditional purchase contract with Kwok Po Winnie Fung (the “**Unit 302 Purchaser**”) in respect of Unit 302 (the “**Unit 302 Purchase Contract**”).
21. A copy of the Unit 302 Purchase Contract (excluding the schedules thereto), with the Unit 302 Purchaser’s address redacted, is attached to this Report as **Schedule “6”**. An unredacted copy of the Unit 302 Purchase Contract (excluding the schedules thereto) is attached to the Confidential Thirty-Sixth Report of the Receiver dated April 23, 2012 as Schedule “1”.
22. The closing date for Unit 302 is set at May 4, 2012 in the Unit 302 Purchase Contract (the “**Unit 302 Closing Date**”).
23. The Unit 302 Purchase Contract is subject to the satisfaction of the following condition precedent on or before the Unit 302 Closing Date:
 - (a) The issuance of an Order of the Court authorizing the Receiver to enter into the Unit 302 Purchase Contract and approve the transfer of Unit 302 to the Unit 302 Purchaser free and clear of all encumbrances, other than Permitted Encumbrances.
24. The purchase price for Unit 302 (as set out in the Unit 302 Purchase Contract) is, in the opinion of the Receiver, commercially reasonable. Further, the Receiver confirms that the Purchase Price for Unit 302 is in compliance with Schedule “4”, Column “F” of the Confidential Fourth Report.

25. As at April 19, 2012, the title to Unit 302, attached hereto as **Schedule “7”**, and the Condominium Additional Plan Sheet Certificate, which forms part of the title to Unit 302, and attached hereto as **Schedule “5”**, is in the same state as it was on the date that the Amended and Restated Closing Process Order was granted (except for discharges and a builders’ lien that was registered against the title as Instrument No. 101 350 204 that ceased to exist and was cancelled by the Land Titles Office on June 21, 2011 at the Receiver’s request).
26. First Calgary Savings & Credit Union, as first secured creditor of Perera, has no objection to this sale.
27. Accordingly, by *ex parte* application, the Receiver seeks the Court’s approval of the sale of Unit 302 as well as a vesting order in respect of same in the form provided for and all pursuant to the Amended and Restated Closing Process Order in respect thereof.
28. The schedules to the Unit 302 Purchase Contract are the same as the schedules to the Unit 601 Purchase Contract, as described in paragraphs 18-21 of the Fifteenth Report of the Receiver dated July 6, 2011.

CONCLUSION

29. The Receiver respectfully requests that the Court grant the relief set out in the Receiver's *ex parte* application made by letter dated April 23, 2012, a copy of which (excluding attachments) is attached hereto as **Schedule "8"**.

DELOITTE & TOUCHE INC.,
In its capacity as Receiver and Manager of
Perera Shawnee Ltd. and Perera Development
Corporation and not in its personal capacity

Per: 

Victor P. Kroeger, CA • CIRP, CFE
Senior Vice President