

Clerk's stamp:

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  
BANK., EVOLUTION BY GREENBORO INC., GREENBORO COMMUNITIES  
(2006) INC., GREENBORO ESTATE HOMES (2006) LTD BANK.,  
GREENBORO HOMES (2006) LTD BANK., 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 BANK., 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 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

**APPLICATION**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS  
DOCUMENT

**DENTONS CANADA LLP**  
Bankers Court  
15<sup>th</sup> Floor, 850 - 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8  
**Attention: David W. Mann / Derek M. Pontin**  
Ph. (403) 268-7097/6301 Fx. (403) 268-3100  
File No.: 549362-1

**NOTICE TO RESPONDENT(S)**

This application is made on behalf of the Applicants in the above noted proceedings. You are a respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Date	August 5, 2014
Time	2:00 p.m.
Where	Court of Queen's Bench of Alberta Calgary Courts Centre 601 – 5th Street S.W. Calgary, AB T2P 5P7
Before Whom	The Honourable Justice Horner

Go to the end of this document to see what you can do and when you must do it.

**Remedy claimed or sought:**

1. The Applicants ("**UBG**") respectfully seek the following relief:
  - (a) an Order, in substantially the form attached hereto as Schedule "A", approving the assignment and transfer of all of UBG's right, title and interest in and to the ABC US Property (as that term is defined in the Order) by American Builders Capital (US) Inc. ("**ABC US**"), to Valiant Trust Company ("**Valiant**");
  - (b) an Order, in substantially the form attached hereto as Schedule "B", authorizing and directing the Registrar of Alberta Land Titles to discharge certain encumbrances from Condominium Additional Plan Sheet Certificate no. 0813651;CS in relation to the Valmont Project;
  - (c) an Order, in substantially the form attached hereto as Schedule "C", approving the sale and vesting of UBG's multi-family project known as Origins at Cranston (the "**Origins Project**") to Streetside Development Corporation ("**Streetside**") further to a stalking horse bid process; and
  - (d) such other relief as may be sought by the Applicants and granted by this Honourable Court.

**Grounds for making this application:**

***Assignment and Transfer of the ABC US Property***

2. ABC US is an Alberta corporation and is one of the applicants in the within proceedings under the *Companies Creditors' Arrangement Act* ("**CCAA**").
3. On or about August 16, 2010, ABC US entered into a loan facility (the "**Spring Creek Facility**") with Spring Creek Construction, LLC ("**Spring Creek**") whereby ABC US loaned to Spring Creek the principal sum of \$2,050,000. Spring Creek acquired certain residential lots (referred to as the Dublin Terrace lots) and granted first priority mortgage security to ABC US in the same.
4. On or about December 22, 2011, ABC US entered into a loan facility (the "**Heritage Homes Facility**") with Heritage Homes, Inc. ("**Heritage Homes**") whereby ABC US loaned to Heritage Homes the principal sum of \$704,000. Heritage Homes acquired certain residential lots (referred to as the Banning Lewis lots) and granted first priority mortgage security to ABC US in the same.

5. Valiant is a party to the Spring Creek Facility and the Heritage Homes Facility and, along with ABC US, is the first registered mortgagee on title to the secured lots.
6. UBG and the Monitor have marketed the Dublin Terrace lots and Banning Lewis lots in the course of UBG's CCAA proceedings and have been unable to complete a sale. At this time, UBG believes it is in the best interest of ABC US to release its security in the lots to Valiant so that Valiant can commence foreclosure in Colorado and realize upon the lots for the benefit of its investors.
7. The Monitor has been involved in discussions with UBG, Valiant and the investors and supports UBG's application to assign the Property to Valiant in accordance with the attached order.

***Discharge of Valmont Liens***

8. On August 30, 2013, this Honourable Court granted an Order (the "**Valmont Vesting Order**") approving the sale to 771280 Alberta Ltd. (the "**Purchaser**") of the Lands legally described as:

Firstly: Plan 0813651  
Unit 2  
And 1695 Undivided One Ten Thousandths shares in the  
Common Property  
Excepting thereout all mines and minerals

Secondly: Plan 0813651  
Unit 3  
And 2765 Undivided One Ten Thousandths shares in the  
Common Property  
Excepting thereout all mines and minerals

Thirdly: Plan 0813651  
Unit 4  
And 2768 Undivided One Ten Thousandths shares in the  
Common Property  
Excepting thereout all mines and minerals;

(the "**Valmont Lands**").

9. The Valmont Vesting Order directs that, upon the Monitor certifying the sale of the Valmont Lands has closed, then the Valmont Lands shall be vested in the Purchaser 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 Valmont Lands, subject only to the permitted encumbrances specified in the Valmont Vesting Order.
10. All persons with claims against the Valmont Lands through UBG are barred and foreclosed from any estate, interest or claim against the Valmont Lands, save and except for the holders of the permitted encumbrances.
11. The Valmont Vesting Order directs the Registrar of the Land Titles Office of Alberta to discharge encumbrances in respect of the Valmont Lands, save and except for the permitted

encumbrances, including to partially discharge encumbrances as may exist on the Condominium Additional Plan Sheet for Plan 0813651.

12. It is UBG's understanding that all of the lien claims relate solely to claims made against UBG, and not to claims made against or that should be affecting any third party owners of the Valmont Lands.
13. It is appropriate that the lien registrations made on the Condominium Additional Plan Sheet be discharged in their entirety as no lien holder has any further claim against the Valmont Lands by virtue of the Valmont Vesting Order.
14. If the liens are not discharged from the common property portion of the Valmont Lands this will interfere with the Purchaser's ability to obtain estoppel certificates and liquidate its interest in the Valmont Lands at a later date. The same problem is currently faced by third party owners that may be trying to sell their condo units.
15. The Monitor is in agreement with UBG's proposal to have the liens discharged and anticipates lien claims, subject to completion of its review, will be paid in full.

***Origins Sale and Vesting Order***

16. On June 23, 2014, this Honourable Court approved a stalking horse bid and sale procedure (the "**Sale Procedure**") in respect of the lands comprising a part of the Origins Project, legally described as:

CONDOMINIUM PLAN 1310351  
UNIT 25  
AND 4236 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON PROPERTY  
EXCEPTING THEREOUT ALL MINES AND MINERALS

and all appurtenances thereto (the "**Origins Lands**").

17. The stalking horse bid process was concluded on July 25, 2014, and the Superior Bid (as defined in the Sale Procedure) determined by the Monitor to be the bid tendered by Streetside for the aggregate purchase price of \$2.0 million (the "**Streetside Offer**").
18. The Sale Procedure contemplates UBG seeking a vesting Order as soon as practicable after the Superior Bid is selected by the Monitor.
19. UBG believes the Streetside Offer is the best offer received in respect of the Origins Project and supports the sale of the Origins Lands to Streetside in accordance with the Streetside Offer.
20. The Monitor supports the sale of the Origins Lands to Streetside in accordance with the Streetside Offer.

**Material or evidence to be relied on:**

21. Affidavit of Robert Friesen, dated July 30, 2014.
22. Report of the Monitor in Respect of American Builders Capital (US) Inc., dated July 30, 2014.

23. Report of the Monitor in Respect of the Valmont Project, dated July 30, 2014.
24. Report of the Monitor in Respect of the Origins Project, dated July 30, 2014.
25. Such further and other materials as counsel for the Applicants may advise and this Honourable Court may deem necessary.

**Applicable Rules:**

26. *The Alberta Rules of Court*, AR 124/2010.

**Applicable Acts and regulations:**

27. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended, and the regulations thereunder.
28. Such further and other acts and regulations as counsel for the Applicants may advise and this Honourable Court may deem necessary.

**How the application is proposed to be heard or considered:**

29. In person before the Honourable Justice Horner in Chambers.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

SCHEDULE A

Clerk's stamp:

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 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

**Order**  
(re: ABC US)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

**DENTONS CANADA LLP**  
Bankers Court  
15<sup>th</sup> Floor, 850 - 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8  
**Attention: David W. Mann / Derek M. Pontin**  
Ph. (403) 268-7097/6301 Fx. (403) 268-3100  
File No.: 549362-1

DATE ON WHICH ORDER WAS PRONOUNCED

August 5, 2014

LOCATION WHERE ORDER WAS PRONOUNCED

Calgary Courts Centre, Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER

Honourable Justice Horner

**ORDER**  
**(re: ABC US)**

UPON the application of the Applicants in these proceedings (collectively, "**UBG**"); AND UPON having read the Application of the Applicants, dated July 30, 2014, the Report of the Monitor in Respect of American Builders Capital (US) Inc., dated July 30, 2014, the Affidavit of Rosie Cooney, dated July \_\_\_\_\_, 2014 (the "**Service Affidavit**"), and such other material in the pleadings and proceedings as deemed necessary; AND UPON hearing counsel for UBG, counsel for Valiant Trust Company ("**Valiant**"), 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) "**ABC US**" means American Builders Capital (US) Inc.
  - (b) "**ABC US Property**" means all of UBG's estate, right, title, interest, claim and demand in and to the Heritage Homes Facility, the Spring Creek Facility and the Lots and all benefits and obligations thereunder or to be derived therefrom;
  - (c) "**Borrowers' Cost**" means the specified sum(s) set out in paragraph 4 hereof to be paid by Valiant 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 the Monitor and UBG in connection with the preservation, marketing, and conveyance of the Property and the Lots;
  - (d) "**Heritage Homes Facility**" means the loan facility entered into between ABC US and Heritage Homes, Inc. and includes all loan documentation and security appurtenant thereto including, without limitation, the Loan Agreement dated December 22, 2011, the Deed of Trust dated December 22, 2011, the Promissory Note dated December 22, 2011, and all related and ancillary documents, registrations and insurance policies in respect thereof;
  - (e) "**Lots**" means the lands legally described as:

Lots 1-4, Lots 6, 8 and 9, Lots 12-14, Lots 18-20, all in Block 16  
Lots 1-3, all in Block 17  
Banning Lewis Ranch Filing No. 7, according to the recorded plat thereof recorded September 15, 2006, at Reception No. 206712422,  
County of El Paso, State of Colorado

and

Lots 42 through 119, inclusive, and Lots 123 through 142, inclusive,  
Dublin Terrace Filing No. 1A, in the City of Colorado Springs,  
County of El Paso,  
State of Colorado;

- (f) **“Monitor”** means Ernst & Young Inc., in its capacity as the Court-appointed monitor in these proceedings;
- (g) **“Spring Creek Facility”** means the loan facility entered into between ABC US and Spring Creek Construction, LLC and includes all loan documentation and security appurtenant thereto including, without limitation, the Loan Agreement dated August 16, 2010, the Deed of Trust dated August 16, 2010, the Promissory Note dated August 16, 2010 and all related and ancillary documents, registrations and insurance policies in respect thereof;
- (h) **“Stay”** means the stay of proceedings granted by the Initial Order, dated May 9, 2012, in this Action, as has been and may continue to be extended from time to time; and
- (i) **“Valiant”** means Valiant Trust Company, as trustee under and in relation to the Trust Indenture, dated July 15, 2010, providing for the issuance of debenture units by ABC US.

***Approval of Assignment and Vesting of the Property***

- 3. Subject to paragraph 4 hereof, the assignment and transfer of the ABC US Property from ABC US to Valiant is hereby authorized and approved, and:
  - (a) ABC US is directed to forthwith transfer all documents and records comprising the ABC US Property to Valiant;
  - (b) the ABC US Property shall be vested in the name of Valiant 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 ABC US Property;
  - (c) UBG and all persons who claim by, through or under UBG in respect of the ABC US Property shall release and stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental, and equity of redemption of the ABC US Property and, to the extent that any such person remains in possession or control of any of the ABC US Property, they shall forthwith deliver the same to Valiant; and
  - (d) for greater certainty, the Stay will no longer apply to the ABC US Property.
- 4. Upon receiving the ABC US Property, Valiant shall:
  - (a) report to ABC US and the Monitor from time to time respecting the status of each Lot and Valiant’s efforts to realize on the Lots, including all revenues received by Valiant and costs incurred by Valiant (the **“Accounting”**); and
  - (b) upon the completion of the sale of each Lot, forthwith pay to the Monitor an amount equivalent to 3% of the gross sale price of each Lot sold in respect of the Borrowers’



Cost associated with such Lot and shall not be entitled to set off, net against or otherwise allocate or apply these amounts, in part or at all, in any manner other than in payment of the Borrowers' Cost to the Monitor.

5. Upon the completion of the sale of all of the Lots, Valiant shall provide a final Accounting to ABC US and the Monitor.
6. Valiant, 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 ABC US Property and carry out the terms of this Order.

### ***Miscellaneous***

7. Any conveyance or transfer of the ABC US 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 Applicants; 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 Applicants (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 Applicants of any Third Party Agreement to which they are a party; and
  - (b) Valiant 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.
8. 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 Applicants, 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 Applicants 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.
9. UBG, the Monitor, Valiant, 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.

***Aid and Recognition***

10. 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 UBG, Valiant, the Monitor and their respective 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 UBG and Valiant, and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.
11. Each of UBG, Valiant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

***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.

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Justice of the Court of Queen's Bench of Alberta

SCHEDULE B

Clerk's stamp:

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 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

Order

(re: lien discharge Valmont)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

**DENTONS CANADA LLP**

Bankers Court  
15<sup>th</sup> Floor, 850 - 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8  
**Attention: David W. Mann / Derek M. Pontin**  
Ph. (403) 268-7097/6301 Fx. (403) 268-3100  
File No.: 549362-1

DATE ON WHICH ORDER WAS PRONOUNCED

August 5, 2013

LOCATION WHERE ORDER WAS PRONOUNCED

Calgary Courts Centre, Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER

The Honourable Justice Horner

**ORDER**  
(re: lien discharge Valmont)

UPON the application of the Applicants in these proceedings (collectively, "UBG"); AND UPON having read the Application of the Applicants, dated July 30, 2014, the Affidavit of Robert Friesen, dated July 30, 2014, the Report of the Monitor in Respect of the Valmont Project, dated July 30, 2014, the Affidavit of Rosie Cooney, dated July \_\_\_\_\_, 2014 (the "Service Affidavit"), and such other material in the pleadings and proceedings as deemed necessary; AND UPON hearing counsel for UBG and other interested parties; IT IS HEREBY ORDERED AND DECLARED THAT:

***Service***

1. The Registrar of Alberta Land Titles is hereby directed and shall forthwith discharge the following registrations from Condominium Additional Plan Sheet Certificate no. 0813651 ; CS:  
  
121 132 046 Builder's Lien  
  
121 133 441 Builder's Lien  
  
121 136 968 Builder's Lien  
  
121 141 962 Builder's Lien  
  
121 142 480 Builder's Lien  
  
121 164 440 Builder's Lien  
  
121 183 711 Builder's Lien  
  
121 288 392 Certificate of Lis Pendens  
  
121 292 867 Certificate of Lis Pendens  
  
121 309 662 Certificate of Lis Pendens  
  
121 318 342 Certificate of Lis Pendens  
  
121 333 568 Certificate of Lis Pendens
  
2. This Order shall be registered notwithstanding the requirements of section 191 of the *Land Titles Act* (Alberta).
  
3. 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 C

Clerk's stamp:

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COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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DOCUMENT

**Order**  
(re: Origins Vesting)

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**DENTONS CANADA LLP**  
Bankers Court  
15<sup>th</sup> Floor, 850 - 2<sup>nd</sup> Street S.W.  
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File No.: 549362-1

DATE ON WHICH ORDER WAS PRONOUNCED

August 5, 2014

LOCATION WHERE ORDER WAS PRONOUNCED

Calgary Courts Centre, Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER

Honourable Madam Justice Horner

**ORDER**  
(re: **Origins Vesting**)

UPON the application of the Applicants in these proceedings (collectively, "**UBG**"); AND UPON having read the Application of the Applicants, dated July 30, 2014, the Affidavit of Robert Friesen, dated July 30, 2014 (the "**Friesen Affidavit**"), the Report of the Monitor in Respect of the Origins Project, dated July 30, 2014, the Affidavit of Rosie Cooney, dated July \_\_, 2014 (the "**Service Affidavit**"), and such other material in the pleadings and proceedings as deemed necessary; AND UPON hearing counsel for UBG, 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) "**Closing Adjustments**" means the ordinary and specific closing adjustments described at clause 3.2 of the Purchase and Sale Agreement (as defined herein);
- (b) "**Lands**" means the lands legally described as:

CONDOMINIUM PLAN 1310351  
UNIT 25  
AND 4236 UNDIVIDED ONE TEN THOUSANDTH SHARES IN THE COMMON  
PROPERTY  
EXCEPTING THEREOUT ALL MINES AND MINERALS

and all appurtenances thereto.

- (c) "**Net Proceeds**" means the proceeds from the sale of the Property, less i) amounts required to pay the Closing Adjustments, ii) the Break Fee as approved by the Order of this Honourable Court, dated June 23, 2014, and iii) all other reasonable and ordinary closing costs, including without limitation goods and services and other applicable sales taxes, property taxes, commissions, applicable warranty and condominium fees and legal fees and disbursements, calculated in a manner consistent with the calculation of 'Net Proceeds' described in the Order granted by this Honourable Court in these proceedings on June 15, 2012, and including, without limitation, a deduction in favour of the Applicants of \$80,000 for their business and operational purposes;
- (d) "**Property**" means all of the Vendor's right, title and interest in and to the Lands and Other Assets, as defined in the Purchase and Sale Agreement.
- (e) "**Purchase and Sale Agreement**" means the Asset Purchase Agreement, dated July 25, 2014 respecting the sale of the Property from the Vendor to the Purchaser;

- (f) **“Purchaser”** means Streetside Development Corporation; and
- (g) **“Vendor”** means Origins at Cranston Limited Partnership, by its general partner, Origins at Cranston Inc.

***Approval of Sale and Vesting of the Property***

- 3. The sale and conveyance of the Property to the Purchaser be and is hereby authorized and approved.
- 4. 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 pursuant to the terms of the Purchase and Sale Agreement and carry out the terms of this Order.
- 5. Upon the Monitor delivering a certificate (the **“Monitor’s Certificate”**) certifying that the sale of the Property has closed in accordance with the terms of the Purchase and Sale Agreement and all purchase monies due and owing in respect of such sale have been tendered to UBG’s solicitors, then:
  - (a) the Property shall be vested in the name of the Purchaser 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 the Purchaser by virtue of its security on the Property, subject only to the permitted encumbrances outlined in Schedule “A” of this Order (the **“Permitted Encumbrances”**);
  - (b) UBG and all persons who claim by, through or under UBG in respect of the Property, save and except the Permitted Encumbrances, 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 the Purchaser or its nominee;
  - (c) the Purchaser 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; and
  - (d) the Registrar of the Land Titles Office of Alberta shall:
    - (i) discharge all encumbrances in respect of the Lands, save and except the Permitted Encumbrances, and shall register the Property in the name of the Purchaser; and
    - (ii) upon this Order being submitted for registration, register this Order against Condominium Plan No. 0813651 and any redivision thereof (on the Condominium Additional Plan Sheet) and, upon registration, this Order shall operate as and shall be a discharge of all builders’ liens as they pertain to the common property for Condominium Plan No. 0813651,

notwithstanding the requirements of section 191 of the *Land Titles Act* (Alberta).

6. 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.
7. Upon the filing of the Monitor's Certificate, the Monitor shall 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 the Purchaser.
8. Upon the filing of the Monitor's Certificate, the Net Proceeds shall be held in the place and stead of the Property transferred pursuant to this Order, and not disbursed to any party without the consent of the Monitor or upon further Order of this Honourable Court (the "**Claims Reserve**").
9. All claims of whatsoever nature or kind, including without limitation, all real property taxes not subject to adjustment under the Purchase and Sale Agreement, liens, claims, encumbrances, mortgages, proprietary claims, trust claims, lease claims, royalty claims, and other interests, other than the Permitted Encumbrances, (the "**Claims**") shall attach solely to the Claims Reserve, and only to such extent as such Claims have been proven in accordance with the Claims Procedure Order granted in these proceedings on June 15, 2012, with the same validity, priority and in the same amounts and subject to the same defences that were or may have been available when the Claims were attached to the Property itself.

#### **Miscellaneous**

10. 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) the Purchaser 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.
11. 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 Purchase and transaction contemplated hereby 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.
12. UBG, the Monitor, the Purchaser, 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***

13. 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.

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Justice of the Court of Queen's Bench of Alberta

**SCHEDULE A  
(Order re: Origins Vesting)**

**PERMITTED ENCUMBRANCES**

<b>Registration Number</b>	<b>Encumbrances &amp; Interests</b>
031 182 621	Utility Right of Way in favour of the City of Calgary
041 484 985	Utility Right of Way in favour of the City of Calgary
041 484 986	Restrictive Covenant
041 484 987	Caveat re: Restrictive Covenant
061 083 380	Caveat re: Easement and Restrictive Covenant
081 098 857	Encumbrance in favour of Cranston Residents Association
081 127 228	Caveat re: Restrictive Covenant
121 074 375	Utility Right of Way in favour of: Enmax Power Corporation Telus Communications Inc. Atco Gas and Pipelines Ltd. Shaw Cablesystems Limited
121 137 917	Utility Right of Way in favour of: Enmax Power Corporation Telus Communications Inc. Atco Gas and Pipelines Ltd. Shaw Cablesystems Limited
To be determined	Purchaser's Financing