

C A N A D A
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL
COURT. No.: 500-11-041305-117

SUPERIOR COURT
Commercial Division

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

1810040 ALBERTA LTD. (formerly known as
HOMBURG INVEST INC. and **HOMBURG
SHARECO INC.**)

– and –

CHURCHILL ESTATES DEVELOPMENT LTD.

– and –

NORTH CALGARY LAND LTD.

– and –

HOMBURG MANAGEMENT (CANADA) INC.

Debtors/Petitioners

– and –

THE ENTITIES LISTED IN APPENDIX A

Mis en cause

– and –

SAMSON BÉLAÏR/DELOITTE & TOUCHE INC.

Monitor

**FORTIETH REPORT TO THE COURT
SUBMITTED BY SAMSON BÉLAÏR/DELOITTE & TOUCHE INC.
IN ITS CAPACITY AS MONITOR**
(Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended)

INTRODUCTION

1. On September 9, 2011, 1810040 Alberta Ltd. (formerly known as Homburg Invest Inc. and Homburg Shareco Inc.) (“**HII**”) and certain related entities (collectively, the “**Debtors**”) filed and obtained protection from their respective creditors under the *Companies' Creditors Arrangement Act* (the

“CCAA”) pursuant to an order rendered by the Superior Court of Québec (as amended and extended from time to time, the “**Initial Order**”).

2. Pursuant to the Initial Order (as amended), the stay extends to the entities listed in Appendix A hereto (collectively, the “**Applicant Partnerships**” and, together with the Debtors, the “**HII Parties**”), including in particular, for the purpose of this report, Homco Realty Fund (94) Limited Partnership (“**Homco 94**”).
3. Samson Bélair/Deloitte & Touche Inc. was appointed as monitor (the “**Monitor**”) under the CCAA.
4. Pursuant to the Initial Order, an initial stay of proceedings (the “**Stay**”) was granted until October 7, 2011 in favor of the HII Parties, which Stay has been extended from time to time by order of the Court. On February 26, 2015, the Court last extended the Stay up until August 31, 2015.
5. Since the Initial Order, the Monitor has filed reports with the Court and served same to the Service List from time to time. The Monitor filed thirty-nine such Monitor’s reports (as well as some supplemental reports) prior to this fortieth Monitor’s report (the “**Fortieth Report**”). Copies of all of the Monitor’s reports are available on the Monitor’s website at www.deloitte.com/ca/homburg-invest. The Monitor has also established a toll-free number that is referenced on the Monitor’s website so that parties may contact the Monitor if they have questions with respect to the HII Parties’ restructuring under the CCAA.

PURPOSE OF THE FORTIETH REPORT

6. This Fortieth Report is intended to provide an update and information regarding the sale of the Homburg Springs West property held by Homco 94 (the “**HSW Property**”) and to support the proposed transaction in relation thereto (the “**HSW Transaction**”).
7. This Fortieth Report is structured as follows:
 - I. The HSW Property and the HSW Transaction;
 - II. Conclusions and recommendations.

TERMS OF REFERENCE

8. In preparing this Fortieth Report, the Monitor has relied upon unaudited financial information, the HII Parties’ records, the amended motion for an Initial Order dated September 9, 2011, and all subsequent motions filed with the Court (collectively, the “**Debtors’ Motions**”) and exhibits in support of same, its discussions with management of the HII Parties (“**Management**”) and the HII Parties’ and the Monitor’s legal advisors. While the Monitor has analyzed the information, some in draft form, submitted in the limited time available, the Monitor has not performed an audit or otherwise verified such information. Forward looking financial information included in this Fortieth Report is based on assumptions of Management regarding future events, and actual results achieved will vary from this information and such variations may be material.
9. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars. Capitalized terms not otherwise defined in this Fortieth Report are as defined in the previous reports of the Monitor and the Debtors’ Motions.

I. THE HSW PROPERTY AND THE HSW TRANSACTION

10. The HSW Property, which is the sole material asset of Homco 94, is a section of development land located at the northern limit of the City of Calgary. This zone is presently undeveloped and mainly composed of vacant fields. The HSW Property presently consists mainly of vacant land in respect of which no significant improvements have been made.
11. As mentioned in past Monitor's reports, in the course of the CCAA proceedings, the HII Group, in consultation with the Monitor, determined that its Canadian properties, including the HSW Property, constituted non-core assets that would not form part of the restructured portfolio. As such, sale processes were initiated in relation to said non-core assets.
12. In late November 2012, as mentioned in the Eighteenth Report, the Monitor and CBRE finalized a listing agreement for the sale of the HSW Property. The asking price was set at \$13.5M.
13. In the summer of 2013, as mentioned in the Twenty-Sixth Report, HII and the Monitor renewed the broker agreement and amended the listing price for the HSW Property, reducing it to \$10.425M. This decision was made in consultation with the broker and in light of the fact that no parties had manifested any interest on the HSW Property during the first 8-month period of the marketing and sale process.
14. In August 2014, after the Plan Implementation Date and the constitution of the Liquidation Advisory Committee, a conditional offer to acquire the HSW Property was received from a first offeror (the "**First Offeror**"). The offer was for an amount significantly lower than the asking price and included several conditions that were not acceptable to the Liquidation Advisory Committee, and solicited an improved offer. After meeting with the First Offeror to further discuss its offer, the Monitor informed it of the concerns of the Monitor and the Liquidation Advisory Committee with respect to its offer. In mid-January 2015, the First Offeror informed the Monitor that its investors could not meet the conditions set by the Liquidation Advisory Committee and that it was reassessing its interest in the HSW Property.
15. On December 11, 2014, an offer was received from a second offeror ("**Second Offeror**"). The offer was for an amount significantly lower than the asking price and included certain conditions that were not acceptable to the Liquidation Advisory Committee. After meeting with the Second Offeror in late January 2015 to further discuss its offer, the Monitor informed it of the concerns of the Monitor and the Liquidation Advisory Committee with respect to its offer, and solicited an improved offer. The Second Offeror submitted a slightly improved offer on January 28, 2015.
16. On February 2, 2015, a third offeror, Telsec Property Corporation ("**Telsec**"), provided the Monitor with an offer to purchase the HSW Property with a slightly higher purchase price and similar conditions when compared to the revised offer of the Second Offeror.
17. Following the receipt of the concurrent offers of the Second Offeror and of Telsec, the Monitor, under the instructions of the Liquidation Advisory Committee, asked both offerors to submit their best offer by February 12, 2015. Both offerors renewed their offers on February 12, 2015, with no change on the price being offered, while indicating that they could be flexible on other conditions.
18. On February 16, 2015, considering the fact that (i) the HSW Property's listing price had already been reduced, (ii) the HSW Property had been for sale for more than two years and that several months of negotiations, including offers and counter-offers from three different parties, had elapsed, and (iii) the confirmation from the First Offeror and the Second Offeror that they would not provide an improved

offer on the HSW Property, the Liquidation Advisory Committee determined that Telsec's offer should be accepted.

19. On February 24, 2015, Telsec, the Monitor and HII entered into an irrevocable offer to purchase (the "**Telsec PSA**") providing, *inter alia*, for the sale of the HSW Property to Telsec (the HSW Transaction), in consideration of a purchase price of \$5,560,000 on an "as is where is" basis subject to the approval of the Court and to certain conditions precedent, including Telsec's satisfaction with its due diligence review and inspection of the HSW Property.
20. The Telsec PSA provided for a due diligence period of up to 60 days. On April 2, 2015, Telsec waived all conditions precedent in its favor set out in the Telsec PSA and, with the consent of the Monitor, assigned its interest in the Telsec PSA to Jayric Property ("**Jayric**"). The closing of the HSW Transaction is scheduled to occur on or about May 15, 2015.
21. According to the claims process conducted in the course of the CCAA proceedings, the only unsecured creditor of Homco 94 is HII. The recoveries made by HII as a result of the sale of the HSW Property will form part of the Asset Realization Cash Pool to be distributed to HII's creditors in accordance with the Plan.
22. The Monitor is of the view that the terms of the HSW Transaction are reasonable and favorable to the HII Group and its stakeholders given, *inter alia*:
 - i. It is congruent with the HII Group's restructuring plan, i.e. to dispose of non-core assets to the benefit of its creditors;
 - ii. A process to maximize the value of the HSW Property was conducted by Homco 94 under the supervision of the Liquidation Advisory Committee and the Monitor;
 - iii. The \$5,560,000 purchase price falls within the range of valuations of the HSW Property obtained by the Monitor;
 - iv. The HSW Transaction will allow for a distribution to unsecured creditors of Homco 94 (which, according to the claims process conducted in the course of the CCAA proceedings, would only include HII); and
 - v. The distributions to HII resulting from the HSW Transaction will form part of the Asset Realization Cash Pool for the benefit of the Affected Creditors under the Plan.
23. The conclusion of the HSW Transaction is also supported by the Liquidation Advisory Committee.
24. It is the Monitor's view that the HII Parties have acted in good faith and with due diligence in accordance with the Initial Order and the subsequent orders of the Court.

II. CONCLUSION AND RECOMMENDATION

25. It is the Monitor's opinion that, for the reasons further elaborated in this Fortieth Report, the HSW Transaction should be approved and the vesting order should be granted by the Court.

The Monitor respectfully submits this Fortieth Report to the Court.

DATED AT MONTREAL, this 15th day of April, 2015.



Pierre Laporte, CPA, CA, CIRP
President

SAMSON BÉLAIR/DELOITTE & TOUCHE INC.
In its capacity as court-appointed Monitor

APPENDIX A

THE ENTITIES Mis-en-Cause

HOMCO REALTY FUND (52) LIMITED PARTNERSHIP
HOMCO REALTY FUND (61) 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 (96) LIMITED PARTNERSHIP
HOMCO REALTY FUND (121) LIMITED PARTNERSHIP