



SUPERIOR COURT OF JUSTICE

COUNSEL SLIP

COURT FILE NO.: CV-22-00677236-00CL DATE: 15 September 2022

NO. ON LIST: 3

TITLE OF PROCEEDING: TRINITY RAVINE COMMUNITY INC.

BEFORE JUSTICE: MADAM JUSTICE CONWAY

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party, Crown:

Name of Person Appearing	Name of Party	Contact Info
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For Other, Self-Represented:

Name of Person Appearing	Name of Party	Contact Info
Sara-Ann Wilson	Nahid Corp (DIP Lender)	Sara.wilson@dentons.com
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ENDORSEMENT OF JUSTICE CONWAY:

This is a motion to approve the sale transaction with Madison Home Décor Ltd (the Transaction) and for ancillary relief including an extension of the stay period to enable the transaction to close.

The hearing today was lengthy. Mr. Flom's client (the Alternate Bidder) came in at the 11th hour with another transaction that he says is superior to the Transaction. He says that it will result in more cash recovery to the unsecured creditors, the Life Lease Deposit holders. The Transaction provides for credits in favour of the deposit holders towards future development of the property.

I advised at the conclusion of the hearing that I was approving the Transaction, for the following reasons:

- There is no firm offer on the table from the Alternate Bidder. He seeks more time until next week to put a firm offer in place. I contrast this with the existing Transaction, which is firm and has been accepted by the Applicant. One is certain, the other is not. There is simply too much of a risk to all stakeholders to trade the certainty of the Transaction for one that has not materialized.
- The Purchaser followed and engaged in the court process. The SISP ran and concluded without success. The Purchaser, who engaged in that process, then put forth another bid representing his highest offer. It was accepted by the Applicant. There is no reason that the Alternate Bidder could not have done the same thing. I found his explanation that he did not put a bid forward because the real estate agent told him there was a conditional offer in place to be unsatisfactory.
- The closing date under the Transaction is September 26, 2022. The proposal of the Alternate Bidder sets a closing date of October 31, 2022. The DIP charges to be incurred during this extra month will only further erode recovery to stakeholders.
- The factors under s. 36(3) of the CCAA and those under the *Soundair* test have been satisfied in this case. In particular, the differential between the Transaction and the Alternate Bidder's proposal is not such that I would consider the Transaction to be improvident in the circumstances: see *Terrace Bay Pulp Inc. (Re)*, 2012 ONSC 4247.
- The Monitor recommended the Transaction in its Fourth Report for the reasons set out in paragraph 66. While the Monitor's counsel considered the Alternate Bidder's proposal, she noted the frailties and uncertainty of waiting for a binding offer to come in.

For these reasons, I approve the Transaction and I have signed the AVO. I also approve the stay extension and the other relief in the ancillary order. This will terminate the CCAA proceedings as set forth therein.

The ancillary order contains a sealing order for the Confidential Appendices A and B to the fourth report pending the closing of the Transaction. The sealing order meets the *Sierra Club/Sherman* test and is granted. **Counsel for the Receiver is directed to file a hard copy of the confidential appendices A and B to the Fourth Report with the court in a sealed order with a copy of this endorsement and the AVO and the ancillary order.**

Orders to go as signed by me and attached to this Endorsement. These orders are effective from today's date and are enforceable without the need for entry and filing.

