

COURT FILE NUMBER

1201-05843

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

**CLERK OF THE COURT  
FILED**

**NOV 26 2013**

**JUDICIAL CENTRE  
OF CALGARY**

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, RSC 1985, 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., EGewater 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 "UBG GROUP OF COMPANIES")

DOCUMENT

SIXTEENTH REPORT OF ERNST & YOUNG INC. AS CCAA MONITOR OF THE UBG GROUP OF COMPANIES

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF PARTY  
FILING THIS DOCUMENT

**BENNETT JONES LLP**

4500 Bankers Hall East  
855 2<sup>nd</sup> Street SW  
Calgary, AB T2P 4K7  
Phone: 403-298-4485  
Fax: 403-265-7219  
Email: simardc@bennettjones.com  
Attention: Chris Simard

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## INTRODUCTION

1. On May 9, 2012, the Court of Queen's Bench of Alberta ("Court") issued an order ("Initial Order") granting the UBG Group of Companies ("UBG" or the "Company") protection pursuant to the *Companies' Creditors Arrangement Act* ("CCAA") (the "CCAA Proceedings"). Ernst & Young Inc. ("EY") was appointed monitor ("Monitor") under the Initial Order.
2. Since the date of the Initial Order the Monitor has filed 15 reports plus nine project-specific reports in these CCAA Proceedings in connection with various Court applications made by UBG including obtaining approval for various Protocols for interim financing with several of the Company's lenders.
3. Pursuant to a Court Order made on October 28, 2013, the stay of proceedings under the Initial Order was extended to November 29, 2013.
4. The primary purposes of the CCAA Proceedings are to protect UBG's business and operations, to allow UBG an opportunity to realize value from its construction and development projects and to facilitate a restructuring of its credit facilities, all under a court-supervised process.
5. Capitalized terms not defined in this sixteenth report are as defined in all Reports and orders previously issued in respect of these CCAA Proceedings.

### Purpose of this Report

6. The purpose of this sixteenth report ("Report") is to:
  - a) Provide an update on certain of the Company's development projects;
  - b) Respectfully recommend that this Honourable Court make orders:
    - i. Approving the agreement for the return of 40 Calgary lots in respect of Today's Homes Limited Partnership ("Today's Homes") to the developer, United Communities LP ("United");
    - ii. Approving expanding the Monitor's powers and role as detailed later in this Report; and
    - iii. Extending the stay of proceedings under the Initial Order to April 30, 2014.

### Terms of Reference

7. In developing this Report, the Monitor has relied upon unaudited financial information prepared by the Company's management, the Company's books and records and discussions with its management. The Monitor has not performed an audit or other verification of such information. An examination of the Company's financial forecasts as outlined in the *Canadian Institute of Chartered Accountants Handbook* has not been performed. Future-oriented financial information relied upon in this Report is based on management's assumptions regarding future events. Actual results achieved may vary from this information and these variations may be material, and as such the Monitor expresses no opinion or other form of assurance with respect to the accuracy

of any financial information presented in this Report, or relied upon by the Monitor in preparing this Report.

### **Currency**

8. All currency references in this Report are in Canadian dollars.

### **BACKGROUND**

#### **Overview**

9. UBG is a real estate development group overseeing various homebuilder companies. UBG is involved in residential and commercial real estate development in Alberta and real estate investment through its investment arms, Unity Investments (2012) Inc. ("Unity Investments"), Alberta Builders Capital Inc. ("ABC Capital") and American Builders Capital (US) Inc. ("ABC US Capital"). UBG was previously involved in residential real estate in Colorado Springs, Colorado, and San Antonio, Texas; however, all operations in the United States have been discontinued.
10. Considerable background detail and materials were included in the Monitor's Second Report and in the May 8, 2012 affidavit of Robert Friesen (the "May 8<sup>th</sup> Friesen Affidavit") filed in these CCAA Proceedings which included, *inter alia*, details on:
- a) The Company's corporate organization and divisional structure;
  - b) Background on single family and multi-family projects;
  - c) Further information on operations in the US;
  - d) Commercial land and building holdings; and
  - e) Investors.

### **COMPANY'S ACTIVITIES**

11. UBG continues to address various Projects. Those efforts include:
- a) Reviewing each of the Projects to assess viability, asset values, associated obligations, costs to complete (where applicable) and required resources;
  - b) Continuing to close Residential Units. UBG has closed more than 260 homes since the date of the Initial Order;
  - c) Meeting with certain Company lenders;
  - d) Meeting with representatives of Alberta New Home Warranty Program ("ANHWP");
  - e) Meeting with the suppliers of materials and services ("Trades");
  - f) Quitclaiming UBG's head office property located in Calgary, Alberta owned by UBG 808 Calgary Limited Partnership to ICI Capital Corporation ("ICI");

- g) Quitclaiming and or conveying 31 condominium units located in Canmore, Alberta owned by Timberline Lodges Limited Partnership to ICI and Bank of Montreal ("BMO");
- h) Closing the sale of the property located in Canmore owned by The Ledges Limited Partnership;
- i) Listing for sale the property of the Mountaineers Village II Project located in Canmore;
- j) Closing the sale of 19 condominium units located in Canmore owned by Wilderness Ridge at Stewart Creek Limited Partnership ("Wilderness");
- k) Closing the sale of the commercial property located in Canmore owned by UBG 75 Canmore Limited Partnership;
- l) Closing the sale of the property located in Edmonton, Alberta owned by Village at the Hamptons Limited Partnership;
- m) Closing the sale of the property located in Edmonton owned by Edgewater at Griesbach Limited Partnership;
- n) Closing the agreement for transfer of the property located in Calgary owned by UBG Bridges Limited Partnership ("Bridges");
- o) Negotiating an amended protocol with The Bank of Nova Scotia ("Scotiabank") in respect of the Terwillegar Project along with an amending management agreement with the development manager;
- p) Vesting the lands located in Calgary owned by Valour Park at Currie Limited Partnership ("Valour Park") to Canadian Western Bank;
- q) Closing the sale of the property located in Edmonton owned by Village at Laurels Limited Partnership;
- r) Closing the sale of the Project located in Calgary owned by Valmont at Aspen Stone Limited Partnership ("Valmont");
- s) Closing the sale of seven townhouse units owned by Origins at Cranston Limited Partnership ("Origins") to Attainable Homes Calgary Corporation ("Attainable Homes");
- t) Negotiating first the financing and completion of, and then the return of, the 40 Calgary lots owned by Today's Homes to United;
- u) Successfully emerging GHL from these CCAA Proceedings effective August 29, 2013;
- v) Obtaining Court approval of Greenboro Estate Homes Limited Partnership's ("GEH") Plan of Compromise and Arrangement ("Plan") and working with representatives of Calbridge Homes Ltd. ("Calbridge"), The Toronto-Dominion Bank and others to close the transactions contemplated by the Plan and implementing same;

- w) Working with the Monitor and its legal counsel to assess claims filed by creditors in these CCAA Proceedings;
- x) Working with its advisors regarding the development of emergence strategies and meetings with various potential strategic partners; and
- y) Dealing with various lienholders in connection with the establishment, maintenance, verification and payment of various lien claims.

## **MULTI-FAMILY PROJECTS**

### **Origins at Cranston**

12. The Origins project is a three phase multi-family development located in south east Calgary. It comprises a total of 140 units (24 townhomes and 116 condominiums). Phase 1 is a 48 unit condominium building which is complete and all sales have closed. One unit has not been sold and is being retained as a show suite. Construction on Phase 3 consisting of 68 units has not been started.
13. Phase 2 comprises 24 townhomes 17 which are complete and sales have closed. The remaining seven townhomes were sold to Attainable Homes and that sale closed in early November 2013.
14. Origins was financed by ICI. ICI loans were paid out in full concurrent with the closing of the sale of the seven townhomes to Attainable Homes.
15. Origins is also financed by Unity Investments which holds a second secured charge on the property subordinate to ICI. Unity Investments is owed more than \$7.0 million.
16. There is a private investor that holds a 50% equity interest in Origins having made an initial contribution of approximately \$1.75 million. The private investor is currently owed approximately \$1.75 million.
17. Lear Construction Management Ltd. ("Lear") was building Origins; however, prior to completing construction on the 24 townhomes Lear stopped working and did not return to the Origins construction site. Lear is owed significant amounts for costs incurred pre-May 9, 2012 and also for amounts owed post-May 9, 2012.
18. Lear filed an application returnable November 26, 2013 seeking various relief including orders: i) determining the amount owing to Lear; ii) that the amount is immediately due and payable and must be paid forthwith; and iii) requesting additional accounting information in connection with the ICI loan draws and the sales proceeds from the sale of Phases 1 and 2.
19. With respect to pre-May 9, 2012 amounts owed to Lear, those amounts will be addressed in due course as part of the Claims Process and will be subject to not only establishing the validity of these claims, but also to priority claims and realizations on the Origins Project.
20. In respect of post-May 9, 2012 amounts owed to Lear, Lear has submitted invoices to Origins which indicate that costs have increased over budgeted costs. As Lear is aware, the funds provided by ICI were a fixed amount and no additional funds were available from the ICI loan

facilities to address any increased costs. The cost consultant retained on the project approved Lear's invoices in accordance with the agreed upon budget. No additional amounts have been approved for payment to Lear.

21. Lear advises that it is of the view that its contract with UBG on Origins is a cost plus contract and the terms contained therein require that Lear be reimbursed for all costs incurred. UBG and the Monitor disagree with Lear's interpretation of the contract. Furthermore, Lear has never submitted any change orders nor obtained any approval from UBG in respect of additional costs which were incurred on both Phase 1 and 2.
22. With respect to the additional accounting information, Lear was provided with certain Origins accounting information in April 2013, more than six months ago. Prior to Lear serving its application returnable on November 26, 2013, Lear had not followed up with the Monitor after receipt of that information, nor did it make a request of the Monitor to provide additional information.
23. With respect to Lear's application, UBG and the Monitor will provide Lear with an accounting of all proceeds of sale of the Origins units, a summary of all post CCAA ICI loan draws (some of this information was previously provided to Lear in April 2013) and GST information. With respect to Lear's application to determine amounts owed to it, UBG and the Monitor have proposed that that portion of Lear's application be adjourned and determined by way of a trial of an issue pending scheduling and all particulars necessary to have such a hearing.

#### **South Terwillegar**

24. The project known as South Terwillegar is a two phase 112 unit townhome complex located in Edmonton, Alberta. Phase 1 is complete; all units are sold and closed. Phase 2 is under construction and comprises 42 units, all but one unit are pre-sold.
25. On July 10, 2013 UBG entered into an Interim Financing Agreement with Scotiabank whereby Scotiabank agreed to finance the remaining construction costs on 22 unfinished units. Concurrently, UBG entered into an Amended Development Agreement with Footprint Developments Ltd. ("Footprint") to complete construction of Terwillegar.
26. Unity Investments also provided financing on the South Terwillegar project. Unity Investments holds a second secured position and is currently owed approximately \$1.95 million excluding interest.
27. Construction is now complete and all units except two have closed (one unit remains unsold and the purchaser of another unit has refused to close).
28. Scotiabank has advanced three draws under the Interim Financing Agreement. Amounts have been periodically paid to Scotiabank as unit sales close and Scotiabank is currently owed approximately \$100,000. Scotiabank is expected to be paid its loans in full within the next week as more closing funds are available.
29. Some of the sales proceeds will be held to address certain unfinished work (such as landscaping) which cannot be finished until spring of 2014.

30. UBG and the Monitor are assessing the most appropriate course of action to deal with the one unsold unit and the purchaser who is refusing to close the sale.
31. Based on the sales proceeds to be realized and the costs incurred to complete construction, the Monitor estimates that there will be funds available for a partial distribution to Unity Investments. A distribution to Unity Investments and the timing thereof will be subject to UBG and the Monitor addressing the issue with the two units noted above.

#### **Village on the Park ("VOP")**

32. The project known as VOP is a three phase 243 unit condominium complex comprising three buildings located in Edmonton. Construction on all three buildings is complete and all units have sold and closed.
33. Scotiabank was providing the financing on this project. The Scotiabank loan was retired in full on July 24, 2012.
34. There are amounts owed to Trades in respect of construction and amounts also owed to Lear for its role in the construction. UBG has identified several deficiencies and a list of those deficiencies has been provided to Lear. Those deficiencies have not yet been addressed. Lear is of the view that its contract is a cost plus contract and that the costs to rectify any deficiencies are for VOP's account. UBG and the Monitor disagree with Lear's position and have taken alternative steps to have the deficiencies completed.
35. Numerous creditors have made claims against VOP totalling in excess of \$300 million. The Monitor has commenced its review of the claims; however, the claims process has been more time consuming than originally anticipated. As a result, the Monitor now expects that the review will be concluded by January 31, 2014.

#### **Murals**

36. The project known as Murals is a three phase 59 townhome unit complex located in High River, Alberta. Phase 1 is complete and all units have closed. Phase 2 comprises 16 units. All 16 units are occupied and complete. Phase 3 comprising 25 units has not yet started.
37. Unity Investments is the only secured creditor and is owed approximately \$1.4 million (excluding interest). There is no other financing on the project.
38. The project was being built by Stahl General Contracting Inc. ("Stahl") who, according to the proof of claim filed with the Monitor, is owed approximately \$350,000 in respect of Trade debt incurred and \$248,000 in respect of an investment in the project. Pursuant to an agreement with Stahl, Phase 2 was completed.
39. Kohr Builders Inc. ("Kohr"), a company that was established by a former UBG employee (and now a consultant), has made a proposal to complete this project (the "Kohr Proposal"). The Monitor understands that a majority of the investors in Murals are in favour of Kohr completing construction and selling the remaining 25 units.



40. The project was not physically impacted by the June 2013 flooding in Alberta; however, there were certain delays as a result of the flooding in High River. The Monitor understands that the majority of the terms of the Kohr Proposal have been agreed to and that an application will be made to this Honourable Court within the next two weeks for approval of the transaction.

#### **Wilderness**

41. The sale of the Wilderness project to Highfield Stock Farm Inc. ("Highfield") closed on May 2, 2013. Pursuant to the sale agreement, Highfield was to either: i) assume the obligations pursuant to a \$525,000 letter of guarantee in favour of the town of Canmore; or ii) provide a cash secured replacement letter of guarantee to the town of Canmore.
42. Highfield assumed the obligations pursuant to the letter of guarantee. Accordingly, from the sales proceeds, \$525,000 is being held by Scotiabank pending Highfield completing the assumed obligations and the town of Canmore agreeing to release the letter of guarantee.
43. The Monitor has been provided with regular reports from Highfield in respect of its progress on the assumed obligations and Highfield is nearing completion of same. Once all the assumed obligations are complete, the Monitor understands that the town of Canmore will conduct an inspection and provided the work has been done to the town of Canmore's satisfaction, the letter of credit will be released. It is not expected that the town of Canmore will conduct its inspection until May or June 2014 as a significant portion of the assumed obligations relate to landscaping which cannot be inspected until late spring or early summer.
44. The Monitor has commenced its review of the claims filed against the Wilderness Project and expects it will complete the majority of its review of the claims by January 31, 2014. Most of the claims against the Wilderness Project are from Trades that provided materials and services to the project. However, there are several law suits filed against Wilderness by some unit purchasers where the unit sales were not concluded and those claims will likely take significantly more time to assess.

#### **Mountaineers II**

45. Mountaineers II comprises three acres of raw land located in the Three Sisters area in Canmore. Unity Investments holds security over this project and is owed approximately \$2.9 million. Based on information available to the Monitor, it appears that there is only one additional creditor on Mountaineers II which is the Town of Canmore for outstanding property taxes.
46. The Monitor solicited a listing proposal from a large independent real estate firm indicating a suggested listing price of \$1.6 million. The Court approved listing Mountaineers II lands for sale and the property was placed on the market in January 2012.
47. There have been no formal offers for the property and it remains listed for sale.

#### **Valmont**

48. The sale of the Valmont project was approved by this Honourable Court on August 30, 2013 and closed on September 6, 2013.

49. The Monitor holds the sales proceeds which, subject to a review of all claims submitted by creditors, are estimated to be sufficient to pay all Trades 100 cents on the dollar on amounts owing prior to May 9, 2012.
50. The Monitor has concluded its claims review and all Notices of Revision or Disallowance have been sent to the creditors. Creditors have 14 days to provide to the Monitor a Dispute Notice if they dispute the Monitor's assessment of their claims.
51. The time for providing Dispute Notices to the Monitor expires December 10, 2013. The Monitor does not anticipate it will receive any Dispute Notices which will result in Trades not receiving 100 cents on the dollar. Accordingly the Monitor anticipates it will distribute funds to the Trades by December 20, 2013.

#### **Other Multi-Family Projects**

52. All matters in respect of Timberline, Ledges, Village at the Hamptons, Edgewater at Griesbach and Village at Laurels have essentially been concluded other than certain required tax filings. The Monitor does not anticipate any additional reporting to this Honourable Court in respect of these five multi-family projects.
53. There remains a claims process in the Valour Park project and a priority issue in respect of the Bridges Project. Those matters are slated to be heard before the Court shortly and the Monitor will provide this Honourable Court with an update once those specific matters have been heard and decided.

#### **SINGLE FAMILY PROJECTS**

##### **Greenboro Estate Homes Limited Partnership**

54. On October 10, 2013 the Court issued an order approving GEH's Plan (the "Sanction Order").
55. GEH is taking all actions necessary or appropriate, in accordance with the terms of the Plan, and Sanction Order to consummate all contracts and agreements for implementation of the Plan. Although the Plan has many stakeholders concerned with a variety of issues, the Monitor, as at the date of this Report, is not aware of any impediments that would prevent GEH from implementing its Plan. GEH's Plan is anticipated to be implemented on or about November 29, 2013.
56. The Monitor has reviewed the claims against GEH and issued several Notices of Revision or Disallowance. The Monitor is dealing with several Dispute Notices received from creditors and is working to resolve these on a timely basis. The Dispute Notices received will not materially impact the distribution to creditors contemplated in GEH's Plan.

##### **Greenboro Homes Limited Partnership**

57. On August 29, 2013 the Monitor filed the required Monitor's Certificate and GHL has emerged from these CCAA Proceedings.

58. The Monitor holds required funds to pay the GHL creditors 100 cents on the dollar in respect of their proven claims. The Monitor has distributed \$3,246,522.44 to the GHL creditors. There are approximately eight claims that remain in dispute and no distributions have been made to the disputing creditors. The Monitor is attempting to resolve the disputed claims outside of a Court process. If negotiated settlements cannot be reached in respect of the disputed claims the Monitor will make an application to Court for determination of the quantum thereof.

### **Today's Homes**

59. Certain of Today's Homes' single family homes are financed by Sterling Bridge Mortgage Corporation ("Sterling Bridge"). UBG entered into a lending agreement with Sterling Bridge to provide financing to Today's Homes of up to \$6.0 million. The Sterling Bridge Protocol which was approved by this Honourable Court on September 14, 2012 governs the financing relationship. Details of each of the Today's Homes projects are contained in the Second Report and the May 8<sup>th</sup> Friesen Affidavit. Construction of the homes is currently in progress and eight sales have closed.
60. A Second Sterling Bridge Protocol was approved by order of this Honourable Court on March 27, 2013 in respect of four pre-sold uneconomic homes. Construction on those four homes is in progress and two sales are expected to close in 2013 and the other two are expected to close in early 2014.
61. As a part of the restructuring of other UBG entities, UBG no longer has the ability to support the ongoing operation of Today's Homes' business. To address this issue, Today's Homes negotiated an interim construction management agreement with a third party to complete the development of a portion of its remaining housing inventory.
62. Today's Homes is also a party to lot purchase agreements (the "LPA") with United as developer (the "Developer"), to acquire lots in the Sage Hill and Nolan Hill developments (there are a total of 40 lots) in the Calgary area (collectively, the "Lots"). Today's Homes provided the Developer with deposits for the Lots but it was until now, unable to obtain the requisite financing to pay the balance of the purchase price and interest owing on the Lots.
63. Today's Homes arranged first mortgage financing (the "GHL Loan") with GHL to purchase the 40 Lots from United and to build single family homes on the Lots. Concurrently with the GHL Loan, Today's Homes entered into an Interim Management Services Agreement ("IMSA") with GHL to assist it with its business.
64. The GHL Loan contained an option ("The Option") for GHL to purchase all or any part of the Lots for an amount equal to \$480,000 (\$12,000 per lot) less any amounts paid in respect of Borrower's Cost if Today's Homes was in breach of the GHL Loan and the breach was not waived by GHL or there was a material adverse change to the status of these CCAA Proceedings.
65. Accordingly, the minimum amount Today's Homes would recover in respect of the GHL Loan was \$480,000 with such amount being equal to the fair market value of the 40 Lots less amounts owed to the Developer. Moreover, Today's Homes' creditors would obtain some recovery on Pre-May 9, 2012 amounts owed to them.

66. The Monitor recommended that this Honourable Court approve the GHL Loan and the IMSA; however, prior to UBG's Court application for approval of the GHL Loan, the Developer objected and UBG agreed to adjourn the application.
67. UBG, the Monitor and the Developer entered into discussions with UBG's view being to have the Developer agree to the GHL Loan. The Developer was not prepared to agree to the GHL Loan and advised it would take all steps available to it to obtain the return of the 40 Lots.
68. UBG, the Monitor and the Developer then entered into negotiations to determine whether an arrangement could be made for the return of the 40 Lots. UBG and the Developer have entered into an agreement (the "Settlement Agreement") which provides for the return of the \$1,145,000 deposit paid by Today's Homes to the Developer less \$200,000 (for certain costs incurred by the Developer on behalf of Today's Homes) for a total payment of \$945,000. A copy of the Settlement Agreement is attached to the November 26, 2013 affidavit of Robert Friesen.
69. The Monitor respectfully recommends that this Honourable Court approve the Settlement Agreement for the following reasons:
- a) United will make a payment to Today's Homes in the amount of \$945,000;
  - b) A potential long and costly dispute between Today's Homes and United will be avoided;
  - c) United will support all further steps to be taken by Today's Homes in these CCAA Proceedings;
  - d) A potential long and costly dispute between Today's Homes and GHL will be avoided;
  - e) The \$945,000 is a much more timely recovery compared to the recovery under the GHL Loan which could take years until all 40 homes are sold and closed; and
  - f) The \$945,000 is greater than the minimum \$480,000 pursuant to the GHL Loan potentially providing for a higher recovery for Today's Homes' creditors.
70. The Settlement Agreement also provides for Today's Homes to make a payment in the amount of \$80,000 to GHL as compensation for costs incurred in respect of the GHL Loan and the IMSA.
71. A Borrower's Cost equal to 3% of the gross transaction value (approximately \$190,000) in favour of UBG will be applied against the funds received from the Developer to assist UBG with its ongoing expenses and those expenses incurred in respect of the GHL Loan, the IMSA and the Settlement Agreement.

#### **UBG LAND LIMITED PARTNERSHIP**

72. The purpose of UBG Land was to enter into joint venture agreements ("JVAs") with certain third parties to acquire and build land inventories, and subdividing, servicing and selling those lands as single and multi-family development properties. The JVAs allow UBG to participate in a broader range of products with a lower up front capital cost.

73. The time horizon for development was long term as the majority of the land inventories remain bare land and are not yet under development.
74. Through the JVs, lands are normally contributed by a JV party and held by a corporation (as nominee) or that JV party for and on behalf of the JV parties. Each JV party has a beneficial interest in the lands in proportion to the value it has contributed to the JV, either in land or in cash. Each JV party is required to make capital contributions for the duration of the JV; however, if a JV party fails to make its required capital contribution, its capital contribution may be covered by the other JV parties in the form of a loan secured by a lien against the defaulting party's beneficial interest.
75. In some cases, UBG's interest in a JV may be further contributed to a second JV with another group of participants, further sharing costs and recoveries.
76. Based on information available to the Monitor, UBG Land is a party to a number of JVs with UBG Land's beneficial interest generally being less than 10%.
77. UBG's legal counsel and the Monitor commenced a review of the JVs to confirm UBG's ownership percentage, the status of each JV and whether the JVs are in good standing. The JVs contain numerous provisions in respect of default, prohibitions of sale, assignment or transfer which are complicated and will take time to assess. The review is ongoing.

## **INVESTORS**

78. The Company attracted investment through its Unity Investments division as described in the Second Report and more fully in the May 8<sup>th</sup> Friesen Affidavit.
79. There are approximately 227 individual investors invested through Unity Investments, ABC Capital and ABC US Capital.
80. Certain amounts have been distributed to the investors in ABC Capital in connection with the Sterling Bridge financing of Today's Homes and proceeds realized upon closing single family house sales where the lot purchase was financed by ABC Capital.
81. Amounts will continue to be paid to ABC Capital as single family house sales close and funds become available.
82. In respect of the multi-family projects, amounts to be recovered by the Unity Investments investors will depend on the quantum of proceeds realized from the sale of condominium units or from the property on those projects where the entire project has been sold, quit claimed or conveyed to the secured lender. Investors in the multi-family projects Murals, Origins, Mountaineers II, South Terwillegar and VOP will experience some recovery on their investments. Investors in Valour Park and Timberline are not expected to recover any amounts in respect of their investments.
83. ABC US Capital financed lots in the United States. The Monitor is advised that in the United States UBG owns 91 lots. The Majority of the lots are located in the Banning Lewis and Dublin Terrace areas in Colorado. There are 8 lots located in San Antonio.

84. The Monitor is advised that 67 lots are financed by ABC US Capital, 13 in Banning Lewis and the remainder in Dublin Terrace. An offer was received on the Banning Lewis lots and the prospective purchaser has now concluded its due diligence and is prepared to close.
85. Loan facilities in the United States are with PNC Bank ("PNC"). PNC has appointed a receiver over the assets subject to its security in the United States. There is confusion on the priority of PNC's and ABC US Capital's security and whether PNC's security covers all lots in the United States. UBG and the Monitor are following up with the receiver in this regard.
86. UBG and the Monitor recently met with the ABC US Capital investors and an initial course of action has been established in respect of a resolution to the questions surrounding the United States properties.

#### **REQUESTED SUPPLEMENT OF MONITOR'S POWERS**

87. As a result of restructuring GHL and GEH, exiting the Canmore marketplace, streamlining its staff, exiting its head office and selling several of its multi-family projects, UBG no longer has the ability to support the ongoing operations of its remaining business. There remains one employee and one consultant. The reduction in staff is a result of employees working for: i) GHL (which has emerged from these CCAA Proceedings); ii) GEH whose Plan implementation is imminent; or iii) have found alternative employment opportunities. Mr. Robert Friesen, the owner and chairman of UBG remains involved in these CCAA Proceedings. UBG is; however understaffed and has requested further assistance from the Monitor's office. As a result, the Monitor agrees it would be appropriate for the Court to enhance the Monitor's powers.
88. An additional grant of powers would not result in the Monitor taking possession of UBG's property. Rather, the additional powers will allow the Monitor to work with UBG and facilitate the completion of those multi-family projects currently under construction, undertake the various accounting and tax obligations that UBG needs to complete, facilitate the distribution of funds to those creditors and investors who will recover some or all of the amounts owed to them and bring an orderly windup to these CCAA Proceedings.
89. It is proposed, in addition to those powers and obligations granted to the Monitor under the CCAA and pursuant to the Initial Order, that the Monitor's powers be expanded, as an officer of this Honourable Court, to assist UBG as UBG may request:
  - a) to administer the business and financial affairs of UBG;
  - b) to prepare financial statements, tax returns and GST returns for the various UBG entities;
  - c) to prepare appropriate tax reporting returns for the numerous UBG investors;
  - d) to give direction and instructions to UBG's remaining employee and consultant regarding the conduct of the remaining business;
  - e) to execute, assign, issue and endorse documents of whatever nature in respect of the various UBG entities financial statements, tax returns, GST returns and investor reporting requirements; and
  - f) to take all such further and other things as may be either; i) ancillary to any of the foregoing, or ii) specifically authorized by UBG.

90. In each case where the Monitor takes any such action or steps noted in paragraph 89, it shall be exclusively authorized and empowered to do so without interference from any other Persons (as defined below).
91. UBG, all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and all other individuals, firms, corporations, governmental bodies or agencies, or others having notice of the Monitor's expanded powers (all of the foregoing, collectively, being "Persons" and each being a "Person") shall cooperate fully with the Monitor and shall grant to the Monitor immediate and continued access to UBG's assets and documents upon the Monitor's request.
92. In accordance with similar orders of this Honourable Court granting enhanced powers to CCAA monitors, the Monitor will seek clarity in the order being sought, that it is not an officer, director or employee of any UBG entity, is not a mortgagee in possession and will continue to enjoy the benefits of the protections granted for its benefit in previous orders issued in these CCAA Proceedings.

#### **COMPANY'S REQUEST FOR AN EXTENSION OF THE CCAA PROCEEDINGS**

93. The Monitor supports the Company's request for an extension of the stay of proceedings from November 29, 2013 to April 30, 2014 for the following reasons:
  - a) The Company is acting in good faith and with due diligence in its restructuring efforts;
  - b) The Company has made significant progress in respect of its restructuring by implementing exit strategies in respect of the Canmore marketplace, selling projects and assets that are uneconomic, continuing and completing construction on both single family and multi-family projects, emerging GHL from these CCAA Proceedings and advancing the GEH Plan;
  - c) The Company continues to focus its resources on the various projects that remain under construction; and
  - d) An extension will provide the Company with an opportunity to continue to monetize certain of its assets, under the supervision of this Court, which is expected to maximize recoveries for all stakeholders.

#### **CONCLUSION AND RECOMMENDATION**

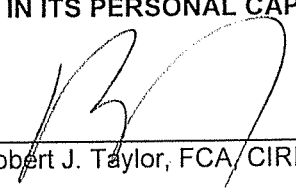
94. Based on the foregoing, the Monitor respectfully recommends that this Honourable Court make orders granting the relief detailed in Paragraph 6 b) of this Report.

\* \* \*

All of which is respectfully submitted this 26<sup>th</sup> day of November 2013.

**ERNST & YOUNG INC.  
IN ITS CAPACITY AS CCAA MONITOR OF  
THE UBG GROUP OF COMPANIES  
AND NOT IN ITS PERSONAL CAPACITY**

Per: \_\_\_\_\_

  
Robert J. Taylor, FCA, CIRP