



Court File No. CV-24-00713783-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

*IN THE MATTER OF Section 101 of the Courts of Justice Act, R.S.O. 1990 c.C.43,  
as amended, and in the matter of Section 243(1) of the Bankruptcy and Insolvency Act,  
R.S.C. 1985, c. B-3, as amended*

THE HONOURABLE ) WEDNESDAY, THE 6<sup>TH</sup>  
 )  
JUSTICE CAVANAGH ) DAY OF MARCH, 2024

**B E T W E E N:**

**PEOPLES TRUST COMPANY and  
FIRM CAPITAL MORTGAGE FUND INC.**

Applicants

- and -

**VANDYK-BACKYARD QUEENSVIEW LIMITED and  
VANDYK-BACKYARD HUMBERSIDE LIMITED**

Respondents

**Order  
(Ancillary Relief)**

**THIS MOTION**, made by RSM Canada Limited (now known as TDB Restructuring Limited) in its capacity as Court-appointed receiver (the “**Receiver**”) of the unsold condominium units, parking units, and storage lockers legally described in the Order appointing the Receiver granted by this Court on February 6, 2024 (the “**Appointment Order**”), including all proceeds thereof (the “**Property**”) of Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited (together, the “**Debtors**”) for an order among other things: (i) approving the First Report of the Receiver dated February 27, 2024 (the “**First Report**”), the Supplementary Report of the Receiver dated March 4, 2024 (the “**Supplementary Report**”) and the Receiver’s activities set out therein; (ii) ratifying the Receiver’s termination of the agreement of purchase and sale (the “**Unit 211 Agreement**”) between Vandyk-Backyard Queensview Limited and Oluwaseun Olowolafe dated November 28, 2018, as amended; (iii) establishing the maximum

priority that the lien claims, if determined to be valid, may have as against the first ranking charge/mortgage against the Property; and (iv) approving the distribution of the aggregate net proceeds (the "**Net Proceeds**") set out herein from the sale of Unit 302, subject to the Receiver first retaining and holding 15% of the Net Proceeds in trust for any lien claims that may subsequently be determined to be valid and in priority to the first mortgage registered on title to the Property and \$4,000 pending determination of a certain priority dispute, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

**ON READING** the First Report, the Supplementary Report and the Appendices thereto, and on hearing the submissions of counsel for the Receiver and such other parties listed on the counsel slip, no one appearing for any other person on the service list, although properly served as it appears from the Affidavits of Service of Rudrakshi Chakrabarti sworn February 28, 2024 and Puya Fesharaki sworn March 5, 2024, filed:

#### **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and Motion Record herein is hereby validated so that this motion is properly returnable today, and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings ascribed thereto in the First Report.

#### **APPROVAL OF FIRST REPORT, SUPPLEMENTARY REPORT AND RECEIVER'S ACTIVITIES**

3. **THIS COURT ORDERS** that the First Report, the Supplementary Report and the Receiver's activities set out therein are hereby approved, provided, however, that only the Receiver in its personal capacity and only with respect to its own personal liability shall be entitled to rely upon or utilize in any way such approval.

#### **TERMINATION OF UNIT 211 AGREEMENT**

4. **THIS COURT ORDERS** that the Receiver's termination of the Unit 211 Agreement is hereby approved and ratified, and any rights of the parties under the Unit 211 Agreement do not

constitute any continuing obligations against the Property or against any of the parties under the Unit 211 Agreement.

### **HOLDBACK OF NET PROCEEDS OF SALE**

5. **THIS COURT ORDERS** that the maximum statutory holdbacks of potential lien claims against the Property that could assert priority to the first-ranking Mortgage is \$1,979,540.34 (being the maximum statutory holdbacks, as determined by the Receiver).

6. **THIS COURT ORDERS** that the Receiver shall hold back 15% of the Net Proceeds received by the Receiver from the sale any of the Unsold Units (the “**Holdback Requirement**”) in trust for the benefit of lien claimants, pending resolution or determination of the entitlement of any lien claimants or further Order of this Court.

7. **THIS COURT ORDERS** that the Receiver shall set aside \$4,000 of the Net Proceeds of Sale, after adjusting for the Holdback Requirement, pending determination of that certain priority dispute relating to TA Appliances Inc.’s interest in certain appliances.

### **DISTRIBUTION**

8. **THIS COURT ORDERS** that, pending any further Order of the Court that may be sought by any party and granted by the Court after May 1, 2024, subject to the Holdback Requirement and any amounts that may be required by the Receiver to fund the receivership proceeding, the Receiver is hereby authorized and directed to distribute the Net Proceeds to the Applicants, in reduction of the first-ranking Charge/Mortgage registered against the Property.

### **GENERAL**

9. **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 the Receiver and its 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 the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. on the date hereof and is enforceable without further need for entry or filing.



Digitally signed by  
Mr. Justice  
Cavanagh

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Proceedings commenced at Toronto, Ontario

**ORDER  
(Ancillary Relief)**

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Limited (now known as TDB Restructuring Limited)