

**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) MONDAY, THE 13TH DAY
)
JUSTICE W.D. BLACK) OF JANUARY, 2025

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

THIS MOTION, made by TDB Restructuring Limited in its capacity as the Court-appointed receiver (the “**Receiver**”) of the unsold condominium dwelling units, parking units, and storage lockers (the “**Unsold Units**”) legally described in the Order appointing the Receiver granted by this Court on February 6, 2024 (the “**Appointment Order**”) constituting property of Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited (together, the “**Debtors**”), for an order among other things: (i) approving the activities of the Receiver as described in the Third Report of the Receiver dated June 2, 2024 (the “**Third Report**”), the Fourth Report of the Receiver dated June 25, 2024 (the “**Fourth Report**”), the Fifth Report of the Receiver dated July 11, 2024 (the “**Fifth Report**”), and the Sixth Report of the Receiver dated January 3, 2025 (the “**Sixth Report**”), as set out therein; (ii) amending subsection 3(i) of the Appointment Order to authorize the Receiver to sell any of the remaining Unsold Units without the approval of this Court in respect of any transaction, provided that the sale price of any unsold

parking or locker unit is less than \$250,000, or for any unsold dwelling unit (together with a parking and locker unit), the sale price under an agreement of purchase and sale shall not be less than 85% of the listed price of that Unsold Unit (the “**Permitted Transaction**”) in accordance with this Order; (iii) approving the form of vesting order attached hereto as **Schedule “B”** to be used by the Receiver in completing a Permitted Transaction; and (iv) amending subsection 3(n) of the Appointment Order to authorize the Receiver to file an assignment in bankruptcy on behalf of the Debtors, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Sixth Report 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 Affidavit of Service of Natalie Longmore, sworn and 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 abridged and validated such 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 Sixth Report.

APPROVAL OF RECEIVER’S REPORTS AND RECEIVER’S ACTIVITIES

3. **THIS COURT ORDERS** that the Third Report, Fourth Report, Fifth Report, and Sixth Report and the Receiver’s activities set out therein are hereby ratified and 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.

AMENDMENTS TO THE APPOINTMENT ORDER

4. **THIS COURT ORDERS** that subsection 3(i) of the Appointment Order be deleted and replaced with the following:

“(i) to sell, convey, transfer, or assign the Unsold Units or any part or parts thereof, together with any chattels set out in an agreement of purchase and sale, for any Unsold Unit:

- a. without the approval of this Court in respect of any transaction not exceeding \$250,000;
- b. without the approval of this Court, provided that the sale price of any unsold dwelling unit (together with a parking space and locker) under an agreement of purchase and sale is not less than 85% of the listed price of that Unsold Unit, as set out in in Appendix “E” of the Receiver’s Sixth Report (the “**Listing Price**”); and
- c. with the approval of this Court, in respect of any transaction in which the purchase price of any Unsold Unit exceeds \$250,000, and in which the sale price of the Unsold Unit is less than 85% of the Listing Price of that Unsold Unit,

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the *Mortgages Act* (Ontario), as the case may be, shall not be required;”

5. **THIS COURT ORDERS** that subsection 3(n) of the Appointment Order be deleted and replaced with the following:

“(n) to file an assignment in bankruptcy on behalf of the Debtors and enter into agreements with any trustee in bankruptcy appointed in respect of any of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;”

APPROVAL OF FORM OF VESTING ORDER

6. **THIS COURT ORDERS** that the form of vesting order attached hereto as **Schedule “B”** be and is hereby approved for use by the Receiver in completing a Permitted Transaction with respect to any of the Unsold Units.

7. **THIS COURT ORDERS** that the Receiver and its legal counsel are hereby authorized to complete each vesting order with the following information:

- (a) the name of the purchaser(s);

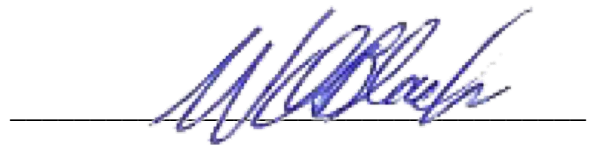
- (b) the legal description of the applicable Unsold Unit(s) that form the subject matter of the Permitted Transaction; and
- (c) any encumbrances to be discharged or permitted encumbrances.

8. **THIS COURT ORDERS** that, upon completion of a draft vesting order by the Receiver with respect to a Permitted Transaction (a “**Completed Vesting Order**”), counsel for the Receiver shall present the Completed Vesting Order to the Registrar of the Ontario Superior Court of Justice (Commercial List), together with a Certificate signed by the Receiver, substantially in the form attached hereto as **Schedule “A”**, attaching a copy of the agreement of purchase and sale confirming the name of the purchaser(s) of the purchased Unsold Unit(s) and the legal description of the purchased Unsold Unit(s). The Court Registrar is authorized, empowered and directed to sign, issue and enter each Completed Vesting Order as presented to it in accordance with this Order, without the need for any attendance in Court by counsel for any party.

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, filing, or a specific form of electronic signature stamp.



Schedule “A” – Form of Receiver’s Certificate

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*

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

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated February 6, 2024 (the “**Appointment Order**”), RSM Canada Limited (now known as TDB Restructuring Limited) was appointed as the receiver (the “**Receiver**”) of the Unsold Units, including all proceeds thereof (the “**Property**”) of Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited (together, the “**Debtors**”) located at 25 Neighbourhood Lane, Toronto, Ontario.

B. Pursuant to an Order of the Court dated January 13, 2025 (the “**Authorization Order**”), the Court, among other things:

- i. authorized the Receiver to complete any transaction for the Unsold Units, without the approval of the Court, provided that the sale price of any unsold locker or parking unit is less than \$250,000 or that the sale price of any unsold dwelling unit (with a locker and parking unit) under an agreement of purchase and sale is not less than 85% of the listed price of that Unsold Unit (the “**Permitted Transaction**”);
- ii. approved a form of vesting order for use by the Receiver in completing a Permitted Transaction, without the need for a court attendance by counsel for any party; and

- iii. authorized the Receiver and its legal counsel to complete a draft vesting order with respect to a Permitted Transaction and to present to the Registrar of the Ontario Superior Court of Justice (Commercial List) the completed vesting order together with a certificate of the Receiver attaching a copy of the agreement of purchase and sale confirming the name of the purchaser(s) and the legal description of the purchased property.

THE RECEIVER CERTIFIES the following:

1. The Receiver entered into an Agreement of Purchase and Sale with ● (the “**Purchaser**”) for the sale of the Unsold Unit(s) bearing the following legal description: ● (the “**Transaction**”);
2. The Transaction is a Permitted Transaction as defined in the Authorization Order; and
3. A copy of the Agreement of Purchase and Sale is enclosed with the Certificate.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

**TDB Restructuring Limited, solely in its
capacity as Receiver of the Property, and not in
its personal capacity**

Per: _____

Name:

Title:

Schedule “B” – Form of Vesting Order

**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 _____) _____, THE _____
JUSTICE _____) DAY OF _____, 202__

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

APPROVAL AND VESTING ORDER

THIS MOTION, made by TDB Restructuring Limited in its capacity as the Court-appointed receiver (the “**Receiver**”) of the unsold condominium units, parking units, and storage lockers (the “**Unsold Units**”) legally described in the Order appointing the Receiver granted by this Court on February 6, 2024 constituting property of Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited (together, the “**Debtors**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between _____ (the “**Purchaser**”) and the Receiver dated _____, as amended, and vesting in the Purchaser the Receiver’s right, title and interest in and to the property described in **Schedule “B”** hereto (the “**Purchased Assets**”), was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Sixth Report of the Receiver dated January 3, 2025 and the Order of the Honourable Justice Black dated January 13, 2025:

APPROVAL AND VESTING

1. **THIS COURT ORDERS** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor and non-material amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS** that, upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Receiver's Certificate**"), all of the Receiver's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on **Schedule "B"** hereto shall vest absolutely in the Purchaser free and clear of and from any and all encumbrances, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Cavanagh dated February 6, 2024; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the encumbrances listed on **Schedule "D"** hereto) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that, upon the registration in the Land Registry Office for the Land Titles Division of Metro Toronto (No. 80) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject property identified in **Schedule "B"** hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule "C"** hereto.

4. **THIS COURT ORDERS** that the Receiver pay to Toronto Standard Condominium Corporation No. 2983 (the “**Condo Corp**”) from the sale proceeds of the Transaction any amounts owing in respect of any notices and other instruments registered by the Condo Corp against title to the Unsold Units.

5. **THIS COURT ORDERS AND DIRECTS** that the Land Registry Office for the Land Titles Division of Metro Toronto (No. 80) shall delete and expunge Instrument No. AT6510972, being an Application to Register Court Order registered on February 8, 2024, in favour of RSM Canada Limited (now known as TDB Restructuring Limited), and Instrument No. AT6562063, being an Application to Register Court Order registered on April 30, 2024, in favour of TDB Restructuring Limited from title to the Real Property identified on **Schedule “B”** hereto.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the Net Proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver’s Certificate, as soon as practicable after delivery thereof.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable

transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT ORDERS AND DIRECTS** that the Land Registry Office for the Land Titles Division of Metro Toronto (No. 80) shall delete and expunge the within approval and vesting order from title to the Real Property identified on **Schedule “B”** hereto upon the registration of the transfer of the Real Property from the Purchaser to a third party.

GENERAL

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 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.

11. **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, filing, or a specific form of electronic signature stamp.

Electronically delivered on _____
at Toronto, Ontario

Schedule “A” – Form of Receiver’s Certificate

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

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

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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*

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

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to the Order of Honourable Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated February 6, 2024 (the “**Appointment Order**”), RSM Canada Limited (now known as TDB Restructuring Limited) was appointed as the receiver (the “**Receiver**”) of the Unsold Units, including all proceeds thereof (the “**Property**”) of Vandyk-Backyard Queensview Limited and Vandyk-Backyard Humberside Limited (together, the “**Debtors**”) located at 25 Neighbourhood Lane, Toronto, Ontario.

B. Pursuant to an Order of the Court dated January 13, 2025, the Court, among other things:

- i. authorized the Receiver to complete any transaction for the Unsold Units, without the approval of the Court, provided that the sale price of any unsold locker or parking unit is less than \$250,000 or that the sale price of any unsold dwelling unit (with a locker and parking unit) under an agreement of purchase and sale is not less than 85% of the listed price of that Unsold Unit (the “**Permitted Transaction**”);
- ii. approved a form of vesting order for use by the Receiver in completing a Permitted Transaction; and

- iii. authorized the Receiver and its legal counsel to complete a draft vesting order with respect to a Permitted Transaction and to present the completed vesting order together with a certificate of the Receiver attaching a copy of the agreement of purchase and sale confirming the name of the purchaser(s) and the legal description of the purchased property.

C. Pursuant to an Approval and Vesting Order of the Court dated ●, the Court approved the agreement of purchase and sale made as ●, as amended, between the Receiver and ● (the “**Purchaser**”) (the “**Sale Agreement**”) and provided for the vesting in the Purchaser of the Receiver’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

TDB Restructuring Limited, solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: _____

Name:

Title:

Schedule “B” – Purchased Assets

Schedule “C” – Claims to be Deleted and Expunged from Title to the Real Property

**Schedule “D” – Permitted Encumbrances Related to the Real Property
(unaffected by the Vesting Order)**

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

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

Applicants

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

Respondents

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

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

Proceedings commenced at Toronto, Ontario

**ORDER
(Approval and Vesting Order)**

THORNTON GROUT FINNIGAN LLP
3200 – 100 Wellington Street West
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7
Tel: (416) 304-1616

D.J. Miller (LSO# 34393P)
Email: djmiller@tgf.ca

Puya Fesharaki (LSO# 70588L)
Email: pfesharaki@tgf.ca

Rudrakshi Chakrabarti (LSO# 86868U)
Email: rchakrabarti@tgf.ca

Lawyers for the Court-appointed Receiver,
TDB Restructuring Limited

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

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Respondents

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

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

Proceedings commenced at Toronto, Ontario

ORDER

THORNTON GROUT FINNIGAN LLP
3200 – 100 Wellington Street West
TD West Tower, Toronto-Dominion Centre
Toronto, ON M5K 1K7
Tel: (416) 304-1616

D.J. Miller (LSO# 34393P)
Email: djmiller@tgf.ca

Puya Fesharaki (LSO# 70588L)
Email: pfesharaki@tgf.ca

Rudrakshi Chakrabarti (LSO# 86868U)
Email: rchakrabarti@tgf.ca

Lawyers for the Court-appointed Receiver,
TDB Restructuring Limited