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Court File No. CV-23-00700356-00CL

**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:**

**FIRM CAPITAL MORTGAGE FUND INC.**

Applicant

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Respondent

**SECOND REPORT OF THE RECEIVER**

**November 11, 2024**

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## 1.0 INTRODUCTION

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted on June 15, 2023 (the “**Appointment Order**”), RSM Canada Limited (“**RCL**”) was appointed receiver and manager (the “**Receiver**”) of all of the assets, undertakings and properties (collectively, the “**Property**”) of Stateview Homes (Hampton Heights) Inc. (the “**Debtor**”), including the condominium project known municipally as 2, 4, 6 and 8 Teck Road and 39 Auburn Court, Barrie, Ontario (the “**Real Property**”). A copy of the Appointment Order is attached hereto as **Appendix “A”**.
2. On June 15, 2023, the Court also granted an order that approved the Receiver’s sale process in respect of the Real Property.
3. On August 18, 2023, the Court granted:
  - (a) an Order (the “**Approval and Vesting Order**”) approving a sale transaction in respect of the Real Property and vesting title thereto in a third-party purchaser (the “**Transaction**”); and
  - (b) an Order (the “**Ancillary Relief Order**”), that among other things:
    - i. approved the First Report of the Receiver dated August 8, 2023, and the Supplement to the First Report dated August 17, 2023 (together, the “**First Report**”), and the Receiver’s activities described therein;
    - ii. approved the Receiver’s interim statement of receipts and disbursements for the period, June 15, 2023 to July 31, 2023;
    - iii. approved the professional fees of the Receiver and its independent counsel for the period, June 15, 2023 to July 31, 2023;
    - iv. authorized the Receiver to terminate existing condominium unit purchase agreements in respect of the Real Property; and
    - v. approved the distribution of the net proceeds of sale of the Real Property in accordance with the waterfall set out at paragraph 8 of the Ancillary Relief Order.

4. A copy of the Ancillary Relief Order is attached hereto as **Appendix “B”**.
5. Effective March 1, 2024, RCL changed its name to TDB Restructuring Limited (“**TDB**”) on all active RCL engagements pursuant to an order of this Court. Accordingly, all references to RCL in the orders made in this proceeding, and in prior reports of the Receiver should be interpreted as referring to TDB.
6. Copies of all the Orders granted in this proceeding, together with all other pertinent documents relating to the proceeding can be found on the Receiver’s website at:

<https://tdbadvisory.ca/insolvency-case/stateview-homes-hampton-heights-inc/>.

### **1.1 Purpose of Report**

7. The purpose of this report (the “**Second Report**”) is to provide the Court with:
  - (a) an update on the Receiver’s activities following the issuance of the First Report;
  - (b) an update on the closing of the Transaction and the distribution of the proceeds thereof;
  - (c) a summary of the Receiver’s cash receipts and disbursements for the period, June 15, 2023 to November 11, 2024 (the “**Interim R&D**”); and
  - (e) information regarding the relief sought by the Receiver in respect of its motion for an order (the “**Discharge Order**”), among other things:
    - i. approving this Second Report and the activities of the Receiver described herein;
    - ii. approving the Interim R&D;
    - iii. approving the fees and disbursements of the Receiver and its counsel; and
    - iv. terminating these proceedings and discharging the Receiver upon the filing of the Receiver’s discharge certificate.

## **1.2 Terms of Reference**

8. In preparing the Second Report and making the comments herein, the Receiver has relied upon information from third-party sources (collectively, the “**Information**”). Certain of the information contained in the Second Report may refer to, or is based on, the Information. As the Information has been provided by other parties or obtained from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
9. Unless otherwise stated, all dollar amounts contained in the Second Report are expressed in Canadian dollars.
10. Any capitalized terms used but not defined herein have the meanings given to them in the First Report, a copy of which is attached hereto (without exhibits) as **Appendix “C”**.

## **2.0 ACTIVITIES OF THE RECEIVER**

11. The Receiver’s activities since the First Report have consisted primarily of:
  - (a) overseeing the closing of the Transaction;
  - (b) assessing the validity and quantum of various lien claimants’ claims, and reaching final resolutions in respect thereof with all such lien claimants;
  - (c) preparing the Interim R&D;
  - (d) preparing and filing HST returns with Canada Revenue Agency;
  - (e) responding to stakeholders’ inquiries; and
  - (f) preparing this Second Report.

### **3.0 MORTGAGES AND LIEN CLAIMS**

12. The First Report detailed the mortgages and construction liens registered against the Real Property, including:
  - (a) the various construction liens more fully described in the First Report;
  - (b) the first mortgage in favour of the Applicant in the principal amount of \$11.4 million (the “**First Mortgage**”), the validity and priority of which was confirmed by an independent legal opinion, as more fully described in the First Report; and
  - (c) the second mortgage in favour of MCO Management Inc. (the “**Second Mortgagee**”) in the principal amount of \$3 million.
13. The First Report also detailed the Receiver’s discussions with the Lien Claimants prior to the granting of the Ancillary Relief Order, which discussions culminated in the Receiver’s agreement to hold back \$200,000 of the proceeds of the Transaction in trust pending resolution of the Lien Claimants’ asserted entitlements thereto. The \$200,000 amount reflected the Receiver’s determination of the maximum amount that the Lien Claimants could be realistically anticipated to recover based on best available information, plus a buffer amount.
14. The Ancillary Relief Order includes a waterfall of the distribution of proceeds of the Transaction, pursuant to which the Receiver was authorized and directed to pay:
  - (a) First, all amounts owing pursuant to the First Mortgage, including advances to the Receiver secured by the First Mortgage;
  - (b) Second, all outstanding amounts secured by the Receiver’s Charge;
  - (c) Third, \$200,000 in trust pending resolution or determination of the entitlement of any lien claimants; and
  - (d) Fourth, any balance to the Second Mortgagee, subject to reserving for the future fees and disbursements of the Receiver and its counsel.

15. Following the granting of the Approval and Vesting Order and the Ancillary Relief Order, the Receiver and its real estate counsel engaged with the various lien claimants to determine the validity and quantum of their entitlements. A resolution was obtained with all such lien claimants, and the final amounts determined to be owing to lien claimants are as set out below, the aggregate of which was less than the amount held in trust for the benefit of such claimants.

<b>Lien Claimants</b>	<b>Amount (\$)</b>
Tamarack Lumber Inc.	58,205
Terra Forma	53,074
Pro Star Excavating & Grading Ltd.	22,305
LIUNA Local 183	14,343
EME Professional Corp	10,035
Woodbridge Stoneslinger (1994) Limited	9,642
Sunbelt Rentals of Canada Inc.	556
<b>Total</b>	<b>168,160</b>

16. The Receiver did not obtain an independent legal opinion with respect to the second mortgage as it became apparent to the Receiver, after the granting of the Approval and Vesting Order and the Ancillary Relief Order, that no funds would be available to be paid to the Second Mortgagee.

#### **4.0 CLOSING OF THE SALE TRANSACTION AND DISTRIBUTIONS**

17. On August 29, 2023, the Receiver delivered a copy of its signed Receiver's Certificate in accordance with the Approval and Vesting Order, confirming the closing of the Transaction.
18. The Real Property was sold for \$7.2 million. In accordance with the waterfall of distributions set out in the Ancillary Relief Order, the Receiver subsequently distributed the net proceeds of the Transaction as follows:
- (a) First, the Receiver paid to the Applicant approximately \$6.5 million in respect of all amounts owing pursuant to the First Mortgage, including the advance made by the Applicant to the Receiver in the principal amount of \$60,000,



plus interest secured by the First Mortgage in accordance with the Appointment Order.

(b) Second, the Receiver paid all outstanding amounts secured by the Receiver's Charge.

(c) Third, the Receiver paid to the lien claimants the aggregate amount of approximately \$168,000.

19. Further details and a breakdown of the amounts paid in respect of the above noted distributions are set out in the Interim R&D.

## **5.0 Recent Developments with the Second Mortgagee**

20. The Second Mortgagee has been represented by counsel during the entirety of these proceedings. Said counsel was included on the Service List in these proceedings and received copies of all motions and other Court filings, including all materials in respect of the Approval and Vesting Order and Ancillary Relief Order.

21. On August 6, 2024, the Receiver's counsel received a statement of claim in respect of proceedings commenced by MCO Management Inc. (the Second Mortgagee) and other plaintiffs against the Debtor and other defendants (the "**MCO Claim**"), and a letter requesting the Receiver's counsel's consent to the filing of the MCO Claim. Counsel in respect of the MCO Claim subsequently confirmed to the Receiver's counsel that the Second Mortgagee had changed counsel. Copies of the MCO Claim and related letter are attached as **Appendix "D"** hereto.

22. By letter dated September 4, 2024, the Receiver's counsel advised (new) counsel to the Second Mortgagee that, among other things, the MCO Claim was barred by the stay of proceedings in effect in these proceedings, and that the Debtor's Real Property had been sold and the proceeds therefrom distributed pursuant to court Orders. A copy of the September 4 letter is attached as **Appendix "E"** hereto.

23. Several emails were exchanged between the Receiver's counsel and the Second Mortgagee's counsel in respect of the Ancillary Relief Order granted one year prior, the basis for the distribution waterfall contained therein, and the creditor priorities contemplated thereby. A copy of the pertinent email exchange (without attachments)

is attached as **Appendix “F”** hereto. The Receiver’s fulsome response to the Second Mortgagee’s inquiries is included in the email from the Receiver’s counsel dated October 25, 2024, which email sets out in detail the legal basis for the priority distributions approved by the Court in these proceedings.

## **6.0 RECEIVER’S STATEMENT OF RECEIPTS AND DISBURSMENTS**

24. The Interim R&D statement for the period from June 15, 2023 to November 11, 2024 is attached hereto as **Appendix “G”**.
25. The Interim R&D Statement sets out, in summary:
  - (a) total cash receipts of \$7,405,405, including a \$60,000 advance by the Applicant;
  - (b) total cash disbursements of \$7,375,033; and
  - (c) excess of receipts over disbursements of \$30,372 (the “**Excess**”).
26. As set out in a subsequent section of this Report, the Excess will be required to pay the costs of the Receiver and its counsel in respect of the Discharge Order motion and bringing these proceedings to their completion, in addition to certain accrued and unpaid amounts. Accordingly, there will be no funds available for distribution to other creditors.

## **7.0 PROFESSIONAL FEES**

27. The Appointment Order provides that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver were granted a charge on the Real Property, as security for such fees and disbursements. The Receiver’s Charge is a first charge on the Real Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, save and except that it shall be subordinate to the Charge/Mortgage of Land registered on title to the

Real Property in favour of the Applicant, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

28. The Receiver's accounts for the period from August 1, 2023 to September 30, 2024 totals \$60,015.00 in fees, plus HST of \$7,801.96, for a total amount of \$67,816.96. A copy of the Receiver's accounts, together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Jeffrey Berger sworn on November 7, 2024 and attached as **Appendix "H"** to this report.
29. The accounts of the Receiver's insolvency and litigation counsel, Thornton Grout Finnigan LLP ("**TGF**"), for the period from August 1, 2023 to September 30, 2024, totals \$15,733.27 in fees and disbursements, plus HST of \$2,045.33, resulting in a total of \$17,778.60. A copy of TGF's accounts, together with a summary of the accounts, the total billable hours charged per account, and the average hourly rate charged per account, is set out in the Affidavit of Rudrakshi Chakrabarti sworn on November 7, 2024 and attached as **Appendix "I"** to this report.
30. The accounts of the Receiver's real estate and construction lien counsel, Fogler, Rubinoff LLP ("**Fogler**"), for the period from August 1, 2023 to November 7, 2024, totals \$55,341.76 in fees and disbursements, plus HST of \$7,194.44 for a total amount of \$62,536.20. A copy of Fogler's accounts, together with a summary of the total billable hours charged and the average hourly rate charged, is set out in the Affidavit of Joseph Fried sworn on November 7, 2024 and attached as **Appendix "J"** to this report.
31. TDB, TGF and Fogler have advised that their fees, including their existing accrued and unpaid fees (with disbursements and HST) in the receivership estate, will, in the aggregate, exceed the Excess amount available at the completion of these proceedings.

## **8.0 DISCHARGE OF THE RECEIVER**

32. As of the date of the Second Report, the Receiver's remaining duties (the "**Remaining Duties**") include the following:

- (a) preparing the Interim and Final Statements of the Receiver pursuant to sections 246(2) and 246(3) of the BIA;
  - (b) filing HST returns in respect of the Receiver's administration, as required;
  - (c) payment of all outstanding fees to the Receiver, TGF and Fogler; and
  - (d) attending to other administrative matters if necessary.
33. As the Receiver's administration is substantially complete, the Receiver is seeking the Discharge Order upon the filing by the Receiver of a certificate confirming the Receiver has completed the Remaining Duties, with the provision that TDB may perform such incidental duties as may be required to complete its obligations pursuant to its appointment as Receiver.

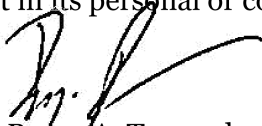
## **9.0 RECEIVER'S REQUEST OF THE COURT**

34. Based on the foregoing, the Receiver respectfully requests that the Court grant the Discharge Order.

All of which is respectfully submitted to this Court as of this 11<sup>th</sup> day of November, 2024.

**TDB RESTRUCTURING LIMITED**, solely in its capacity as Receiver and Manager of Stateview Homes (Hampton Heights) Inc. and not in its personal or corporate capacity

Per:



Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT  
Managing Director

# **APPENDIX “A”**



Court File No. CV-23-00700356-00CL

**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

)

THURSDAY, THE 15<sup>TH</sup>

)

JUSTICE ROBERT CENTA

)

DAY OF JUNE, 2023

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

**FIRM CAPITAL MORTGAGE FUND INC.**

Applicant

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Respondent

**ORDER  
(Appointing Receiver)**

**THIS APPLICATION** made by Firm Capital Mortgage Fund Inc. (the “**Applicant**”) for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), appointing RSM Canada Limited (“**RSM**”) as receiver and manager (in such capacities, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Stateview Homes (Hampton Heights) Inc. (the “**Debtor**”), was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

**ON READING** the Affidavit of Jonathan Mair sworn June 1, 2023 and the Exhibits thereto, the Pre-Filing Report of RSM dated June 2, 2023 (the “**Pre-Filing Report**”) and on hearing the submissions of counsel for the Applicant, and such other parties listed on the counsel slip, no one else appearing although duly served as it appears from the Affidavit of Service of Puya Fesharaki sworn June 6, 2023, filed, and on reading the Consent of RSM to act as the Receiver,

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated such that this Application is properly returnable today, hereby dispenses with further service thereof, and authorizes substitute service via electronic mail.

### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, RSM is hereby appointed Receiver, without security, of all of the assets, undertaking, and property of the Debtor, acquired for, or used in relation to the business carried on by the Debtor, and all proceeds thereof (collectively, the “**Property**”) including, but not limited to the real estate development known as “Hampton Heights”, and the lands and premises municipally known as 39 Auburn Court, Barrie, Ontario and 2, 4, 6, and 8 Teck Road, Barrie, Ontario, all as more specifically described in Schedule “A” hereto (the “**Real Property**”). Without limiting the foregoing, Property shall include any cash collateral and letters of credit or similar instruments posted by the Debtor with any third party, including any municipality or utility body.

## RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, changing the locks and security codes, relocating of Property to safeguard it, engaging independent security personnel, taking of physical inventories and placement of such insurance coverage as may be necessary or desirable;
- (c) enter into any agreements, to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to pay such protective disbursements as may be deemed necessary to preserve and protect the Property pending any sale or disposition of same;



- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$300,000; and

(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

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;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens, encumbrances or other instruments affecting such Property, other than such permitted encumbrances as may be acceptable to the purchaser or rights that run with the land;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;

- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;
- (r) to create and manage any data room containing such documents and information as may be necessary or desirable to market the Property or the business of the Debtor;  
and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **RECEIVER'S LEGAL COUNSEL**

4. **THIS COURT ORDERS** that the Receiver is authorized but not required to retain the same law firms to act as legal counsel as the Applicant, to represent and advise the Receiver in connection with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order, in any matter where there is no conflict arising from that firm's existing and ongoing role as counsel for the Applicant. In respect of any issue where a conflict may exist or arise in respect of the Applicant and the Receiver or a third party, the Receiver shall utilize independent counsel.

## **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

5. **THIS COURT ORDERS** that (i) the Debtor, (ii) 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 (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver’s request.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the Property or the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service

provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, including, without limitation, certification, licenses and permits, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE RECEIVER**

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

### **CONTINUATION OF SERVICES**

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, contractors, equipment suppliers, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or

services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**"). The monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, and after payment of all amounts owing to the Applicant, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental**



**Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER’S LIABILITY**

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER’S ACCOUNTS**

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver’s Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings. The Receiver’s Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, save and except that it shall be subordinate to the Charge/Mortgage of Land registered on title to the Real Property in favour of the Applicant, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when, and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow from the Applicant such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to: (i) the existing Charge in favour of the Applicant; (ii) the Receiver’s Charge; and (iii) the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA, if applicable. Advances by the Applicant to the Receiver hereunder shall be, and are hereby deemed to be, advances made by the Applicant under the existing Charge granted by the Debtor in favour

of the Applicant, and shall form part of the indebtedness secured by the existing Charge in favour of the Applicant, but for greater certainty, in all cases in priority to every other Person having, or claiming, any interest in the Property.

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "B" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the Guide Concerning Commercial List E-Service (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further

orders that a Case Website shall be established in accordance with the Protocol with the following URL: <http://www.rsmcanada.com/stateview-homes-hampton-heights>.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by email, ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

27. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

29. **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.

30. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

31. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate through borrowings obtained by the Receiver in accordance with this Order.

32. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

33. **THIS COURT ORDERS** that the Receiver, its counsel and counsel for the Applicant may serve or distribute this Order, or any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the creditors or any other stakeholders or other interested parties of the Debtor and its advisors (if any). For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within


the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

### REGISTRATION ON TITLE

34. **THIS COURT ORDERS AND DIRECTS** that, as soon as practicable, the Land Registry Office for the Land Titles Division of Simcoe (No. 51) accept this Order for registration on title to the Real Property described in Schedule “A” hereto.

35. **THIS COURT ORDERS** that this order is effective from the date that it is made and is enforceable without any need for entry and filing.

Robert  
Centa

 Digitally signed by  
Robert Centa  
Date: 2023.06.15  
11:46:48 -04'00'

---

## **SCHEDULE "A"**

### **DESCRIPTION OF REAL PROPERTY**

**PIN58763-1780 (LT):** PART LOT 3 CON 14 INNISFIL, PART 6 ON 51R42642; CITY OF BARRIE

**PIN58763-1783 (LT):** PART BLOCK 174 PLAN 51M867 PART 5 ON PLAN 51R42642; CITY OF BARRIE

**PIN58763-1788 (LT):** BLOCK 1, PLAN 51M1229; SUBJECT TO AN EASEMENT AS IN SC1843162; CITY OF BARRIE

**PIN58763-1789 (LT):** BLOCK 2, PLAN 51M1229; SUBJECT TO AN EASEMENT AS IN SC1843162; CITY OF BARRIE

**PIN58763-1790 (LT):** BLOCK 3, PLAN 51M1229; SUBJECT TO AN EASEMENT AS IN SC1843162; CITY OF BARRIE

**PIN58763-1791 (LT):** BLOCK 4, PLAN 51M1229; SUBJECT TO AN EASEMENT AS IN SC1843162; CITY OF BARRIE

## SCHEDULE "B"

### RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that RSM Canada Limited., the receiver and manager (the "Receiver") of the assets, undertakings and properties of Stateview Homes (Hampton Heights) Inc. (the "Debtor"), acquired for, or used in relation to a business carried on by the Debtor (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated June 15, 2023 (the "Order") made in an application having Court File No. CV-23-00700356-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$►, being part of the total principal sum of \$► which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.



4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**RSM Canada Limited, solely in its capacity as  
Receiver of the Property, and not in its personal  
capacity**

Per:

\_\_\_\_\_

Name:

Title:

*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*

**Court File No./N° du dossier du greffe : CV-23-00700356-00CL**

**FIRM CAPITAL MORTGAGE FUND INC.**

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Applicant

Respondent

Court File No. CV-23-00700356-00CL

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

Proceedings commenced at Toronto, Ontario

**ORDER  
(Appointing Receiver)**

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**Puya Fesharaki** (LSO# 70588L)

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Tel: (416) 304-7979

Lawyers for the Applicant,  
Firm Capital Mortgage Fund Inc.

# **APPENDIX “B”**



Court File No. CV-23-00700356-00CL

**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 ) FRIDAY, THE 18<sup>TH</sup>  
)  
JUSTICE CONWAY ) DAY OF AUGUST, 2023

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

**FIRM CAPITAL MORTGAGE FUND INC.**

Applicant

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Respondent

**Order  
(Ancillary Relief)**

**THIS MOTION**, made by RSM Canada Limited in its capacity as Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of Stateview Homes (Hampton Heights) Inc. (the “**Debtor**”) for an order among other things: (i) approving the First Report of the Receiver dated August 8, 2023 and the Supplemental Report dated August 17, 2023 (collectively, the “**First Report**”) and the Receiver’s activities set out therein; (ii) authorizing the Receiver to terminate the Existing Purchase Agreements; (iii) approving the Receiver’s cash receipts and disbursements for the period June 15, 2023 to July 31, 2023; (iv) approving the fees and disbursements of the Receiver and the Receiver’s independent legal counsel through July 31, 2023; and (v) approving the proposed distribution of the sale proceeds (the “**Proceeds**”) of the sale transaction contemplated by an agreement of purchase and sale between the Receiver and Brookshore Homes (Barrie) Limited, dated July 27, 2023 (the “**Transaction**”) and appended to the First Report, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

**ON READING** the First 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 Affidavit of Service of Puya Fesharaki sworn August 17, 2023, filed:

## **DEFINITIONS**

1. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings ascribed thereto in the First Report.

## **SERVICE**

2. **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.

## **ACTIVITIES AND FEE APPROVALS**

3. **THIS COURT ORDERS** that the First 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.

4. **THIS COURT ORDERS** that the Receiver's statement of cash receipts and disbursements for the period June 15, 2023 to July 31, 2023 attached as Appendix "K" to the First Report, is hereby approved.

5. **THIS COURT ORDERS** that the professional fees and disbursements of the Receiver for the period June 15, 2023 to July 31, 2023 in the amount of \$93,296.63 plus HST of \$12,128.56, for a total of \$105,425.20, as set out in the Affidavit of Bryan A. Tannenbaum sworn August 8, 2023 and attached as Appendix "L" to the First Report, are hereby approved.

6. **THIS COURT ORDERS** that the professional fees and disbursements of the Receiver's independent counsel, Loopstra Nixon LLP, for the period June 15, 2023 to July 31, 2023 in the amount of \$4,294 plus HST of \$558.22, for a total of \$4,852.22, as set out in the Affidavit of

Matthew Himmel affirmed August 8, 2023 and attached as Appendix “M” to the First Report, are hereby approved.

### **TERMINATION OF EXISTING PURCHASE AGREEMENTS**

7. **THIS COURT ORDERS** that the Receiver be, and is hereby authorized, to terminate each of the Existing Purchase Agreements on closing of the Transaction, and declares that the Existing Purchase Agreements and any rights of the purchasers under the Existing Purchase Agreements do not constitute continuing obligations against the Property or the Purchaser.

### **DISTRIBUTIONS**

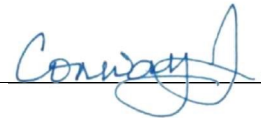
8. **THIS COURT ORDERS** that Receiver is hereby authorized and directed to distribute the Proceeds as follows:

- (a) first – to repay to the Applicant all amounts owing pursuant to the First Mortgage including the advance made by the Applicant to the Receiver in the principal amount of \$60,000 plus interest secured by the First Mortgage in accordance with the Appointment Order of this Court dated June 15, 2023;
- (b) second – to pay all outstanding amounts secured by the Receiver’s Charge (as defined in the Appointment Order);
- (c) third – to hold \$200,000 in trust in the Receiver’s Post-Receivership Account pending resolution or determination of the entitlement of any lien claimants, or further Order of the Court (the “**Funds in Trust**”); and
- (d) fourth – as it relates to any Balance, to the second mortgagee, subject to reserving for the future fees and disbursements of the Receiver and its counsel pending the completion of all Remaining Duties and obtaining its discharge. If the aggregate funds held by the Receiver (not including the Funds in Trust) is at any time less than \$25,000, the Receiver may make a motion to the Court to seek its immediate discharge and any funds will be dealt with in accordance with such further Order of this Court.

## 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.



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*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*

**FIRM CAPITAL MORTGAGE FUND INC.**

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Applicant

Respondent

Court File No. CV-23-00700356-00CL

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

Proceedings commenced at Toronto, Ontario

**ORDER  
(Ancillary Relief)**

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Lawyers for the Applicant and the Court-appointed  
Receiver, RSM Canada Limited

# **APPENDIX “C”**

Court File No. CV-23-00700356-00CL

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

B E T W E E N :

**FIRM CAPITAL MORTGAGE FUND INC.**

Applicant

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Respondent

**FIRST REPORT OF THE RECEIVER**

**August 8, 2023**

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## INTRODUCTION

1. Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) made on June 15, 2023 (the “**Appointment Order**”), RSM Canada Limited (“**RSM**”) was appointed receiver and manager (the “**Receiver**”) of all of the assets, undertakings and properties (collectively, the “**Property**”) of Stateview Homes (Hampton Heights) Inc. (“**Hampton Heights**” or the “**Debtor**”) including certain Real Property and the Project (each as defined below). A copy of the Appointment Order is attached hereto as **Appendix “A”**.
2. The Appointment Order authorizes the Receiver to, *inter alia*:
  - (a) take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
  - (b) receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes and the placement of such insurance coverage as may be necessary or desirable;
  - (c) market the Property, including advertising and soliciting offers in respect of the Property and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate; and
  - (d) sell, convey, transfer, lease or assign the Property with the approval of this Court.
3. Also on June 15, 2023, the Court granted an order (the “**Sale Process Approval Order**”) in which the Receiver’s proposed sale process was approved. Salient terms of the Receiver’s sale process were, among other things:
  - (a) The Receiver was to market the Property directly;
  - (b) The Bid Deadline (as defined in the Receiver’s Pre-Filing Report) was July 17, 2023; and

- (c) The Receiver may: (i) negotiate with bidders, (ii) request or agree to changes in any offer, or (iii) request from some or all of the bidders that they submit revised offers reflecting improved terms.

A copy of the Sale Process Approval Order is attached as **Appendix “B”** to this report.

- 4. The Appointment Order, the Sale Process Approval Order, and other pertinent documents have been posted on the Receiver’s website, which can be found at: <http://www.rsmcanada.com/stateview-homes-hampton-heights>.

## **PURPOSE OF REPORT**

- 5. The purpose of this report (the “**First Report**”) is to:
  - (a) report to the Court on the activities of the Receiver from the date of its appointment to July 31, 2023;
  - (b) provide background information about the Real Property and the Project (each capitalized term as defined below);
  - (c) provide to the Court details of the Receiver’s marketing activities in accordance with the Sale Process Approval Order, which led to the execution of the APS (as defined below), subject to Court approval;
  - (d) provide the Court with a summary of the Receiver’s cash receipts and disbursements for the period June 15, 2023 to July 31, 2023 (the “**R&D**”); and
  - (e) seek Orders from the Court:
    - (i) approving this First Report and the activities of the Receiver set out herein;
    - (ii) authorizing and directing the Receiver to enter into and carry out the terms of the APS, together with any further amendments thereto deemed necessary by the Receiver in its sole opinion, and vesting title to the Assets

(as defined in the APS) in the Purchaser (as defined below) upon the closing of the purchase and sale transaction contemplated in the APS;

- (iii) authorizing the Receiver to terminate the Existing Purchase Agreements that had been entered into by the Debtor with individual purchasers in respect of the Project (each as defined below);
- (iv) sealing Confidential Appendices 1, 2 and 3 to the First Report;
- (v) approving the R&D (as defined below);
- (vi) approving the fees and disbursements of the Receiver and of the Receiver's independent counsel through to July 31, 2023 (or to June 30, 2023 in respect of certain legal fees);
- (vii) approving the Distribution of Proceeds (as defined below) to the first mortgagee Applicant in accordance with the terms of the Appointment Order; and
- (viii) authorizing the Receiver to hold the balance of funds in the Post-Receivership Accounts, after payment of the Distribution of Proceeds, pending further order of the Court.

## **TERMS OF REFERENCE**

6. In preparing this First Report and making the comments herein, the Receiver has relied upon information from third-party sources (collectively, the “**Information**”). Certain of the information contained in this First Report may refer to, or is based on, the Information. As the Information has been provided by other parties or obtained from documents filed with the Court in this matter, the Receiver has relied on the Information and, to the extent possible, reviewed the Information for reasonableness. However, the Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.

7. Unless otherwise stated, all monetary amounts contained in the First Report are expressed in Canadian Dollars.

## **BACKGROUND**

8. The Debtor was incorporated pursuant to the laws of the Province of Ontario on May 10, 2021, and its current registered office address is at 410 Chrislea Road, Suite 16, Woodbridge, Ontario, L4L 8B5. The Receiver understands that the Debtor is a single-purpose entity within the Stateview group of companies, in respect of the Barrie construction project known as Hampton Heights.
9. Pursuant to a Mortgage Loan Commitment dated November 11, 2022 as amended by Amendment to the Mortgage Loan Commitment #1 dated December 7, 2022 (collectively, the “**Commitment Letter**”), the Applicant Firm Capital Mortgage Fund Inc. (“**Firm**”) made available to the Debtor a \$11,400,000 mortgage site servicing and construction loan (the “**Loan**”). The Loan had been partially advanced to the Debtor at the time of the Appointment Order.
10. As at May 5, 2023, the Debtor was indebted to Firm under the Loan in the amount of \$6,434,805.80 (which includes principal, accrued interest to May 5, 2023, costs and other amounts payable in accordance with the terms of the Loan), together with accruing interest thereon from May 5, 2023 and all costs and fees, including legal fees and disbursements, incurred by the Lender until the indebtedness is paid in full.
11. The Debtor is the registered owner of real property municipally known as 2, 4, 6, and 8 Teck Road and 39 Auburn Court in Barrie, Ontario. A legal description of the Real Property is set out on Schedule “A” to the Appointment Order (the “**Real Property**”).
12. The Real Property was intended for the construction of a residential single-family development project (the “**Project**”). The Project consists of 18 single detached houses, ranging from 1,962 square feet to 2,498 square feet. Each of the 18 homes has been pre-sold to individual purchasers pursuant to purchase agreements executed by the Debtor and the individual purchasers (the “**Existing Purchase Agreements**”).



13. The Project is at an early stage of development. The land has been cleared, services are generally complete, concrete foundations have been set and the framing of the homes has commenced. The houses, in their current state, are exposed to the elements and require substantial work to enclose them and protect them from the elements. Framing of the houses has not been completed.
14. Construction at the Project site completely ceased in early May 2023 and several subcontractors have registered construction liens against the Project, all as more fully described herein.

## **THE RECEIVER'S ACTIVITIES**

### ***Possession and Security***

15. Subsequent to its appointment, the Receiver attended at the Real Property to secure the premises and take possession.
16. The Debtor provided the Receiver with keys to access the fenced-in site, as well as the site trailer and storage bins located at the Real Property.
17. The Receiver arranged for the locks securing the perimeter fence to be changed upon its appointment.
18. The Receiver identified several security surveillance cameras throughout the Real Property, which appeared to be centrally monitored by Stealth Monitoring (“**Stealth**”). The Receiver made arrangements with Stealth to continue the monitoring services for the Real Property on a 24-hour basis.

### ***Insurance***

19. Upon its appointment, the Receiver contacted the Debtor's insurance broker to: (i) notify it of the receivership, (ii) enquire if the Debtor's insurance was in effect, and (iii) confirm that the insurer would continue the existing coverage and add the Receiver as a named insured to the policy.

20. The broker informed the Receiver that the Debtor's existing property and liability coverage was still in force, though it would be up for renewal on July 15, 2023. The Receiver arranged to be added as named insured and loss payee to the Debtor's existing policy, pending renewal.
21. On July 15, 2023, the incumbent broker provided the Receiver with the terms of renewal for the existing coverage. In view of the various new risks and the cessation of construction on site as outlined in the Receiver's Pre-Filing Report, the insurance premiums upon renewal were significantly higher than the premiums paid by the Debtor in the past. Given the amount of the premiums, the Receiver arranged with the incumbent broker a short-term extension of the current policy to obtain another quote.
22. On July 20, 2023, the Receiver secured alternative property and liability coverage with another broker and advised the incumbent broker that the Receiver would not be renewing the Debtor's policy. The insurance obtained by the Receiver is set to expire on or about October 15, 2023.

### ***Books and Records***

23. Upon its appointment, the Receiver contacted the Debtor to request information and documentation regarding the Property and the Debtor. The Debtor subsequently provided the Receiver with access to an online cloud storage folder containing information and documentation relating to the Real Property and the Project.

### ***Statutory Notices***

24. On June 22, 2023, the Receiver prepared the Notice and Statement of Receiver pursuant to Section 245(1) of the *Bankruptcy and Insolvency Act* (the "**245 Notice**") to the known creditors of Hampton Heights provided by the Debtor and to those identified through a title search of the Property and a Personal Property Security Registration System search. A copy of the 245 Notice is attached hereto as **Appendix "C"**.

***Repairs & Maintenance***

25. Shortly after the appointment of the Receiver took effect, the Debtor forwarded a copy of a notice of default (the “**Notice of Default**”) from the City of Barrie (the “**City**”) dated June 15, 2023 relating to various deficiencies at the Property. A copy of the Notice of Default is attached as **Appendix “D”** to this report.
26. The Receiver contacted the City to advise them of the Receiver’s appointment and request further details regarding the scope of work required to rectify the outstanding issues. The City responded and advised that a scope of work had not yet been confirmed, and that City representatives were scheduled to attend on site at the Property on June 21, 2023 to meet with the project engineer and prepare a list of deficiencies.
27. On June 21, 2023, representatives of the Receiver met with representatives of the City and the project engineer on site, and the following scope of work was identified (collectively, the “**Scope of Work**”):
  - (a) Restore backyard of 358 Ardagh Road with topsoil seed and sod in trench areas. Remove rocks and regrade, as necessary. Cut sanitary cleanout flush to final grade;
  - (b) Restore silt fence along north and east boundaries (on low side of site);
  - (c) Remove cold patch and place temporary hot mix asphalt sidewalk;
  - (d) Fill hole in boulevard with topsoil;
  - (e) Replace silt sack / fabric in all existing catch basins; and
  - (f) Pull back fill material to relieve any pressure on silt fence. Grade a small swale at toe of slope to direct any runoff from the fill slope westerly to the backyard of Unit 8. Inspect silt fence and replace if necessary.
28. Upon receipt of the Scope of Work, the Receiver informed the City that the Sale Process was underway and that the Receiver would prefer to have the eventual purchaser of the

Project address the Scope of Work after the successful completion of a sale transaction. The City advised the Receiver that it would not wait any longer for the Scope of Work to be addressed, and if the Receiver failed to complete the requisite repairs in a timely manner, then the City would proceed with the repairs directly and pay for the work from the Cash Security (as defined below) that had previously been provided by the Debtor.

29. In view of the foregoing, the Receiver obtained two quotes to complete the Scope of Work, and ultimately engaged Pronto General Contractors to complete the repairs. All the items listed in the Scope of Work have now been completed to the City's satisfaction.

### *Deposits*

30. The Debtor forwarded to the Receiver a copy of an email from a representative of the City dated April 25, 2023 confirming that the City was holding the following cash security totaling \$488,200.12 with respect to the Project (the "**Cash Security**"):
- (a) \$445,271.81 – Approvals/engineers security;
  - (b) \$32,928.31 – Parks planning security; and
  - (c) \$10,000.00 – Housekeeping deposit
31. The Debtor also provided the Receiver with copies of cheques payable to Alectra Utilities Corp ("**Alectra**") totaling \$72,500.56 which were intended to be used as security for the electrical service infrastructure. However, the Receiver was further advised by the Debtor that these cheques were never cashed, and Alectra is currently not in possession of any cash or other security relating to the Project.

### **MORTGAGES AND CONSTRUCTION LIENS**

32. Attached hereto as **Appendix "E"** is a copy of the parcel registers for the Real Property as of August 8, 2023, which show two (2) mortgages and various construction liens registered against title. These mortgages and construction liens are discussed in further detail below.

### ***Firm Mortgage***

33. Firm provided construction financing to the Debtor with respect to the Project. On December 16, 2022, Firm registered a mortgage against the Real Property in the principal amount of \$11.4 million (the “**First Mortgage**”), a copy of which was attached as Exhibit "B" to the initial Application Record.
34. The Receiver has received from Firm a mortgage payout statement current to July 31, 2023 (the “**Discharge Statement**”). Pursuant to the Discharge Statement, the amount owing by the Debtor to Firm and required to discharge the First Mortgage was \$6,659,183.51 as of July 31, 2023, inclusive of principal, interest and fees (to June 30, 2023 in the case of certain legal fees), and the \$60,000 advance, plus interest, which was advanced to the Receiver pursuant to the terms of the Appointment Order. Interest will continue to accrue, and legal fees will continue to be incurred, to the date of closing of the APS until payment of amounts secured by the First Mortgage has been paid to Firm. A copy of the Discharge Statement is attached hereto as **Appendix “F”**.
35. The Receiver has received an opinion from Loopstra Nixon LLP, its independent legal counsel that, subject to the usual assumptions and qualifications, the First Mortgage and personal property security held by Firm is valid and enforceable, properly perfected in the case of the General Security Agreement, and has first registered priority in each case.

### ***MCO Mortgage***

36. On December 16, 2022, MCO Management Inc. (“**MCO**”) and Tony Karamitsos registered a mortgage against the Property in the principal amount of \$3,000,000. A copy of MCO’s mortgage is attached hereto as **Appendix “G”**.
37. Given that there will be additional funds available for distribution after the proposed Distribution of Proceeds against which the lien claimants and subsequent mortgagee can assert their claims, the Receiver will obtain a legal opinion on the validity and enforceability of MCO’s mortgage.

**Construction Liens**

38. The following parties (collectively, the “**Lien Claimants**”) have registered construction liens (collectively, the “**Construction Liens**”) against the Real Property with respect to goods and/or services supplied in connection with the Project:

- (a) 1890292 Ontario Inc.;
- (b) Pro Star Excavating & Grading Ltd.;
- (c) Tamarack Lumber Inc.;
- (d) Sunbelt Rentals of Canada Inc.;
- (e) Woodbridge Stoneslinger (1994) Limited; and
- (f) Stardrain & Concrete Inc.

A summary of the Construction Liens filed by the Lien Claimants, along with copies of the construction liens, are collectively attached hereto as **Appendix “H”**.

**PROPERTY TAXES**

39. The Receiver obtained statements of account for the property taxes relating to the Property (the “**Property Tax Statements**”). There are five (5) property tax roll numbers associated with the Property:

<b>Roll No.</b>	<b>Municipal Address</b>
4342- 040- 017- 32326- 0000	2 Teck Rd.
4342- 040- 017- 32328- 0000	4 Teck Rd.
4342- 040- 017- 32330- 0000	6 Teck Rd.
4342- 040- 017- 32740- 0000	8 Teck Rd.

4342- 040- 017- 32738- 0000	39 Auburn Court
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Copies of the Property Tax Statements dated June 19, 2023 are collectively attached hereto as **Appendix “T”**. As set out on the statements, the tax accounts were current at the time of the Receiver’s appointment.

40. Any amounts owing in respect of property taxes will be paid from the proceeds of sale and adjusted upon closing of the transaction.

## **SALE PROCESS**

### *Marketing*

41. Pursuant to the Appointment Order and the Sale Process Approval Order, the Receiver commenced the Sale Process on June 16, 2023, immediately following its appointment on June 15, 2023. The Receiver completed the following activities with respect to the Sale Process:
  - (a) compiled a list of prospective purchasers, which included approximately 1,100 industry contacts and influencers (the “**Mailing List**”);
  - (b) prepared (i) a teaser letter (the “**Teaser Letter**”), a form of confidentiality agreement (“**CA**”), a confidential information memorandum (“**CIM**”), and a template agreement of purchase and sale;
  - (c) contacted the Mailing List by email, enclosing a copy of the Teaser Letter, on June 16, 2023 and again on July 5, 2023;
  - (d) launched an online data room, which provided prospective purchasers with access to information relating to the Real Property and the Sale Process (the “**Data Room**”);

(e) placed advertisements in: (i) the *Globe and Mail* (National Edition) on June 21 and June 28, 2023, (ii) *Novae Res Urbis* (GTHA Edition) on June 21 and June 28, 2023, and (iii) *Novae Res Urbis* (Toronto Edition) on June 23 and June 30, 2023.

42. The bid submission deadline was July 17, 2023 at 12:00 noon (the "**Bid Deadline**").

43. In response to the Receiver's marketing efforts, the Receiver received thirty-five (35) executed CAs. All of the prospective purchasers who executed a CA received access to the Data Room.

### ***Offers Received***

44. As of the Bid Deadline, five (5) offers were submitted to the Receiver. The Receiver has prepared a summary of the offers (the "**Offer Summary**"), in respect of which the Receiver shall request a sealing order, which Offer Summary shall be filed confidentially with the Court and marked as **Confidential Appendix 1**.

45. The Receiver reviewed the offers received. In an effort to maximize the value received for the Property for the benefit of all stakeholders, the Receiver decided to extend the bid deadline to July 25, 2023 at 5:00 p.m. (the "**Extended Bid Deadline**") to allow all interested parties to submit or resubmit their highest and best offer for the Property.

46. As of the Extended Bid Deadline, a total of seven (7) offers were submitted to the Receiver. The Receiver has prepared a summary of the second round offers (the "**Second Round Offer Summary**"), in respect of which the Receiver shall request a sealing order, which Second Round Offer Summary shall be filed confidentially with the Court and marked as **Confidential Appendix 2**.

47. On July 27, 2023, the Receiver entered into an agreement of purchase and sale (the "**APS**") with Brookshore Homes (Barrie) Limited (the "**Purchaser**"), which APS remains subject to Court approval. The Receiver understands that the Purchaser is a privately owned residential development company located in Maple, Ontario. A redacted copy of the APS, redacting the financial terms, is attached hereto as **Appendix "J"**. An unredacted copy of



the APS, in respect of which the Receiver requests a sealing order, shall be filed confidentially with the Court and marked as **Confidential Appendix 3**.

**APS**

48. Salient terms of the APS are as follows:

- (a) **Purchase Price**: as set out in Confidential Appendix 3;
- (b) **Purchased Assets**: includes the Real Property, as well as the Cash Security;
- (c) **Closing**: seven (7) business days following the granting of the approval and vesting order, provided if such date is earlier than September 4, 2023 then the Purchaser shall have a right to extend the Closing Date by an additional five (5) Business Days.
- (d) **Representations and Warranties**: “as is, where is” transaction with limited representations and warranties;
- (e) **Material Conditions**: (i) issuance of an approval and vesting order, and (ii) termination of the Existing Purchase Agreements for the individual lots; and
- (f) **Final Adjustments**: In accordance with the APS and as is typical in similar transactions, there is a Final Adjustment to be undertaken by the Receiver and the Purchaser ninety (90) days following the Closing Date.

49. The APS includes a condition that the Existing Purchase Agreements be terminated. Of the seven offers that the Receiver received for the Real Property, five (5) expressly stipulated that the Existing Purchase Agreements would not be assumed by the offerors upon the closing of a sale transaction, and the other two (2) did not specifically address the Existing Purchase Agreements in their offer but were below the purchase price offered by the Purchaser and other bidders as reflected in the Confidential Appendices filed with the Court.

50. Based on the terms of the offers, as well as feedback that the Receiver obtained from bidders during the Sale Process, it appears that there is no prospect of finding a purchaser for the Real Property that would be willing to assume the Existing Purchase Agreements, while at the same time providing for a purchase price that would satisfy (at least) amounts owing to the Applicant, so as to permit any sale of the Project to be undertaken by the Receiver which includes a discharge of the First Mortgage, in accordance with the terms of the Appointment Order.
51. In view of the foregoing, the Receiver respectfully requests that the Court issue an Order authorizing the Receiver's termination of the Existing Purchase Agreements.
52. Should the Court make an Order authorizing the termination of the Existing Purchase Agreements, the Receiver will work with Tarion to establish a claims protocol to facilitate the deposit claims process for existing purchasers under the Existing Purchase Agreements.
53. With respect to the Construction Liens, in the event that the Court approves the sale transaction contemplated by the APS, the Receiver will request that the Court grant an order directing the Receiver to hold the balance of Proceeds in trust pending further order of the Court or agreement amongst the Lien Claimants and any other creditors, subject to a reserve being held for amounts to be incurred by the Receiver and its counsel in completing the Remaining Duties.

#### ***Approval of the Sale Transaction***

54. The marketing process that the Receiver undertook was extensive and appropriate for the type of property in question and provided sufficient market exposure for the Real Property, all as contemplated in the Receiver's pre-filing report and as approved by the Court pursuant to the Sale Process Approval Order. In particular:
  - (a) the Real Property was formally exposed to the market by the Receiver since June 16, 2023 and industry players have been aware of the issues facing the Stateview group of companies well before that time due to other receivership proceedings having been commenced in respect of the Stateview group's real estate development projects;

- (b) prior to the appointment of the Receiver and commencement of its sale process, the Applicant had issued a Notice of Sale under Mortgage which provided further notice of the default existing in respect of the Hampton Heights project to those with a registered interest or a right to redeem the First Mortgage, a copy of which was previously attached as Exhibit “K” to the Application Record;
  - (c) in addition to general advertising, direct notice of the sale of the Real Property was sent to more than 1,100 industry contacts (i.e., developers, financiers, etc.); and
  - (d) because of the marketing efforts undertaken, thirty-five (35) parties executed a CA, and seven (7) offers were received.
55. The Receiver is of the view that: (i) sufficient efforts were made to maximize recoveries, (ii) the length of the marketing process was appropriate in the circumstances, with documentation having been prepared in advance so as to not lose any time during the process, (iii) the marketing process was robust and conducted fairly, (iv) the best available outcome was achieved under the circumstances, and (v) the Sale Process was conducted pursuant to the Sale Process Approval Order.
56. The Receiver regards the APS as the most advantageous offer to the creditors and other stakeholders of the Debtor.
57. The Receiver understands that time is of the essence, as the existing structures on the Property cannot be exposed to the elements for winter season without completing various ‘winterization’ tasks; prolonged exposure would cause further harm to the already vulnerable structures, thereby further degrading and devaluing the Property to the detriment of the stakeholders.
58. The Receiver therefore recommends that this Court approve the APS and authorize the Receiver to carry out the terms of the APS and grant an Order vesting title in the Property in the Purchaser upon the closing of the transaction.

## **TERMINATION OF EXISTING PURCHASE AGREEMENTS**

59. As set out above, it is a condition of the APS that an Order be issued authorizing the Receiver to terminate the Existing Purchase Agreements.
60. Accordingly, termination of the Existing Purchase Agreements is necessary to facilitate the sale of the Project.
61. The Receiver notes that the Existing Purchase Agreements contain, at paragraph 43 thereof, a specific subordination and postponement in favour of any construction financing arranged by the Debtor, whereby the purchaser's rights are subordinated to the rights of the Applicant under the First Mortgage.

## **DISTRIBUTION**

62. The Receiver's appointment pursuant to the Appointment Order was made subject to the First Mortgage in favour of the Applicant, including as it relates to any borrowings and any proceeds of sale that may be paid to the Receiver and held in the Post-Receivership Accounts (as defined in the Appointment Order). Accordingly, pursuant to the Approval and Vesting Order that is sought, the Receiver intends to use the sale proceeds on closing of the transaction as follows (collectively, the "**Distribution of Proceeds**"):
  - (a) first, to repay Firm for amounts outstanding (including principal and interest) that are secured by the Receiver's Borrowing Charge (as defined in the Appointment Order), being \$60,000 plus accrued interest;
  - (b) second, to repay Firm all amounts owing by the Debtor to Firm pursuant to the First Mortgage;
  - (c) third, to pay all amounts outstanding that are secured by the Receiver's Charge (as defined in the Appointment Order); and
  - (d) fourth, to pay the balance (subject to holding back an amount deemed sufficient by the Receiver to secure the future fees and disbursements of the Receiver and its counsel pending the completion of all Remaining Duties and obtaining its

discharge) (the “**Balance**”) to the Receiver, to be held in trust pending determination of the entitlement of creditors (including the second mortgagee and Construction Lien claimants) prior to any distributions being made from the Balance.

The Receiver has requested a legal opinion confirming the validity, enforceability and priority of the MCO mortgage and will work with the Construction Lien claimants and any other party claiming an interest to determine, or seek a determination of their respective entitlements, as necessary.

### **RECEIVER’S INTERIM STATEMENT OF RECEIPTS AND DISBURSEMENTS**

63. Attached hereto as **Appendix “K”** is the R&D for the period June 15, 2023 to July 31, 2023. During this period, total receipts were \$60,000, being advances from Firm pursuant to the terms of the Appointment Order, and disbursements were \$22,535, resulting in an excess of receipts over disbursements of \$37,465. The deposit received from the Purchaser in respect of the APS is not included in the R&D, as public disclosure of the information contained therein could have a detrimental effect on the ability of the Receiver to complete a sale of the Real Property to another party in the event the sale to the Purchaser does not close or is not approved by the Court.

### **PROFESSIONAL FEES**

64. The Receiver’s accounts total (i) \$93,296.63 in fees and disbursements, plus HST of \$12,128.56 for a total amount of \$105,425.20 for the period May 16, 2023 to July 31, 2023 (the “**Receiver’s Accounts**”). Copies of the Receiver’s Accounts, together with a summary of the accounts, the total billable hours charged per the accounts, and the average hourly rate charged per the accounts, supported by the Affidavit of Bryan A. Tannenbaum sworn August 8, 2023, are attached hereto as **Appendix “L”**.
65. The accounts of the Receiver’s independent counsel, Loopstra Nixon LLP, total \$4,000.00 in fees, \$294.00 in disbursements and \$558.22 in HST for a total of \$4,852.22 for the period June 15, 2023 to July 31, 2023 (the “**Loopstra Nixon Accounts**”) in reviewing the relevant security and providing legal opinions as to the validity, enforceability and priority of the

First Mortgage. Copies of the Loopstra Nixon Accounts, together with a summary of the personnel, hours and hourly rates described in the Loopstra Nixon Accounts, supported by the Affidavit of Matthew Himmel sworn August 8, 2023, are attached hereto as **Appendix “M”**.

66. In accordance with the Appointment Order the Receiver was permitted to utilize the same firm as counsel to the Applicant in any matter where a conflict or potential conflict did not exist. The Receiver has done so in respect of all aspects of the receivership save and except as it relates to obtaining an independent opinion on the validity, enforceability and priority of the Applicant’s First Mortgage. The Receiver has otherwise used the Applicant’s real estate counsel Fogler Rubinoff LLP and the Applicant’s insolvency and litigation counsel Thornton Grout Finnigan LLP for all aspects, with all such fees being charged to the Applicant and secured under its First Mortgage as set out in the Discharge Statement previously attached at Appendix “F”.

#### **SEALING**

67. The Receiver respectfully requests that the Court seal Confidential Appendix 1, Confidential Appendix 2 and Confidential Appendix 3 pending further Order of the Court, as public disclosure of the information contained therein could have a detrimental effect on the ability of the Receiver to complete a sale of the Real Property to another party in the event the sale to the Purchaser does not close or is not approved by the Court.

#### **REMAINING ACTIVITIES**

68. As of the date of this First Report, the Receiver’s remaining duties (the “**Remaining Duties**”) include the following:
- (a) closing the sale transaction for the Real Property;
  - (b) paying the Distribution of Proceeds as set out herein;
  - (c) receiving and holding the Balance on closing, and distributing same in accordance with any further Order of the Court or by agreement amongst the parties claiming an interest in same;

- (d) responding to inquiries with respect to the Existing Purchase Agreements and liaising between the purchasers and Tarion;
- (e) attending to any Final Adjustments, as defined in the APS;
- (f) seeking any orders relating to the distribution of the amounts held by the Receiver in the Post-Receivership Accounts, and preparing any materials relating thereto;
- (g) preparing the Interim and Final Statements of Receiver pursuant to sections 246(2) and 246(3) of the *Bankruptcy and Insolvency Act*;
- (h) attending to other administrative matters as necessary; and
- (i) obtaining its discharge.

## CONCLUSIONS AND RECOMMENDATIONS

69. The Receiver respectfully requests that the Court make an order as detailed in paragraph 5(e) above.

All of which is respectfully submitted to this Court as of this 8<sup>th</sup> day of August, 2023.

**RSM CANADA LIMITED**, solely in its capacity as  
Court-appointed Receiver and Manager of Stateview Homes (Hampton Heights) Inc.,  
and not in its personal or corporate capacity

Per:



Jeffrey Berger, CPA, CA, CIRP, LIT  
Vice-President

*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*

**FIRM CAPITAL MORTGAGE FUND INC.**

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Applicant

Respondent

Court File No. CV-23-00700356-00CL

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

Proceedings commenced at Toronto, Ontario

**FIRST REPORT OF THE RECEIVER**

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

B E T W E E N :

**FIRM CAPITAL MORTGAGE FUND INC.**

Applicant

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Respondent

**SUPPLEMENT TO THE FIRST REPORT OF THE RECEIVER**  
**August 17, 2023**

## INTRODUCTION AND INFORMATION DISCLOSURE

1. This report (the “**Supplemental Report**”) is being filed by RSM Canada Limited in its capacity as Court-appointed receiver and manager (the “**Receiver**”) of all of the assets, undertakings and properties of Stateview Homes (Hampton Heights) Inc. (the “**Debtor**”).
2. This report is a supplement to the First Report of the Receiver dated August 8, 2023 (the “**First Report**”) and should be read together with the First Report. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the First Report.
3. Since the First Report was issued, the Receiver has engaged with counsel to the Lien Claimants, on a without prejudice basis, in order to answer any questions they may have ahead of the scheduled hearing. Counsel to certain of the Lien Claimants have recently made information requests of the Receiver, which information has been provided by the Receiver to the Lien Claimants by email. For the benefit of the Court and all stakeholders, the documents provided to the Lien Claimants pursuant to such information requests are attached as appendices to this Supplemental Report.
4. The Receiver has advised the Lien Claimants that the Receiver proposes to hold \$200,000 in trust following completion of the Transaction (the “**Holdback**”). The Receiver has amended the proposed Ancillary Relief Order to incorporate this concept. The Receiver believes the Holdback is sufficient to cover the aggregate amount that could be in issue, being 10% of the value of the services and materials actually supplied by each of the Lien Claimants.
5. As the Debtor acted as its own general contractor, holdback amounts are determined on a trade-by-trade basis. Based on the best information available to the Receiver, including the Altus Report (defined below) and by reference to claims filed by the Lien Claimants, the Receiver estimates the aggregate amount of such holdbacks to be just under \$150,000.
6. The proposed \$200,000 Holdback would cover the maximum amount that the Lien Claimants could be realistically anticipated to recover (ie., \$150,000) *plus* an additional approximately \$50,000 buffer out of an abundance of caution.

7. In proposing the Holdback and responding to certain information requests as part of its without prejudice discussions with the Lien Claimants, the Receiver provided copies of the following documents to counsel for the Lien Claimants, which documents are appended hereto for the benefit of the Court and the stakeholders:
- (a) March 31, 2023 report of Altus Group as independent monitor of the Hampton Heights project, together with an updated construction cost summary dated May 9, 2023 (together, the “**Altus Report**”), copies of which are attached as **Appendix “A”** hereto. On August 10, 2023, the Receiver spoke with a representative of the Altus Group who advised that the May 9, 2023 updated construction cost summary includes Altus Group’s review of all invoices in the Debtor’s possession up to April 27, 2023;
  - (b) Confirmation as to the dates and amounts of advances made by the first mortgagee, copies of which are attached as **Appendix “B”** hereto; and
  - (c) A copy of the commitment letter of the first mortgagee, a copy of which is attached as **Appendix “C”** hereto (redacted only as to as to the commitment fee and the contemplated completed values for the project and individual homes).
8. The Receiver obtained the Altus Group’s consent to have the Altus Report provided to stakeholders and the Court.
9. The Receiver also independently confirmed that the advances paid to the Debtor from the trust account of the first mortgagee’s counsel were made on the same date as the advances were paid to the trust account of the first mortgagee’s counsel.

All of which is respectfully submitted to the Court as of this 17<sup>th</sup> day of August, 2023.

**RSM CANADA LIMITED**, solely in its capacity as Court-appointed Receiver and Manager of Stateview Homes (Hampton Heights) Inc., and not in its personal or corporate capacity

Per:



Jeffrey Berger, CPA, CA, CIRP, LIT  
Vice-President

*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*

**FIRM CAPITAL MORTGAGE FUND INC.**

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Applicant

Respondent

Court File No. CV-23-00700356-00CL

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

Proceedings commenced at Toronto, Ontario

**SUPPLEMENT REPORT TO THE FIRST REPORT**

**Thornton Grout Finnigan LLP**

TD West Tower, Toronto-Dominion Centre  
100 Wellington Street West, Suite 3200  
Toronto, ON M5K 1K7  
Fax: (416) 304-1313

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**Puya Fesharaki** (LSO# 70588L)

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Lawyers for the Applicant and the Court-appointed Receiver, RSM Canada Limited

# **APPENDIX “D”**

Court File No.

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

B E T W E E N:

MCO MANAGEMENT INC., TONY KARAMITSOS, BERGO INVESTMENT LIMITED,  
GEORGE KORINIS, GARY STRATAKOS, NICOLE KOUNAVIS, FOTINI MUELLER,  
CATHERINE JAMES, ELENTHERE STRATIGEAS, and  
ASPASIA ELIZABETH TSERONAKIS

Plaintiffs

- and-

STATEVIEW HOMES (BEA TOWNS) INC., STATEVIEW HOMES (ELM&CO) INC.,  
STATEVIEW HOMES (NAO TOWNS II) INC., HIGHVIEW BUILDING CORP INC.,  
STATEVIEW CONSTRUCTION LTD., STATEVIEW HOMES (HAMPTON HEIGHTS) INC.,  
HIGH POINT HOLDINGS CORPORATION, TAURA DEVELOPMENTS INC.,  
CARLO TAURASI, DINO TAURASI, DANIEL CICCONE,  
ROYAL BANK OF CANADA and THE TORONTO-DOMINION BANK

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT(S)

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

**IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$1,500.00 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400 for costs and have the costs assessed by the court.

**TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED** if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: 30 July 2024

Issued by: \_\_\_\_\_  
Local registrar

Address of court office:

330 University Avenue, 8<sup>TH</sup> floor  
Toronto, ON M5G 1R7



TO: STATEVIEW HOMES (BEA TOWNS) INC.  
410 Chrislea Road  
Unit 16  
Woodbridge, ON  
L4L 8B5

AND TO: STATEVIEW HOMES (ELM&CO) INC.  
410 Chrislea Road  
Unit 16  
Woodbridge, ON  
L4L 8B5

AND TO: STATEVIEW HOMES (NAO TOWNS II) INC.  
410 Chrislea Road  
Unit 16  
Woodbridge, ON  
L4L 8B5

AND TO: HIGHVIEW BUILDING CORP INC.  
48A Puccini Drive  
Richmond Hill, ON  
L4E 2Y6

AND TO: STATEVIEW CONSTRUCTION LTD.  
410 Chrislea Road  
Unit 16  
Woodbridge, ON  
L4L 8B5

AND TO: STATEVIEW HOMES (HAMPTON HEIGHTS) INC.  
410 Chrislea Road  
Unit 16  
Woodbridge, ON  
L4L 8B5

AND TO: HIGH POINT HOLDINGS CORPORATION  
410 Chrislea Road  
Unit 16  
Woodbridge, ON  
L4L 8B5

AND TO: CARLO TAURASI  
48A Puccini Drive  
Richmond Hill, ON  
L4E 2Y6

AND TO: DINO TAURASI  
48 Puccini Drive  
Richmond Hill, ON  
L4E 2Y6

AND TO: DANIEL CICCONE  
115 Crane Street  
Aurora, ON  
L4G 7C4

AND TO: TAURA DEVELOPMENTS INC.  
410 Chrislea Road  
Unit 16  
Woodbridge, ON  
L4L 8B5

AND TO: THE TORONTO-DOMINION BANK  
66 Wellington Street West  
Toronto, ON  
M5J 2W4

AND TO: ROYAL BANK OF CANADA  
1090 Don Mills Road  
North York, ON  
M3C 3R6

## CLAIM

1. The plaintiffs, MCO Management Inc., Bergo Investment Limited and Tony Karamitsos claim against the defendant Stateview Homes (Bea Towns) Inc. for the following:
  - (a) Liquidated damages in the sum of \$20,850,000.00 for a balance due and owing under the Summerset Charge (as hereinafter defined) as more particularly described hereinafter;
  - (b) interest on all unpaid amounts in accordance with the Summerset Charge;
  - (c) An Order that the defendant, Stateview Homes (Bea Towns) Inc. deliver immediate possession of the property municipally known as Block 76, Plan 51M1167, Summerset Drive, Barrie, ON (“**Summerset Property**”) and more particularly described hereinafter;
  - (d) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;
  - (e) costs of this action on a solicitor and client basis; and,
  - (f) such further and other relief as this Honourable Court deems just;
  
2. The plaintiffs, MCO Management Inc., Bergo Investment Limited and Tony Karamitsos claim against the defendant Stateview Homes (Elm&Co) Inc. for the following:
  - (a) Liquidated damages in the sum of \$20,850,000.00 for a balance due and owing under the YD Charge (as hereinafter defined) as more particularly described hereinafter;
  - (b) interest on all unpaid amounts in accordance with the YD Charge;

- (c) An Order that the defendant, Stateview Homes (Elm&Co) Inc. deliver immediate possession of the property municipally known as 12942 York Durham Line, Stouffville, ON (“**YD Property**”) and more particularly described hereinafter;
  - (d) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;
  - (e) costs of this action on a solicitor and client basis; and,
  - (f) such further and other relief as this Honourable Court deems just.
3. The plaintiffs, MCO Management Inc., Bergo Investment Limited and Tony Karamitsos claim against the defendant Stateview Homes (Nao Towns II) Inc. for the following:
- (a) Liquidated damages in the sum of \$20,850,000.00 for a balance due and owing under the McCowan Charge (as hereinafter defined) as more particularly described hereinafter;
  - (b) interest on all unpaid amounts in accordance with the McCowan Charge;
  - (c) An Order that the defendant, Stateview Homes (Nao Towns II) Inc. deliver immediate possession of the properties municipally known as 7810 McCowan Road, Markham, ON; 7822 McCowan Road, Markham, ON; 7834 McCowan Road, Markham, ON; 7846 McCowan Road, Markham, ON (collectively referred to as the “**McCowan Properties**”) and more particularly described hereinafter;
  - (d) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;
  - (e) costs of this action on a solicitor and client basis; and,

- (f) such further and other relief as this Honourable Court deems just.
4. The plaintiff, MCO Management Inc. claims against the defendant Highview Building Corp Inc. for the following:
- (a) Liquidated damages in the sum of \$5,300,000.00 for a balance due and owing under the Kleinburg Charge (as hereinafter defined) as more particularly described hereinafter;
  - (b) interest on all unpaid amounts in accordance with the Kleinburg Charge;
  - (c) An Order that the defendant, Highview Building Corp Inc. deliver immediate possession of the properties municipally known as properties municipally known as 88 Nashville Road, Kleinburg, ON and 89 Nashville Road, Kleinburg, ON (collectively referred to as the “**Kleinburg Properties**”) and more particularly described hereinafter;
  - (d) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;
  - (e) costs of this action on a solicitor and client basis; and,
  - (f) such further and other relief as this Honourable Court deems just.
5. The plaintiffs, George Korinis, Gary Stratakos, and Nicole Kounavis claim against the defendant Stateview Construction Ltd. for the following:
- (a) Liquidated damages in the sum of \$1,400,000.00 for a balance due and owing under the Richmond Hill Charge B (as hereinafter defined) as more particularly described hereinafter;

- (b) interest on all unpaid amounts in accordance with the Richmond Hill Charge B;
  - (c) An Order that the defendant, Stateview Construction Ltd. deliver immediate possession of the properties municipally known as 21 Longhill Road, Richmond Hill, ON and 21A Longhill Road, Richmond Hill, ON (collectively referred to as the “**Richmond Hill Properties**”) and more particularly described hereinafter;
  - (d) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;
  - (e) costs of this action on a solicitor and client basis; and,
  - (f) such further and other relief as this Honourable Court deems just.
6. The plaintiffs, MCO Management Inc., Fotini Mueller, Catherine James, Elenthere Stratigeas, and Aspasia Elizabeth Tseronakis claim against the defendant Stateview Construction Ltd. for the following:
- (a) Liquidated damages in the sum of \$4,000,000.00 for a balance due and owing under the Richmond Hill Charge A (as hereinafter defined) as more particularly described hereinafter;
  - (b) interest on all unpaid amounts in accordance with the Richmond Hill Charge A;
  - (c) An Order that the defendant, Stateview Construction Ltd. deliver immediate possession of the Richmond Hill Properties and more particularly described hereinafter;
  - (d) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;

- (e) costs of this action on a solicitor and client basis; and,
  - (f) such further and other relief as this Honourable Court deems just.
7. The plaintiff, Tony Karamitsos claims against the defendant Stateview Homes (Hampton Heights) Inc. for the following:
- (a) Liquidated damages in the sum of \$3,000,000.00 for a balance due and owing under the Barrie Charge (as hereinafter defined) as more particularly described hereinafter;
  - (b) interest on all unpaid amounts in accordance with the Barrie Charge;
  - (c) An Order that the defendant, Stateview Homes (Hampton Heights) Inc. deliver immediate possession of the properties municipally known as 39 Auburn Court, Barrie, ON; 2 Teck Road, Barrie, ON; 4 Teck Road, Barrie, ON; 6 Teck Road, Barrie, ON; 8 Teck Road, Barrie, ON (collectively referred to as the “**Barrie Properties**”) and more particularly described hereinafter;
  - (d) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;
  - (e) costs of this action on a solicitor and client basis; and,
  - (f) such further and other relief as this Honourable Court deems just.
8. The plaintiff, MCO Management Inc. claims against the defendant High Point Holdings Corporation for the following:
- (a) Liquidated damages in the sum of \$850,000.00 for a balance due and owing under the Ferretti Charge (as hereinafter defined) as more particularly described hereinafter;

- (b) interest on all unpaid amounts in accordance with the Ferretti Charge;
  - (c) An Order that the defendant, High Point Holdings Corporation deliver immediate possession of the property municipally known as 3624 Ferretti Court, Innisfil, ON (“**Ferretti Property**”) and more particularly described hereinafter;
  - (d) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;
  - (e) costs of this action on a solicitor and client basis; and,
  - (f) such further and other relief as this Honourable Court deems just.
9. The plaintiff, MCO Management Inc. claims against the defendant Taura Developments Inc. for the following:
- (a) Liquidated damages in the sum of \$1,600,000.00 for a balance due and owing under the Chrislea Charge (as hereinafter defined) as more particularly described hereinafter;
  - (b) interest on all unpaid amounts in accordance with the Chrislea Charge;
  - (c) An Order that the defendant, Taura Developments Inc. deliver immediate possession of the property municipally known as 7-410 Chrislea Road, Vaughan, ON (“**Chrislea Property**”) and more particularly described hereinafter;
  - (d) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;
  - (e) costs of this action on a solicitor and client basis; and,



- (f) such further and other relief as this Honourable Court deems just.
10. The plaintiff, Bergo Investment Limited, claims against the defendant Taura Developments Inc. for the following:
- (a) Liquidated damages in the sum of \$500,000.00 for a balance due and owing under the 8-410 Charge (as hereinafter defined) as more particularly described hereinafter;
  - (b) interest on all unpaid amounts in accordance with the 8-410 Charge;
  - (c) An Order that the defendant, Highview Building Corp Inc. deliver immediate possession of the properties municipally known as properties municipally known as 8-410 Chrislea Road, Vaughan, ON (“**8-410 Property**”) and more particularly described hereinafter;
  - (d) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;
  - (e) costs of this action on a solicitor and client basis; and,
  - (f) such further and other relief as this Honourable Court deems just.
11. The Plaintiffs (as hereinafter defined) claim against the defendant, The Toronto-Dominion Bank:
- (a) Damages in the sum of \$37,500,000.00;
  - (b) interest on all unpaid amounts in accordance with the Mortgages;
  - (c) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;

- (d) costs of this action on a solicitor and client basis; and,
  - (e) such further and other relief as this Honourable Court deems just.
12. The Plaintiffs (as hereinafter defined) claim against the defendant, Royal Bank of Canada:
- (a) Damages in the sum of \$37,500,000.00;
  - (b) interest on all unpaid amounts in accordance with the Mortgages;
  - (c) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;
  - (d) costs of this action on a solicitor and client basis; and,
  - (e) such further and other relief as this Honourable Court deems just.
13. The Plaintiffs claim against the defendants, Carlo Taurasi, Dino Taurasi and Daniel Ciccone:
- (a) Damages in the sum of \$37,500,000.00;
  - (b) interest on all unpaid amounts in accordance with the Mortgages;
  - (c) prejudgment interest and post-judgment interest pursuant to s. 128 and 129 of the *Courts of Justice Act*, R.S.O. 1990, Chap. C.43, as amended;
  - (d) costs of this action on a solicitor and client basis; and,
  - (e) such further and other relief as this Honourable Court deems just.

14. An Order pursuant to Section 248 of the *Business Corporations Act*, R.S.O., c. B.16 (“**OBCA**”) declaring that the conduct of the defendants, Carlo Taurasi, Dino Taurasi and Daniel Ciccone in their various capacities as officer/director/shareholder/controlling minds of the corporate defendants is oppressive and unfairly prejudicial and/or unfairly disregards the interests of the said Plaintiffs in relation to the defendant corporations and a further interim or final Order to rectify the matters complained of as this Honourable Court thinks fit and as counsel for the Plaintiffs may advise pursuant to Section 248 (3) ((a) – (n)) of the *OBCA*;
15. The plaintiff, MCO Management Inc. (“**MCO**”), is a corporation incorporated pursuant to the laws of the Province of Ontario.
16. The plaintiff, Tony Karamitsos (“**Karamitsos**”), is an individual residing in the Province of Ontario.
17. The plaintiff, Bergo Investment Limited (“**Bergo**”), is a corporation incorporated pursuant to the laws of the Province of Ontario.
18. The plaintiff, George Korinis (“**Korinis**”), is an individual residing in the Province of Ontario.
19. The plaintiff, Gary Stratakos (“**Stratakos**”), is an individual residing in the Province of Ontario.
20. The plaintiff, Nicole Kounavis (“**Kounavis**”), is an individual residing in the Province of Ontario.
21. The plaintiff, Fotini Mueller (“**Mueller**”), is an individual residing in the Province of Ontario.
22. The plaintiff, Catherine James (“**James**”), is an individual residing in the Province of Ontario.

23. The plaintiff, Elenthere Stratigeas (“**Stratigeas**”), is an individual residing in the Province of Ontario.
24. The plaintiff, Aspasia Elizabeth Tseronakis (“**Tseronakis**”), is an individual residing in the Province of Ontario.
25. MCO, Karamitsos, Bergo, Korinis, Stratakos, Kounavis, Mueller, James, Stratigeas, and Tseronakis are hereinafter collectively referred to as the “**Plaintiffs**” or “**Mortgagees**”.
26. The Plaintiffs are lenders pursuant to the Mortgages as more particularly described hereinafter.
27. The defendant, Stateview Homes (Bea Towns) Inc. (“**SHBT**”), is a corporation incorporated pursuant to the laws of the Province of Ontario and is the registered and beneficial owner of the Summerset Property.
28. The defendant, Stateview Homes (Elm&Co) Inc. (“**SHEC**”), is a corporation incorporated pursuant to the laws of the Province of Ontario and is the registered and beneficial owner of the YD Property.
29. The defendant, Stateview Homes (Nao Towns II) Inc. (“**SHNT2**”), is a corporation incorporated pursuant to the laws of the Province of Ontario and is the registered and beneficial owner of the McCowan Properties.
30. The defendant, Highview Building Corp Inc. (“**Highview**”), is a corporation incorporated pursuant to the laws of the Province of Ontario and is the registered and beneficial owner of the Kleinburg Properties.
31. The defendant, Stateview Construction Ltd. (“**SCL**”), is a corporation incorporated pursuant to the laws of the Province of Ontario and is the registered and beneficial owner of Richmond Hill Properties.

32. The defendant, Stateview Homes (Hampton Heights) Inc. (“**SHHH**”), is a corporation incorporated pursuant to the laws of the Province of Ontario and is the registered and beneficial owner of the Barrie Properties.
33. The defendant, High Point Holdings Corporation (“**High Point**”), is a corporation incorporated pursuant to the laws of the Province of Ontario and is the registered and beneficial owner of the Ferretti Property.
34. The defendant, Taura Developments Inc. (“**Taura**”), is a corporation incorporated pursuant to the laws of the Province of Ontario and is the registered and beneficial owner of the Chrislea Property and 8-410 Property.
35. The defendants, SHBT, SHEC, SHNT2, Highview, SCL, SHHH, High Point and Taura are hereinafter collectively referred to as the “**Mortgagor defendants**” or “**Mortgagors**”.
36. The defendant, Carlo Taurasi, is an individual residing in the Province of Ontario. Carlo Taurasi is a guarantor of the Mortgages on the Secured Properties (as defined hereinafter). Carlo Taurasi is therefore liable for all amounts owing under the Mortgages.
37. The defendant, Dino Taurasi, is an individual residing in the Province of Ontario. Dino Taurasi is a guarantor of the Mortgages on the Secured Properties (as defined hereinafter). Dino Taurasi is therefore liable for all amounts owing under the Mortgages.
38. The defendant, Daniel Ciccone, is an individual residing in the Province of Ontario. Daniel Ciccone is a guarantor of the charges on the Summerset Property, YD Property, McCowan Properties, Kleinburg Properties, Barrie Properties, Ferretti Property and the Chrislea Property. Daniele Ciccone is therefore liable for all amounts owing under the mortgages on the Summerset Property, YD Property, McCowan Properties, Kleinburg Properties, Barrie Properties, Ferretti Property, 8-410 Property and the Chrislea Property.
39. The defendants, Carlo Taurasi, Dino Taurasi and Daniel Ciccone (hereinafter collectively referred to as the “**Guarantor defendants**” or “**Guarantors**”).

40. The Guarantor defendants/Guarantors and the Mortgagor defendants/Mortgagors are hereinafter collectively referred to as “**StateView**”. StateView consists of individuals and organizations associated with a construction and development business based in York Region that operates under the name of “StateView Homes”.
41. The Summerset Property, YD Property, McCowan Properties, Kleinburg Properties, Richmond Hill Properties, Barrie Properties, Ferretti Property, 8-410 Property and Chrislea Property are hereinafter collectively referred to as the “**Secured Properties**”.
42. The defendant, Toronto-Dominion Bank (“**TD**”), is a Schedule I bank incorporated under the *Bank Act*, S.C. 1991, c. 46, as amended (the “**Bank Act**”), headquartered in Toronto, ON.
43. The defendant, Royal Bank of Canada (“**RBC**”) is a Schedule I bank incorporated under the *Bank Act*, headquartered in Toronto, ON

## **MORTGAGES**

44. At all material times, the plaintiffs MCO, Bergo and Karamitsos are mortgagees under a mortgage registered as against: a second position charge/mortgage of land in the principal amount of \$20,850,000.00 granted by the defendant, SHBT, which charge was registered in Land Registry Office #51 against the Summerset Property on 16 December 2022 as Instrument No. SC1953013 (“**Summerset Charge**”).
45. At all material times, the plaintiffs, MCO, Bergo and Karamitsos, are mortgagees under a mortgage registered as against: a second position charge/mortgage of land in the principal amount of \$20,850,000.00 granted by the defendant, SHEC, which charge was registered in Land Registry Office #65 against the YD Property on 16 December 2022 as Instrument No. YR3509405 (“**YD Charge**”).

46. At all material times, the plaintiffs, MCO, Bergo and Karamitsos, are mortgagees under a mortgage registered as against: a second position charge/mortgage of land in the principal amount of \$20,850,000.00 granted by the defendant, SHNT2, which charge was registered in Land Registry Office #65 against the McCowan Properties on 16 December 2022 as Instrument No. YR3509408 (“**McCowan Charge**”).
47. At all material times, the plaintiff, MCO, is a mortgagee under a mortgage registered as against: a second position charge/mortgage of land in the principal amount of \$5,300,000.00 granted by the defendant, Highview, which charge was registered in Land Registry Office #65 against the Kleinburg Properties on 22 December 2022 as Instrument No. YR3511235 (“**Kleinburg Charge**”).
48. At all material times, the plaintiffs, MCO, Mueller, James, Stratigeas, and Tseronakis, are mortgagees under a mortgage registered as against: a first position charge/mortgage of land in the principal amount of \$4,000,000.00 granted by the defendant, SCL, which charge was registered in Land Registry Office #65 against the Richmond Hill Properties on 22 December 2022 as Instrument No. YR3511280 (“**Richmond Hill Charge A**”).
49. At all material times, the plaintiffs, Korinis, Stratakos, and Kounavis, are mortgagees under a mortgage registered as against: a second position charge/mortgage of land in the principal amount of \$1,400,000.00 granted by the defendant, SCL, which charge was registered in Land Registry Office #65 against the Richmond Hill Properties on 22 December 2022 as Instrument No. YR3511281 (“**Richmond Hill Charge B**”).
50. At all material times, the plaintiff, Karamitsos, is a mortgagee under a mortgage registered as against: a second position charge/mortgage of land in the principal amount of \$3,000,000.00 granted by the defendant, SHHH, which charge was registered in Land Registry Office #51 against the Barrie Properties on 16 December 2022 as Instrument No. SC1953026 (“**Barrie Charge**”).

51. At all material times, the plaintiff, MCO, is a mortgagee under a mortgage registered as against: a second position charge/mortgage of land in the principal amount of \$850,000.00 granted by the defendant, High Point, which charge was registered in Land Registry Office #51 against the Ferretti Property on 2 July 2022 as Instrument No. SC1691088 (“**Ferretti Charge**”).
52. At all material times, the plaintiff, MCO, is a mortgagee under a mortgage registered as against: a first position charge/mortgage of land in the principal amount of \$1,600,000.00 granted by the defendant, Taura, which charge was registered in Land Registry Office #65 against the Chrislea Property on 4 November 2022 as Instrument No. YR3494394 (“**Chrislea Charge**”).
53. At all material times, the plaintiff, Bergo, is a mortgagee under a mortgage registered as against: a first position charge/mortgage of land in the principal amount of \$500,000.00 granted by the defendant, Taura, which charge was registered in Land Registry Office #65 against the 8-410 Property on 4 November 2022 as Instrument No. YR34983456 (“**8-410 Charge**”).
54. The Summerset Charge, YD Charge, McCowan Charge, Kleinburg Charge, Richmond Hill Charge A, Richmond Hill Charge B, Barrie Charge, Ferretti Charge, 8-410 Charge and Chrislea Charge are hereinafter collectively referred to as the “**Mortgages**”.

#### **DEFAULT OF THE MORTGAGES**

55. The Mortgagors were unable and/or refused to pay back and/or make payment on the Mortgages.
56. The Plaintiffs continue to incur fees and costs under the Mortgages. If not paid by the Mortgagors, the said Mortgages state that these amounts are to be added to the principal balance secured by the Mortgages and will accrue interest at the rate of interest charged under the Mortgages.



57. Despite demands from the Plaintiffs, the Mortgagors have failed to cure their default or to otherwise redeem the Mortgages and therefore the Mortgages remain in default as of the date of this claim.
58. The Plaintiffs state that they are entitled to immediate possession of the Secured Properties without notice upon occurrence of a default under the terms of the Contract and/or Mortgages.
59. The Plaintiffs state that the Mortgagors and/or Guarantors are jointly and severally liable to repay all amounts due to the Plaintiffs.
60. The Plaintiffs therefore seek judgment against StateView on a joint and several bases for the liquidated damages as set out herein.
61. The Plaintiffs further seek judgment against each of the Mortgagors for immediate possession of each of the Secured Properties.
62. The Plaintiffs seek their costs of this action against StateView jointly and severally on a full indemnity basis plus applicable taxes and all disbursements.
63. The Plaintiffs further seek prejudgment and post judgment interest on any amounts awarded at the rate set out in the Mortgages.

#### **THE TD FRAUD**

64. According to court records filed by TD, on March 14, 2023, TD first discovered that accounts held by StateView with TD had accumulated an unauthorized overdraft in excess of \$37 million.

65. On March 24, 2023, TD commenced an action concerning fraud at Court File No. CV-23-00696833-0000 ("**TD's First Claim**"). TD alleges that between April 2022 and March 2023, StateView engaged in a major cheque kiting scheme using TD bank accounts (the "**TD Fraud**").
66. As plead by TD, the TD Fraud followed a consistent pattern: (a) one of the corporations comprising StateView deposited a cheque (each, a "**Fraudulent Cheque**") for a large sum from a non-TD bank account into a TD bank account. TD would conditionally credit StateView's account with the amount of that cheque, pending final settlement through the Automated Clearing Settlement System; (b) immediately upon deposit, StateView used the conditional credit from TD to disburse the funds, either through cheque, wire transfer, or inter-account transfer; (c) a "stop payment" was issued on the Fraudulent Cheque, prior to TD obtaining final settlement through the Automated Clearing Settlement System; and (d) to avoid an overdraft in the TD account, StateView would enter into another sham transaction, either through the deposit of another Fraudulent Cheque or through a transfer using a conditional credit provided by TD in another of its TD accounts (which was itself effected through a Fraudulent Cheque).
67. TD plead that between April 2022 and March 2023, the TD bank accounts associated with StateView accumulated over \$37 million in overdrafts, and that the overdrafts were used by StateView to fund their business and to pay themselves through conditional credits provided by TD.

#### **TD'S CLAIMS AGAINST STATEVIEW HOMES**

68. TD's First Claim sought a constructive trust and tracing remedy over the funds withdrawn or spent in overdraft as a result of the TD Fraud, or alternatively damages of \$37,028,055.73, and injunctive relief.
69. Having determined that StateView held accounts with RBC, TD also sought payment-freeze and production relief pursuant to the *Bank Act* as against RBC.

70. After issuing TD's First Claim, on March 29, 2023, TD commenced an action against Duca Financial Services Cr. Un. Ltd. ("**Duca**") and Bank of Nova Scotia ("**BNS**"), at Court File No. CV-23-00697007-0000 ("**TD's Second Claim**" and, together with TD's First Claim, "**TD's Claims**").
71. In TD's Second Claim, TD sought orders pursuant to the *Credit Unions and Caisses Populaires Act, 2020*, S.O. 2020, c. 36, Sched. 7 and the *Bank Act* in relation to the TD Fraud. These orders mirror the relief sought as against RBC in TD's First Claim and arose upon TD discovering that StateView maintained accounts with Duca and BNS.

### **IMPROVIDENT SETTLEMENT AGREEMENT**

72. On March 31, 2023, TD and StateView reached a purported settlement agreement to resolve TD's Claims (the "**Improvident Settlement Agreement**").
73. On April 4, 2023, the Court granted a consent Order that, among other things, authorized StateView to make payments pursuant to the Improvident Settlement Agreement (the "**Impugned Consent Order**").
74. TD and StateView provided no notice to any creditor that TD and StateView were seeking a consent Order pursuant to the Improvident Settlement Agreement.
75. Pursuant to the Improvident Settlement Agreement, StateView acknowledged and agreed that they were jointly and severally liable to TD for \$37,134,091.23 plus interest and TD's legal costs (the "**TD Preferred Debt**").

76. StateView consented to repay the TD Preferred Debt under the following payment schedule:  
 (a) forthwith upon obtaining a Court Order, the sum of \$3,000,000; (b) on or before April 17, 2023, the sum of \$6,150,000; (c) on or before May 1, 2023, the sum of \$6,150,000; (d) on or before May 31, 2023, the sum of \$6,150,000; (e) on or before June 15, 2023, the sum of \$6,150,000; (f) on or before June 30, 2023, the sum of \$6,150,000; and (g) on or before July 14, 2023, the balance of the TD Preferred Debt.
77. StateView consented to provide security for the full value of the TD Preferred Debt in the form of mortgages (either first ranking, second ranking, or third ranking) on the following properties (**bold** denotes the included Secured Properties):
- (a) 3 Windrose Valley Collingwood - PIN: 58253-0276 (LT)
  - (b) 3-410 Chrislea Road Woodbridge -PIN: 29275-0003 (LT)
  - (c) **7-410 Chrislea Road Woodbridge-PIN: 29275-0007 (LT)**
  - (d) **8-410 Chrislea Road Woodbridge -PIN: 29275-0008 (LT)**
  - (e) 14-410 Chrislea Road Woodbridge-PIN: 29275-0014 (LT)
  - (f) 15-410 ChrisleaRoad Woodbridge-PIN: 29275-0015 (LT)
  - (g) 16-410 Chrislea Road Woodbridge-PIN: 29275-0016 (LT)
  - (h) 17-410 Chrislea Road Woodbridge - PIN: 29275-0017 (LT)
  - (i) 18-410 ChrisleaRoad Woodbridge-PIN: 29275-0018 (LT)
  - (j) 19-410 ChrisleaRoad Woodbridge-PIN: 29275-0019 (LT)
  - (k) 20-410 Chrislea Road Woodbridge -PIN: 29275-0020 (LT)
  - (l) 5 Eden Vale Drive King City -PIN: 03379-0223 (LT)
  - (m) **7810 McCowan Road Markham - PIN: 02962-0270 (LT)**
  - (n) **7822 McCowan Road Markham - PIN: 02962-0271 (LT)**
  - (o) **7834 McCowan Road Markham - PIN: 02962-0272 (LT)**
  - (p) **7846 McCowan Road Markham - PIN: 02962-0273 (LT)**
  - (q) 16 Windrose Valley Collingwood-PIN: 58253-0280 (LT)
  - (r) 48 Puccini Richmond Hill- PIN: 03206-3971 (LT)
  - (s) 48A Puccini Richmond Hill -PIN: 03206-3971 (LT)
  - (t) 80 Fairfield Drive King City - PIN: 03379-0249 (LT)
  - (u) **189 Summerset Barrie - PIN: 58763-1764 (LT)**
  - (v) 3624 Ferretti Court Innisfil - PIN: 58085-0700 (LT)
  - (w) 3808 Ferretti Court Innisfil - PIN: 58085-0646 (LT)
  - (x) **12942 York Durham Line Whitchurch-Stouffville - PIN: 03707-0188 (LT)**
  - (y) 301 Bradwick Vaughan -PIN: 03273-0069 (LT)
  - (z) 8 Bradwick Vaughan - PIN: 03274 0043 (LT)
  - (aa) 6 Bradwick Vaughan- PIN: 03274-0044 (LT)
  - (bb) 448 North Rivermede Vaughan-PIN: 03274-0132 (LT)
  - (cc) 596 Oster Lane Vaughan- PIN: 03275-0052 (LT)

78. The Improvident Settlement Agreement provides that, if StateView defaults on the payments or become the subject of any insolvency proceeding, the full amount of the TD Preferred Debt becomes outstanding, and TD is entitled to enforce in respect of its security.
79. It appears that StateView (and/or related persons/corporations) paid \$3.15 million to TD pursuant to the Settlement Agreement (the "**Improvident Settlement Payment**").
80. TD and StateView failed to provide the Plaintiffs with notice of the fact of the TD Fraud. What is more, TD and StateView failed to provide the Plaintiffs with notice of the Improvident Settlement Agreement, the Impugned Consent Order, or the Improvident Settlement Payment.

#### **STATEVIEW RECEIVERSHIPS**

81. On May 2, 2023, receivership orders were issued with respect to the following defendants: (a) at Court File No. CV-23-00698395-00CL, KSV Restructuring Inc. ("**KSV**" and/or the "**Receiver**") was appointed as Receiver for SHNT2; (b) at Court File No. CV-23-00698637-00CL, KSV was appointed as Receiver for SHBT; and (c) at Court File No. CV-23-00698632-00CL, KSV was appointed as Receiver for Highview.
82. Later, on May 18, 2023, at Court File No. CV-23-00699067-00CL, KSV was appointed as Receiver for SHEC.
83. The Receiver is mandated to sell StateView's new homebuilding projects to third parties. In that event, it is likely that insufficient funds will be generated from these sales to pay StateView's liabilities, including their secured obligations owed to the Plaintiffs.

## **THE SETTLEMENT AGREEMENT WAS IMPROVIDENT AND AN UNJUST PREFERENCE**

84. At all material times, TD and StateView had a close business relationship. StateView maintained accounts with TD. At all material times, TD had, or ought to have had, relevant insight into StateView's financial circumstances and accounts data.
85. At the time that they entered the Improvident Settlement Agreement and consented to the Impugned Consent Order, TD and StateView knew, or ought to have known, that the StateView entities were insolvent or on the brink of insolvency.
86. StateView executed the Improvident Settlement Agreement with the intent to defeat, delay, hinder and/or prejudice creditors.
87. By entering into the Settlement Agreement, StateView preferred one creditor – TD – over all others, including the Plaintiffs.
88. TD knew, or ought to have known, that in accepting and/or executing the Improvident Settlement Agreement, StateView was preferring TD's interests to its creditors, including the Plaintiffs. TD further knew, or ought to have known, that in making and/or executing the Improvident Settlement Agreement, StateView intended to defeat and/or prejudice creditors, including the Plaintiffs.
89. StateView's consent to the Impugned Consent Order is void and cannot give rise to a judgment or execution, as it was given by a party or parties who were insolvent and/or on the eve of insolvency, and who had an intent to defeat or prejudice other creditors (wholly or in part) or to give one creditor a preference over other creditors, including the Plaintiffs.
90. StateView made the Improvident Settlement Payment with the intent to defeat and/or prejudice creditors, including the Plaintiffs.

91. By making the Improvident Settlement Payment, StateView preferred one creditor - TD - over all others, including the Plaintiffs.
92. The Improvident Settlement Agreement, the Impugned Consent Order, and the Improvident Settlement Payment were prejudicial to, and to the detriment of the Plaintiffs. The Plaintiffs have suffered damages, and will continue to suffer damages, as a result of this preferential treatment.

### **TD'S NEGLIGENCE**

93. At all material times, TD owed the Plaintiffs a duty of care. This duty included, among other things, that TD protect the Plaintiffs from and/or not facilitate fraudulent or unauthorized activities of StateView. The duty also included that TD investigate any fraudulent or otherwise unauthorized activities in a diligent and timely manner, and ensure that TD maintained adequate compliance systems to detect and stop fraudulent activity.
94. TD was negligent and breached its standard of care in permitting the TD Fraud to be carried out. Among other things, TD allowed: (a) StateView to accumulate an unauthorized overdraft in excess of \$37 million over an eleven-month period; (b) disburse funds pending final settlement of cheques through the Automated Clearing Settlement System; and (c) repeatedly issue stop payments on fraudulent cheques
95. TD was negligent and breached its standard of care in allowing each of these activities to continue and by failing to investigate the TD Fraud, despite having actual and/or construction knowledge of the TD Fraud. Specifically, TD failed to investigate StateView's accounts, transactions, and use of TD's services, despite facts that should have alerted TD to the TD Fraud, including the significant quantum of overdraft, the frequency of StateView's reliance on overdraft, and repeated stop payment orders (the "**Red Flags**").

96. The Red Flags pointed directly to an active and ongoing fraud. The Red Flags provided TD with sufficient indicia that StateView's accounts - and TD's own overdraft and clearance services - were being used for improper purposes, including fraud. TD's existing policies, procedures, and compliance systems would and should have detected the Red Flags. Had TD investigated the Red Flags, the TD Fraud would have been discovered and stopped.
97. TD has a relationship of proximity with the Plaintiffs by undertaking to ensure that TD's own services (including overdraft protection and allowing customers to disburse funds pending final settlement of cheques) are not used to facilitate fraudulent activities.
98. In failing to investigate these Red Flags, and failing to stop the TD Fraud, TD's actions fell significantly below the expected standard of care and/or industry practice.
99. The Red Flags were directly connected to the loss suffered by the Plaintiffs. The Plaintiffs have and will continue to suffer damages as a result of TD's negligence. TD's acts or omissions were and are a cause, in fact and in law of the Plaintiffs' damages.
100. Furthermore, TD owed a duty of care being the banks of StateView to adequately investigate any apparent signs of fraudulent activity on the accounts, and to prevent such fraud from continuing. TD breached its duty of care by failing to investigate and prevent the TD Fraud. Accounts continuing for nearly a year that on a review of the records readily available to TD would have evidenced active and ongoing fraud: TD repeatedly released provisional funds from thousands of ultimately stop-ordered cheques and further authorized unusual wires totaling several million dollars back and forth between respective business accounts. TD should have immediately detected this pattern of transactions as the most apparent sign of a cheque kiting scheme.
101. TD could have reasonably foreseen that their negligence would have caused or contributed to the damages sought by the Plaintiffs.



## THE RBC FRAUD & RBC'S NEGLIGENCE

102. At all material times, RBC owed the Plaintiffs a duty of care. This duty included, among other things, that RBC protect the Plaintiffs from and/or not facilitate fraudulent or unauthorized activities of StateView. The duty also included that RBC investigate any fraudulent or otherwise unauthorized activities in a diligent and timely manner, and ensure that RBC maintained adequate compliance systems to detect and stop fraudulent activity.
103. RBC was negligent and breached its standard of care in permitting the Fraud to be carried out. Among other things, RBC allowed StateView to write hundreds/thousands of unauthorized cheques on StateView's RBC business accounts and perform the TD Fraud ("**RBC Fraud**").
104. RBC was negligent and breached its standard of care in allowing each of these activities to continue and by failing to investigate the RBC Fraud, despite having actual and/or construction knowledge of the RBC Fraud. Specifically, RBC failed to investigate StateView's accounts, transactions, and use of RBC's services, despite facts that should have alerted RBC to the RBC Fraud ("**Red Flags II**").
105. The Red Flags II pointed directly to an active and ongoing fraud. The Red Flags II provided RBC with sufficient indicia that StateView's RBC business accounts were being used for improper purposes, including fraud. RBC's existing policies, procedures, and compliance systems would and should have detected the Red Flags II. Had RBC investigated the Red Flags II, the Fraud would have been discovered and stopped.
106. RBC has a relationship of proximity with the Plaintiffs by undertaking to ensure that RBC's own services are not used to facilitate fraudulent activities.
107. In failing to investigate these Red Flags II, and failing to stop the Fraud, RBC's actions fell significantly below the expected standard of care and/or industry practice.

108. The Red Flags II were directly connected to the loss suffered by the Plaintiffs. The Plaintiffs have and will continue to suffer damages as a result of RBC's negligence. RBC's acts or omissions were and are a cause, in fact and in law of the Plaintiffs' damages.
109. Furthermore, RBC owed a duty of care being the banks of StateView to adequately investigate any apparent signs of fraudulent activity on the accounts, and to prevent such fraud from continuing. RBC breached its duty of care by failing to investigate and prevent the RBC Fraud. Accounts continuing for nearly a year that on a review of the records readily available to RBC would have evidenced active and ongoing fraud: RBC repeatedly released provisional funds from thousands of ultimately stop-ordered cheques and further authorized unusual wires totaling several million dollars back and forth between respective business accounts. RBC should have immediately detected this pattern of transactions as the most apparent sign of a cheque kiting scheme.
110. RBC could have reasonably foreseen that their negligence would have caused or contributed to the damages sought by the Plaintiffs.

**TD AND RBC ARE VICARIOUSLY LIABLE**

111. TD and RBC are vicariously liable for the acts and omissions of their employee(s).
112. All allegations of negligence as pleaded in this claim with respect to TD and RBC apply, with necessary modifications, to their employee(s). TD and RBC's employee(s) owed a duty of care towards the Plaintiffs. TD and RBC's employee(s) breached this standard of care. The Plaintiffs have suffered damages as a result of the negligence of TD and RBC's employee(s).

113. The relationship between TD and TD's employee(s) is/are sufficiently close to establish a claim for vicarious liability: TD's employee(s) was/were, at all material times, (an) employee(s) of TD. The wrongful acts of TD's employee(s) are sufficiently connected to his/her/their assigned task as employee(s) of TD such that his/her/their wrongful act can (i) be regarded as a materialization of the risks created by TD and (ii) a mode of doing acts authorized by TD.
114. The relationship between RBC and RBC's employee(s) is/are sufficiently close to establish a claim for vicarious liability: RBC's employee(s) was/were, at all material times, (an) employee(s) of RBC. The wrongful acts of RBC's employee(s) are sufficiently connected to his/her/their assigned task as employee(s) of RBC such that his/her/their wrongful act can (i) be regarded as a materialization of the risks created by RBC and (ii) a mode of doing acts authorized by RBC.
115. In addition, the Plaintiffs plead that TD breached its own TD Code of Conduct and Ethics for Employees and Directors by not immediately notifying the Plaintiffs of the cheque kiting scheme once it was known and then taking rash actions which increased (not mitigated) the damages to be suffered by the Plaintiffs.
116. In particular, TD did not adhere to the following salient provisions:

The TD shield is synonymous with trust – a reputation built up over more than 165 years and one we can all point to with pride. Safeguarding this reputation is the responsibility of every TD employee and is key to our continued growth. By acting ethically and with integrity, we will ensure that our stakeholders' confidence in TD is stronger than ever. The Code of Conduct and Ethics is our roadmap to preserving our reputation. It supports the TD Framework, which articulates our Vision, Purpose, and Shared Commitments. Ongoing adherence to the Code - and to TD's values of fostering a diverse, inclusive and safe workplace - is critical to our success. To promote awareness of the requirements and values espoused in the Code, each employee and member of the Board of Directors must complete interactive training on the content of the Code and how to use it to guide their decisions

every day. All employees and members of the Board of Directors must also attest to complying with the Code, annually. We ask you to read the Code and ensure you understand how it applies to your daily work. If you have any questions or concerns, please consult your manager or other appropriate contact as described in the Code. As a purpose-driven company, helping our customers and clients realize their financial aspirations is a privilege that we take seriously. Thank you for your efforts to protect TD's reputation as a trusted financial institution.

...

**Introduction and Summary** The Code of Conduct and Ethics (Code) establishes the standards that govern the way we deal with each other, our customers, shareholders, governments, regulators, suppliers, competitors, the media and the public at large. Complying with the Code is part of the terms and conditions of our employment with The Toronto-Dominion Bank Group (TD Bank) together with its wholly-owned subsidiaries (collectively, TD). As a responsible business enterprise and corporate citizen, TD is committed to conducting its affairs to the highest standards of ethics, integrity, honesty, fairness and professionalism – in every respect, without exception, and at all times. While reaching our business goals is critical to our success, equally important is the way we achieve them. Every employee and member of the board of directors of TD (a Director) is expected and required to assess every business decision and every action on behalf of the organization in light of whether it is right, legal, fair and within our risk appetite. This applies at all levels of the organization, from major decisions made by the TD Board of Directors (the Board) to day-to-day business transactions. The Code is intended to help employees and Directors meet these expectations and make such assessments. Our obligation to adhere to the Code and related policies applies regardless of where we are located, including remote work. We continue to hear news stories regarding ethical lapses at many leading organizations, which further supports the critical importance TD places on having a strong ethical culture. By following the ethical practices outlined in the Code and incorporating elements of the TD Framework in our day-to-day activities, we will continue to promote a culture of high integrity at TD and reduce the risk that our actions will cause harm to TD or others. Promoting a culture of high integrity engenders trust that we live our values and thereby makes TD a preferred employer and

service provider. Conveying a strong ethical culture starts with the “tone from the top” as highlighted in the introductory message from our Group President and Chief Executive Officer and our Board Chair and echoed in the TD Culture Framework. It is equally important for all of our leaders to consistently demonstrate unwavering integrity and to promote awareness and compliance with the Code. Employees often take their cues from their managers. The Code sets out a common baseline of ethical standards required of all of us. The Code also references other TD policies in specific areas. It is important to note that certain businesses, regions or roles also have supplementary or jurisdiction-specific codes of conduct and policies, compliance manuals, sales guidelines, operational procedures, etc. to which their employees or Directors must also adhere. We must also comply with local laws and regulations, as well as our responsibilities to professional associations, self-regulatory organizations or regulators where these may impose greater or more rigorous standards than provided for in the Code or TD policies. In the event of an apparent conflict between the provisions of the Code and local laws and regulations, we must seek guidance from our manager and/or an appropriate area within TD (e.g. Legal, Compliance, Privacy, Human Resources or Global Anti-Money Laundering (GAML)). Within this framework, employees and Directors are expected to exercise good judgment and be accountable for their actions. We review and update the Code every year to keep it current and reflective of emerging laws, regulations, policies and best practices. TD employees and Directors are required to review and attest to compliance with this Code, and complete training on the Code annually. Furthermore, all employees and Directors are obliged to report, in a timely fashion, any violations of the Code we may witness or reasonably suspect, ask questions about our culture of integrity and raise good faith concerns about compliance with the Code. Information on how to report violations and TD’s nonretaliation commitments are outlined in Section 7.

1Applying the Code Not every situation can be addressed specifically in the Code. We are expected to apply the principles outlined in the Code in exercising our judgment when we face questions, concerns or issues that do not present obviously correct answers or approaches. It may be helpful for us to apply a process such as the one below when making these types of decisions. If we are still uncertain, we should seek the advice and direction of a more senior manager or Human Resources (or in the case of a Director, the General

Counsel) so that all relevant interests are fully recognized and properly served. The Code applies not only to us as TD employees and Directors, but also to us as TD customers. Therefore, if in their dealings with TD as a customer, an employee within TD reasonably suspects another employee or a Director of being in violation of the Code, that employee is responsible for immediately reporting the situation in accordance with Section 7B) of this Code to allow for any corrective action that is appropriate under the circumstances. In addition, since employees most commonly report misconduct that they observe to their managers and Human Resources, it is critical for those who receive such information to address it promptly and with the seriousness it deserves.

...

Respecting the Law Making the Right Decision Concern for what is right should be our first consideration in all business decisions and actions, and that includes compliance with the law. Financial services are heavily regulated in all jurisdictions in which we operate. We need to be familiar with and observe all laws and regulations applicable to TD in the jurisdiction(s) in which we operate. We must avoid performing any task that could reasonably be considered legally suspect, even if it might be common practice in the country or region. Adhering to the Code and TD's other policies and procedures will help us fulfill these requirements. Employees must not knowingly assist or allow customers or other employees to take actions which violate the Code, TD policies or the law and must not knowingly induce an employee of another organization to breach that organization's code of conduct, policies or the law. If we have any doubt at all, we should seek advice and direction from our manager or a representative of an appropriate area within TD (e.g. Human Resources, Legal, GAML, Privacy or Compliance). Directors must be aware of and consider laws that apply to the matters placed before the Board, and may seek advice from the Board Chair; and the Board Chair may refer matters to the General Counsel for clarification.

...

We may not accept, offer or give, directly or indirectly for ourselves or for anyone else, gifts, travel, entertainment, discounts, or other benefits of value (collectively referred to as "Gifts") that are not legally permitted or reasonable and appropriate under the circumstances. Specifically, a Gift of any value would not be reasonable or appropriate where it may be

construed as an attempt to bribe or influence a decision, alter the provision or receipt of a service, or might otherwise be inappropriate in light of the underlying business relationship or the roles of the individuals involved. We must also never solicit Gifts of any value at any time.

...

Kitting – Inflating the balance in an account with artificial funds, usually through manipulating the clearing system and banking machines to gain unauthorized access to cash or credit is never acceptable, even if it does not cause a loss to TD. Suspicious kiting situations must be reported in accordance with our business escalation process regarding fraud to allow for any corrective action that is appropriate under the circumstances.

117. In addition, the Plaintiffs plead that RBC breached its own RBC Code of Conduct by not immediately notifying the Plaintiffs of the cheque kiting scheme once it was known and then taking rash actions which increased (not mitigated) the damages to be suffered by the Plaintiffs.
118. In particular, TD did not adhere to the following salient provisions:

Message from David McKay President and CEO Building trust by speaking up and doing the right thing At RBC, holding ourselves to the highest standards of integrity plays a critical role in achieving our Purpose to help clients thrive and communities prosper, and our Vision to be among the world's most trusted and successful financial institutions. In short, how we do things is just as important as what we do. Our Values and our Code of Conduct guide us and set expectations for our behaviour and decision-making. Our Code is the roadmap we follow to serve our clients with the highest standards of integrity. It also lays the foundation for how we work together in a respectful, transparent and fair environment. Guided by our Leadership Model, we are each responsible for speaking up and doing the right thing to protect and enhance RBC's reputation and put our clients first. We all have a duty to report actual or possible misconduct and the right to be treated with dignity and respect when we do. And that includes speaking up, challenging and reporting unethical behaviour when it

occurs, without fear of retaliation. Together, we can foster a culture that's built on trust, dignity and respect for all. Please read the Code carefully, discuss what it means with your manager and colleagues, and ask questions to ensure you understand it and what it requires of you. Our success depends on these principles. And it starts with each one of us. David McKay President and CEO.

...

Misappropriation" includes theft or other intentional misuse of RBC assets, systems, processes or RBC client funds. Misuse can include any purpose not related to the performance of our duties.... unauthorized "borrowing" and "kiting" (taking advantage of the time delay required for an item to clear).

...

2.2 Reporting Misconduct We have a duty to report actual, or possible, misconduct that we become aware of, even our own. This includes speaking up about conduct that is, or may be, in violation of the Code... misappropriation (including fraud, theft and kiting), improper use of company or client assets or systems, and improper sales reporting.

119. The Plaintiffs also plead that TD and RBC were aware of the cheque kiting scheme and that TD and RBC representatives were aware of these questionable banking practices and their effect on secured creditors such as the Plaintiffs but neither the respective bank(s) nor its representatives, took any steps to limit or review the banking services provided to StateView and as a result of their failure to communicate these concerns in a timely fashion and advise the Plaintiffs accordingly, the Plaintiffs could not mitigate their damages had they been so advised.

**CARLO TAURASI, DINO TAURASI & DANIEL CICCONE**

120. The Plaintiffs plead that the defendants, Carlo Taurasi, Dino Taurasi, and Daniel Ciccone (collectively referred to as the "**StateView Directors**") are the officer(s), director(s), owner(s), director(s), shareholder(s), and/or controlling mind(s) of StateView/StateView Homes.



121. The Plaintiffs plead the StateView Directors overdrew the business accounts of StateView/StateView Homes by over \$37 million and committed the TD Fraud and RBC Fraud.
122. The Plaintiffs plead the StateView Directors had written hundreds and perhaps thousands of unauthorized cheques on dormant or rarely used RBC business accounts, depositing these cheques into TD business accounts, and using the available funds for unknown purposes.
123. The Plaintiffs plead the StateView Directors issued over 1,000 stop payment orders on the RBC - issued cheques after TD credited the applicable business accounts
124. The Plaintiffs plead the StateView Directors replaced the recalled funds with newly deposited cheques drawn on RBC business accounts.
125. RBC and TD permitted the StateView Directors' cheque kiting scheme to continue for at least a year. The StateView Directors' pattern of transactions, occurring over a long period of time and involving millions of dollars, was or ought to have been plain and obvious to RBC and TD. The transactions revealed clear signs of fraud, including hundreds of unexplained cycles of issued cheques and stop payment orders on previously dormant, low-balance accounts at RBC, and corresponding deposits, returned cheques, and growing overdrafts at TD.
126. The Plaintiffs reasonably assumed that RBC and TD had in place minimum and basic safeguards against common and notorious fraudulent schemes such as cheque kiting. In fact, due to RBC's and TD's negligence, the StateView Directors were able to defraud the TD and RBC business accounts of some \$37 million unimpeded by either bank, causing the complete collapse of StateView's/StateView Homes' business.

127. The StateView Directors exploited TD's and RBC's failure to provide any or sufficient safeguards against cheque kiting schemes to perpetrate a \$37 million fraud on the TD and RBC business accounts. Their misconduct, and TD's and RBC's failure to adequately detect and prevent it, has caused irreparable financial and reputational harm to the Plaintiffs.
128. The StateView Directors, being the officer(s), director(s), owner(s), director(s), shareholder(s), and/or controlling mind(s) of StateView/StateView Homes, owed a duty of care to the Plaintiffs (as the creditors of Mortgagors). The StateView Directors breached their respective duties of care by engaging in the TD Fraud and RBC Fraud. The StateView Directors caused the damages incurred by the Plaintiffs, which were a foreseeable consequence of their fraud and are consequently liable for the amounts claimed by the Plaintiffs.
129. The Plaintiffs plead that the StateView Directors involvement in cheque kiting, in their various capacities is oppressive and unfairly prejudicial to, and unfairly disregards the interests and reasonable expectations of the Plaintiffs herein within the meaning of section 248 of the *OBCA*.
130. The Plaintiffs plead that the actions and behaviours of the StateView Director in this regard, go against the reasonable expectations of the Plaintiffs as to how corporate directors/officers should behave.

## **RELEVANT STATUTES AND JURISDICTION**

131. The Plaintiffs plead and rely upon the: *Negligence Act*, R.S.O. 1990, c. N.1; *Courts of Justice Act*, R.S.O. 1990, c. C.43; *Assignments and Preferences Act*, R.S.O. 1990, c. A.33; *Fraudulent Conveyances Act*, R.S.O. 1990, c. F.29; *Bank Act*, S.C. 1991, c. 46; *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 and the *Business Corporations Act*, R.S.O., c. B.16.

**PLACE OF TRIAL**

132. The Plaintiffs propose that this action be tried in the City of Toronto.

Date of issue: 30 July 2024

**GOVEDARIS PROFESSIONAL  
CORPORATION**

Barristers and Solicitors  
44 Upjohn Road  
Toronto, Ontario M3B 2W1

**Attention: Gregory Govedaris  
LSO# A034693I**

Tel: (416) 384-1333 ext. 302

E-mail: [gg@govedaris.com](mailto:gg@govedaris.com)

Lawyers for the Plaintiffs

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

**STATEMENT OF CLAIM**

GOVEDARIS PROFESSIONAL CORPORATION

Barristers and Solicitors  
44 Upjohn Road  
Toronto, Ontario  
M3B 2W1

Attention: Gregory Govedaris  
LSO No. A034693I

Tel: 416-384-1333 ext. 302  
E-mail: gg@govedaris.com

Lawyers for the Plaintiffs



**GOVEDARIS** PROFESSIONAL CORPORATION  
BARRISTERS & SOLICITORS

From the desk of:  
Caitlyn Reid, B.Sc. (Hons.)  
Licensed Paralegal  
Tel 416-384-1333 ext.303  
E-mail: [cs@govedaris.com](mailto:cs@govedaris.com)

06 August 2024

TO: **CASSELS BROCK & BLACKWELL LLP**  
Suite 3200, Bay Adelaide Centre- North Tower  
40 Temperance Street  
Toronto, ON M5H 0B4

**Attention: Ryan Jacobs, ESQ**  
**Joseph Bellissimo, ESQ.**  
**Alec Hoy, ESQ.**

AND

TO: **THORTON GROUT FINNIGAN LLP**  
TD West Tower, Toronto-Dominion Centre  
100 Wellington Street West, Suite 3200  
Toronto, ON M5K 1K7

**Attention: D.J. Miller, ESQ.**  
**Puya Fesharaki, ESQ.**

Dear Counsel:

**RE: MCO Management Inc. et al. v. Stateview Homes (BEA Towns) Inc. et al.**  
**Our File No.: 24044**

---

We act for the Plaintiffs in the attached Statement of Claim.

Please see attached Statement of Claim.

Please advise if you consent to the filing of the Statement of Claim on the Commercial List.

Yours very truly,

**GOVEDARIS PROFESSIONAL CORPORATION**



**Caitlyn Reid**  
**Licensed Paralegal**

Cc: Clients

# **APPENDIX “E”**



Thornton Grout Finnigan LLP  
RESTRUCTURING + LITIGATION

Puya Fesharaki  
T: 416-304-7979  
E: pfesharaki@tgf.ca  
File No. 2028-003

September 4, 2024

**Via Email** ([cs@govedaris.com](mailto:cs@govedaris.com))

Govedaris Professional Corporation  
44 Upjohn Road  
Toronto, ON Canada M3B 2W1

**Attention: Gregory Govedaris**

Dear Counsel:

**Re: Your claim - MCO Management Inc. et al v Stateview Homes (BEA Towns) Inc. et al.**

As you know, we represent TDB Restructuring Limited (formerly RSM Canada Limited) in its capacity as receiver and manager (in such capacity, the “**Receiver**”) of all of the assets, undertakings and properties of Stateview Homes (Hampton Heights) Inc. (the “**Debtor**”). The Receiver was appointed by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to an Order dated June 15, 2023 (the “**Appointment Order**”).

On August 13, 2023, the Court granted an Approval and Vesting Order and an Ancillary Relief Order (the “**August 13 Orders**”), pursuant to which the Debtor’s principal property was sold and the proceeds therefrom distributed to creditors. Copies of these Orders are available on the Receiver’s case website for your perusal.<sup>1</sup>

We are in receipt of the above-referenced statement of claim (the “**MCO Claim**”) which includes the Debtor as a defendant, among other defendants. Among other relief, the MCO Claim requests that the Court deliver to one of the plaintiffs immediate possession of the same property of the Debtor that has already been sold, the proceeds of which have already been distributed, pursuant to the August 13 Orders granted by the Court.

We are also in receipt of your letters requesting the Receiver’s consent to the filing of the MCO Claim with the Court.

Paragraph 9 of the Appointment Order provides that no proceeding in any court or tribunal shall be commenced or continued against the Debtor or its property except with the written consent of the Receiver or with leave of the Court. Paragraph 10 of the Appointment Order provides that all

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<sup>1</sup> <https://tdbadvisory.ca/insolvency-case/stateview-homes-hampton-heights-inc/>





**Thornton Grout Finnigan LLP**  
RESTRUCTURING + LITIGATION

rights and remedies against the Debtor or its property are stayed and suspended, except with the written consent of the Receiver or with leave of the Court.

The Receiver does not consent to the MCO Claim, nor was leave of the Court requested or granted within the receivership proceeding. Commencement of the MCO Claim against the Debtor violates the provisions of the Appointment Order.

The claims against the other defendants under the MCO Claim are outside of the purview of the Receiver's mandate and the Appointment Order, and the Receiver takes no position on that aspect.

Please provide us with a copy of an amended version of the MCO Claim that removes the Debtor as a defendant, with prejudice.

Yours truly,

**Thornton Grout Finnigan LLP**

A handwritten signature in black ink, appearing to be 'Puya Fesharaki', written in a cursive style.

Puya Fesharaki

# **APPENDIX “F”**

## Rushi Chakrabarti

---

**From:** Puya Fesharaki  
**Sent:** October 25, 2024 2:58 PM  
**To:** Gregory Govedaris; D. J. Miller; cs.govedaris.com; gio.govedaris.com; Rushi Chakrabarti; jberger@tdbadvisory.ca  
**Cc:** Ross MacDougall  
**Subject:** RE: [EXTERNAL]RE: MCO Management Inc. et al

Dear Counsel:

This is in response to your email of October 3, 2024.

As you are no doubt aware, the Receiver's brought a motion on August 18, 2023 (the "**Motion**") for (among other things) approval of the sale of the debtor's assets by way of vesting order (the "**Vesting Order**") and an ancillary order providing for the distribution of the Proceeds (the "**Ancillary Order**"). The Ancillary Order granted by the Court specifically authorized the Receiver to repay the first mortgage (the "**First Mortgage**") of Firm Capital Mortgage Fund Inc. ("**Firm**") and to hold \$200,000 in trust pending resolution or determination of the holdback entitlement of the lien claims, or further order of the court (the "**Holdback Fund**"). The Ancillary Order specifically contemplated that these amounts were to be paid in priority to your clients' mortgage (the "**MCO Mortgage**"). Prior to the hearing of the Motion, the Receiver served a Supplement to its First Report on August 17, 2023 (the "**Supplemental Report**") setting out the rationale for the Holdback Fund. The Receiver specifically stated in its report that, based on the information available to the Receiver at the time, it considered the actual deficiency in the holdbacks (the "**Holdback Claims**") to be approximately \$150,000, but was proposing an additional \$50,000 buffer out of an abundance of caution. A copy of the Supplemental Report is available for download at the following site: <https://tgf.sharefile.com/public/share/web-sf060a500f5a54963ae0d17e52dbc12ac>.

Following the granting of the Vesting Order and the Ancillary Order on August 18, 2023, the Receiver obtained further information from certain lien claimants supporting a higher holdback value for their claims. Ultimately, the Receiver settled with each of the lien claimants and collectively paid out \$169,596.43 from the Holdback Fund as it was authorized to do pursuant to the Ancillary Order and its general power to settle debts pursuant to the original appointment order dated June 15, 2023.

It was not the Receiver's responsibility to determine whether the MCO Mortgage had priority over the lien claims. The caselaw makes clear that the burden falls on a mortgagee that the general priority of lien claims set out in s. 78(1) does not apply and that it has priority based on one of the exceptions set out in section 78 of the Construction Act. See for instance, *Jade-Kennedy Development Corporation (Re)*, 2016 ONSC 7125 at para 54. If your clients wished challenge the priority of the lien claimants over the MCO Mortgage, it was incumbent on them to do so prior to – or at – the hearing of the Motion. Your client was on the Service List and received copies of the Motion materials, the Supplemental Report and the final draft of the Ancillary Order prior to the hearing.

Even if your client had challenged the priority of the Holdbacks Claims on or prior to the Motion, we cannot see how such an argument could have succeeded. It was clear to the Receiver (and not disputed by Firm) that the lien claimants had priority to the First Mortgage to the extent of the deficiency of the holdbacks the debtor was required to maintain pursuant to s. 78(2) of the Construction Act. While you now assert that the MCO Mortgage was not a construction mortgage and should therefore have full priority over the Holdback Claims, this ignores the Subordination and Standstill Agreement dated December 16, 2022 between your clients and Firm, registered on title as SC1953057 (the "**Subordination Agreement**") which makes clear that the MCO Mortgage would rank behind the First Mortgagee in all circumstances (including any loss of priority by the first mortgagee).

Further, contrary to what you assert in your October 3 correspondence, it appears clear that several of the liens in respect of the improvement did arise prior to the registration of the MCO Mortgage on December 16, 2022, specifically:

- a. The lien of Stardrain & Concrete (copy attached) reports a date of first supply of June 10, 2022;
- b. The lien of Sunbelt rentals (copy attached) reports a date of first supply of December 12, 2022; and
- c. The lien of Tamarack Lumber (copy attached) reports a date of first supply of December 16, 2022 (the same day as the registration of the MCO Mortgage, which was registered at 4:58pm that day).

In evaluating the Holdback Claims, the Receiver also reviewed the attached billing summary prepared Altus Group Limited (the Project Monitor appointed by Firm) which was prepared on or about May 8, 2023. This summary confirms that invoices were issued by these lien claimants (and paid by the debtor) for services and materials, including for invoices dated prior to the registration of the MCO Mortgage.

In short, even if the MCO Mortgage was not subordinated to the First Mortgage, the MCO Mortgage would not have priority to the Holdback Claims, as it was not registered prior to the time the first lien arose in respect of the improvement.

We trust this clarifies the Receiver's position.

Regards,  
Puya



Puya J. Fesharaki | PFesharaki@tgf.ca | Direct Line +1 416 304 7979 | [www.tgf.ca](http://www.tgf.ca)

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---

**From:** Puya Fesharaki <PFesharaki@tgf.ca>

**Sent:** Monday, October 21, 2024 6:41 PM

**To:** Gregory Govedaris <gg@govedaris.com>; D. J. Miller <DJMiller@tgf.ca>; cs govedaris.com <cs@govedaris.com>; gio.govedaris.com <gio@govedaris.com>; Rushi Chakrabarti <rchakrabarti@tgf.ca>; jberger@tdbadvisory.ca

**Cc:** Ross MacDougall <rmacdougall@foglers.com>

**Subject:** RE: [EXTERNAL]RE: MCO Management Inc. et al

Counsel – we are reviewing your email with the Receiver’s real estate counsel and will be in a position to respond later this week.

Thank you,  
Puya



Puya J. Fesharaki | PFesharaki@tgf.ca | Direct Line +1 416 304 7979 | [www.tgf.ca](http://www.tgf.ca)

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---

**From:** Gregory Govedaris <[gg@govedaris.com](mailto:gg@govedaris.com)>

**Sent:** Monday, October 21, 2024 2:29 PM

**To:** Puya Fesharaki <[PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca)>; D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>; cs govedaris.com <[cs@govedaris.com](mailto:cs@govedaris.com)>; gio.govedaris.com <[gio@govedaris.com](mailto:gio@govedaris.com)>; Rushi Chakrabarti <[rchakrabarti@tgf.ca](mailto:rchakrabarti@tgf.ca)>; [jberger@tdbadvisory.ca](mailto:jberger@tdbadvisory.ca)

**Cc:** Ross MacDougall <[rmacdougall@foglers.com](mailto:rmacdougall@foglers.com)>

**Subject:** RE: [EXTERNAL]RE: MCO Management Inc. et al

Counsel:

Please respond to my-email below.

Thanks.

Gregory Govedaris, B.A., J.D., LL.M.  
**GOVEDARIS PROFESSIONAL CORPORATION**  
Barrister(s) & Solicitor(s)  
44 Upjohn Road  
Toronto, ON CANADA M3B 2W1

Tel.: (416) 384-1333 ext. 302  
email: [gg@govedaris.com](mailto:gg@govedaris.com)

---

**From:** Gregory Govedaris  
**Sent:** October 3, 2024 1:08 PM  
**To:** 'Puya Fesharaki' <[PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca)>; D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>; cs govedaris.com <[cs@govedaris.com](mailto:cs@govedaris.com)>;  
gio.govedaris.com <[gio@govedaris.com](mailto:gio@govedaris.com)>; Rushi Chakrabarti <[rchakrabarti@tgf.ca](mailto:rchakrabarti@tgf.ca)>; [jberger@tdbadvisory.ca](mailto:jberger@tdbadvisory.ca)  
**Cc:** Ross MacDougall <[rmacdougall@foglers.com](mailto:rmacdougall@foglers.com)>  
**Subject:** RE: [EXTERNAL]RE: MCO Management Inc. et al

Counsel:

Thanks for the information but your legal reasoning appears to be faulty.

You needed to establish whether our client's mortgage [which was registered on December 16, 2022 (before any liens were registered)] was entitled to rely on section 78 of the Construction Act.

Obviously, you were aware of section 78 because you paid out FIRM CAPITAL (a prior mortgagee).

Based on information provided by our client:

1. Our client's mortgage was registered prior to the time when the Liens arose in respect of improvements to the Property and have priority over the Liens arising from the improvement.
2. Furthermore, no time was our client's mortgage a construction loan and/or building mortgage.
3. At no time were the proceeds of client's mortgage to be used to fund any construction on the Property.

4. No holdback of funds occurred on the Property pursuant to the *Construction Act* because our client's mortgage was not a building mortgage.
5. No advances were made on our client's mortgage on the date of or after the date of when the Liens arose in respect of improvements to the Property and/or on the date of or after the date of registration of the Liens.

Please provide a response or send us \$200,000.

Thanks.

Gregory Govedaris, B.A., J.D., LL.M.  
**GOVEDARIS PROFESSIONAL CORPORATION**  
Barrister(s) & Solicitor(s)  
44 Upjohn Road  
Toronto, ON CANADA M3B 2W1

Tel.: (416) 384-1333 ext. 302  
email: [gg@govedaris.com](mailto:gg@govedaris.com)

---

**From:** Puya Fesharaki <[PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca)>  
**Sent:** October 2, 2024 11:07 PM  
**To:** Gregory Govedaris <[gg@govedaris.com](mailto:gg@govedaris.com)>; D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>; cs govedaris.com <[cs@govedaris.com](mailto:cs@govedaris.com)>; gio.govedaris.com <[gio@govedaris.com](mailto:gio@govedaris.com)>; Rushi Chakrabarti <[rchakrabarti@tgf.ca](mailto:rchakrabarti@tgf.ca)>; [jberger@tdbadvisory.ca](mailto:jberger@tdbadvisory.ca)  
**Cc:** Ross MacDougall <[rmacdougall@foglers.com](mailto:rmacdougall@foglers.com)>  
**Subject:** RE: [EXTERNAL]RE: MCO Management Inc. et al

Dear counsel,

Further to our discussion this afternoon, I can confirm that while a formal opinion regarding the liens was not prepared, real estate counsel to the Receiver (cc'd, Mr. MacDougall of Fogler) and the Receiver cross-referenced the liens against the attached "Construction Cost Report" and "Billed to Date" Worksheet (both of which were prepared by Altus in May of 2023). A (privileged) analysis was then prepared to assess the deficiency in the holdbacks that the Debtor was required to maintain for each of the liens (being 10% of the value of the work completed for each lien claimant). In cases where the Altus reports suggested a lower holdback figure than the lien claimants, the Receiver and its real estate counsel sought invoices or other evidence from the lien claimants supporting the higher figure.

There was no question as to the timeliness of any of the liens. Since there was no general contractor, each of the lien claimants had until 60 days following the completion of their respective contracts to register a lien. The Altus Construction Cost Report confirmed that none of the lien claimants had completed their work as of May 9, 2023.

The Receiver's final report to the Court to be filed in connection with its upcoming discharge motion will reference all of the above, on full notice to you and other stakeholders.

I trust the above is satisfactory.

Regards,  
Puya



Puya J. Fesharaki | [PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca) | Direct Line +1 416 304 7979 | [www.tgf.ca](http://www.tgf.ca)

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---

**From:** Gregory Govedaris <[gg@govedaris.com](mailto:gg@govedaris.com)>

**Sent:** October 2, 2024 11:38 AM

**To:** Puya Fesharaki <[PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca)>

**Cc:** D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>; cs govedaris.com <[cs@govedaris.com](mailto:cs@govedaris.com)>; gio.govedaris.com <[gio@govedaris.com](mailto:gio@govedaris.com)>;

Rushi Chakrabarti <[rchakrabarti@tgf.ca](mailto:rchakrabarti@tgf.ca)>; [jberger@tdbadvisory.ca](mailto:jberger@tdbadvisory.ca)

**Subject:** RE: [EXTERNAL]RE: MCO Management Inc. et al

Counsel:

Our client was a mortgagee (secured creditor) on the property (see attached).

Please advise why our client was not paid ?

Gregory Govedaris, B.A., J.D., LL.M.

**GOVEDARIS PROFESSIONAL CORPORATION**

Barrister(s) & Solicitor(s)

44 Upjohn Road

Toronto, ON CANADA M3B 2W1

Tel.: (416) 384-1333 ext. 302

email: [gg@govedaris.com](mailto:gg@govedaris.com)

---

**From:** Puya Fesharaki <[PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca)>

**Sent:** October 2, 2024 11:28 AM

**To:** Gregory Govedaris <[gg@govedaris.com](mailto:gg@govedaris.com)>

**Cc:** D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>; cs govedaris.com <[cs@govedaris.com](mailto:cs@govedaris.com)>; gio.govedaris.com <[gio@govedaris.com](mailto:gio@govedaris.com)>;

Rushi Chakrabarti <[rchakrabarti@tgf.ca](mailto:rchakrabarti@tgf.ca)>; [jberger@tdbadvisory.ca](mailto:jberger@tdbadvisory.ca)

**Subject:** RE: [EXTERNAL]RE: MCO Management Inc. et al

Counsel:

Please find attached the Receiver's Interim Statement of Receipts and Disbursements through to September 30, 2024. As previously advised, the Receiver has scheduled a discharge motion for November 18, 2024, which will include its final reporting to the Court.

On the basis of the requested information having been provided, one calendar day late to your unilateral deadline, I do not think a scheduling conference is necessary, reasonable or a proper use of the Court's time. Should you proceed with the case conference, this entire email conversation will be provided to the presiding Judge and I will walk the Judge through the chronology of our interactions.

Regards,

Puya



Puya J. Fesharaki | PFesharaki@tgf.ca | Direct Line +1 416 304 7979 | www.tgf.ca

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**From:** Puya Fesharaki <PFesharaki@tgf.ca>

**Sent:** September 26, 2024 10:11 PM

**To:** Gregory Govedaris <gg@govedaris.com>

**Cc:** D. J. Miller <DJMiller@tgf.ca>; cs govedaris.com <cs@govedaris.com>; gio.govedaris.com <gio@govedaris.com>;

Rushi Chakrabarti <rchakrabarti@tgf.ca>; jberger@tdbadvisory.ca

**Subject:** Re: [EXTERNAL]RE: MCO Management Inc. et al

Counsel:

My email of earlier today (which is available lower in the chain below) advised that a response will be provided by the Court-appointed Receiver by October 1, 2024, your initial requested timeframe. It also advised of a November 18, 2024, hearing date.

Thanks,

Puya



Puya J. Fesharaki | PFesharaki@tgf.ca | Direct Line +1 416 304 7979 | www.tgf.ca

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**From:** Gregory Govedaris <gg@govedaris.com>

**Sent:** Thursday, September 26, 2024 9:55:56 PM

**To:** Puya Fesharaki <PFesharaki@tgf.ca>

**Cc:** D. J. Miller <DJMiller@tgf.ca>; cs govedaris.com <cs@govedaris.com>; gio.govedaris.com <gio@govedaris.com>;

Rushi Chakrabarti <rchakrabarti@tgf.ca>; jberger@tdbadvisory.ca <jberger@tdbadvisory.ca>

**Subject:** Re: [EXTERNAL]RE: MCO Management Inc. et al

Counsel:

We are Counsel of record.

Counsel Kaplan no longer acts for our client(s).

Please delete him as Counsel of record.

We look forward to your substantive response by tomorrow.

Thanks in advance.

Gregory Govedaris, B.A., J.D., LL.M.

**GOVEDARIS PROFESSIONAL CORPORATION**

Barrister(s) & Solicitor(s)

44 Upjohn Road

Toronto, ON CANADA M3B 2W1



Tel.: [416\) 384-1333 ext. 302](tel:4163841333)  
email: [gg@govedaris.com](mailto:gg@govedaris.com)

On Sep 26, 2024, at 11:57 AM, Puya Fesharaki <[PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca)> wrote:

Hi Gregory,

My email stated that a final and complete accounting will be provided as part of the Receiver's discharge motion on full and proper notice, which motion the Court has advised us can be heard on November 18, 2024. I understand that you would prefer a partial accounting sooner, and your initial email requested that such information be provided within 7 days, being October 1, 2024. I have copied Mr. Berger of the Receiver, who has agreed to provide the requested partial accounting by your initial, reasonable request of October 1, 2024.

We await your answers to our outstanding questions.

Regards,  
Puya



Puya J. Fesharaki | [PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca) | Direct Line +1 416 304 7979 | [www.tgf.ca](http://www.tgf.ca)

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---

**From:** Gregory Govedaris <[gg@govedaris.com](mailto:gg@govedaris.com)>

**Sent:** September 26, 2024 10:09 AM

**To:** Puya Fesharaki <[PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca)>; D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>

**Cc:** cs govedaris.com <[cs@govedaris.com](mailto:cs@govedaris.com)>; gio.govedaris.com <[gio@govedaris.com](mailto:gio@govedaris.com)>; Rushi Chakrabarti <[rchakrabarti@tgf.ca](mailto:rchakrabarti@tgf.ca)>

**Subject:** RE: [EXTERNAL]RE: MCO Management Inc. et al

Counsel:

I am unsure why you refuse to provide the accounting.

We need a copy of the trust ledger statement which shows the receipts and disbursements. This information is not confidential.

Apparently, the property was sold and “ ***the proceeds of which have already been distributed***” .

The attached report + order do not provide the accounting of the sale proceeds.

Unless we receive the accounting by tomorrow, we will seek to schedule a 9:30 am appointment and schedule a motion. Our client will be seeking costs.

Our client (as a secured creditor) has an interest in the proceeds and is absolutely entitled to an accounting.

Thanks.

Gregory Govedaris, B.A., J.D., LL.M.  
**GOVEDARIS PROFESSIONAL CORPORATION**  
Barrister(s) & Solicitor(s)  
44 Upjohn Road  
Toronto, ON CANADA M3B 2W1

Tel.: (416) 384-1333 ext. 302  
email: [gg@govedaris.com](mailto:gg@govedaris.com)

---

**From:** Puya Fesharaki <[PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca)>  
**Sent:** September 25, 2024 6:17 PM  
**To:** Gregory Govedaris <[gg@govedaris.com](mailto:gg@govedaris.com)>; D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>  
**Cc:** cs.govedaris.com <[cs@govedaris.com](mailto:cs@govedaris.com)>; gio.govedaris.com <[gio@govedaris.com](mailto:gio@govedaris.com)>; Rushi Chakrabarti <[rchakrabarti@tgf.ca](mailto:rchakrabarti@tgf.ca)>  
**Subject:** RE: [EXTERNAL]RE: MCO Management Inc. et al

Hi Gregory,

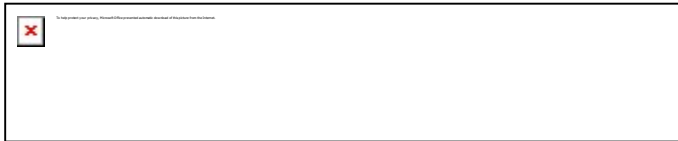
Thank you for your email. Pursuant to your earlier request in August of this year, we added you to the Service List in the receivership proceedings so you can stay apprised of developments within the proceedings. We have also directed you to the case website in these proceedings. The case website includes the First Report of the Monitor dated August 8, 2024, which Report includes the Receiver's Interim Statement of Receipts and Disbursements. The Report also states, among other things, that once the Receiver attends to its remaining duties, it would prepare a Final Statement of Receipts and Disbursements and bring a motion for its discharge, all in accordance with its statutory duties. As you are on the Service List, you will receive full notice of the discharge motion and a copy of the final statement when is circulated, concurrently with all other interested parties to the proceedings on the Service List. The Receiver only recently received certain outstanding amounts from CRA, and is now in the process of preparing the materials for its discharge.

I do not believe you have provided us with a copy of the amended version of the MCO Claim that removes the Debtor as a defendant, as we previously requested. Please provide same.

I have also noticed that other counsel was already included on the Service List as representing certain of your clients – see below excerpt. Could you please clarify for me why that is?

<b>AND TO:</b>	<b>FOGLER, RUBINOFF LLP</b> 77 King Street West Suite 3000, P.O. Box 95 TD Centre North Tower Toronto, ON M5K 1G8  <b>Martin R. Kaplan</b> Tel: (416) 941-8822 Email: <a href="mailto:mkaplan@foglers.com">mkaplan@foglers.com</a>  Lawyers for Bergo Investments Limited, MCO Management Inc. and Tony Karamitsos
----------------	---

Regards,  
Puya



Puya J. Fesharaki | | [PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca) | Direct Line +1 416 304 7979 | | Suite 3200, TD West Tower, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, Ontario M5K 1K7 | 416-304-1616 | Fax: 416-304-1313 | [www.tgf.ca](http://www.tgf.ca)

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---

**From:** Gregory Govedaris <[gg@govedaris.com](mailto:gg@govedaris.com)>  
**Sent:** September 24, 2024 12:02 PM  
**To:** Puya Fesharaki <[PFesharaki@tgf.ca](mailto:PFesharaki@tgf.ca)>; D. J. Miller <[DJMiller@tgf.ca](mailto:DJMiller@tgf.ca)>  
**Cc:** cs.govedaris.com <[cs@govedaris.com](mailto:cs@govedaris.com)>; gio.govedaris.com <[gio@govedaris.com](mailto:gio@govedaris.com)>  
**Subject:** [EXTERNAL]RE: MCO Management Inc. et al

Counsel:

It has been over a year since the property has been sold and “ ***the proceeds of which have already been distributed***” (according to your most recent correspondence attached hereto).

Please provide a full accounting within the next 7 days failing which we shall need to schedule a motion to obtain this information. You have a statutory duty to provide the accounting yet based on the advice of clients you have failed to do so.

We await your reply (if any).

Gregory Govedaris, B.A., J.D., LL.M.  
**GOVEDARIS PROFESSIONAL CORPORATION**  
Barrister(s) & Solicitor(s)  
44 Upjohn Road  
Toronto, ON CANADA M3B 2W1

Tel.: (416) 384-1333 ext. 302  
email: [gg@govedaris.com](mailto:gg@govedaris.com)



## SUBORDINATION AND STANDSTILL AGREEMENT

THIS AGREEMENT is made as of the 16<sup>th</sup> day of December, 2022.

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

**FIRM CAPITAL MORTGAGE FUND INC.**  
(the “**Prior Mortgagee**”)

- and -

MCO MANAGEMENT INC. and KARAMITSOS, TONY  
(the “**Subsequent Mortgagee**”)

- and -

STATEVIEW HOMES (HAMPTON HEIGHTS) INC.  
(the “**Mortgagor**”)

**WHEREAS:**

- A.** The Mortgagor is the registered owner of the real property of the lands and premises legally described in Schedule “A” attached (collectively the “**Property**”);
- B.** Pursuant to the terms of the Mortgage Loan Commitment between the Mortgagor, and Stateview Homes (Hampton Heights) Inc. and Firm Capital Corporation (the “**Lender**”) dated November 11, 2022 as thereafter amended from time to time (collectively the “**Commitment Letter**”), the Lender agreed to provide the Mortgagor with a loan in the amount of **ELEVEN MILLION FOUR HUNDRED THOUSAND DOLLARS (\$11,400,000.00)** (the “**Loan**”);
- C.** The Commitment Letter has been assigned by the Lender to the Prior Mortgagee in accordance with the provisions thereof;
- D.** As security for the debts, liabilities, obligations and Indebtedness (as defined in the Mortgage) of the Mortgagor to the Prior Mortgagee pursuant to the Commitment Letter, including without limitation all protective advances made thereunder and all reasonable costs and expenses relating to any enforcement of the Loan (collectively the “**Prior Mortgage Indebtedness**”), the Mortgagor has agreed to provide the Prior Mortgagee with various security documents securing the Prior Mortgage Indebtedness including, without limitation, a charge/mortgage of land in the amount of \$11,400,000.00 ( the “**Mortgage**”), a general assignment of rents and leases, which charge/mortgage and general assignment of rents and lease are to be registered on title to the Property (as set out in Schedule “B” attached hereto) and a general security interest against all of the personal property and assets of the Mortgagor pursuant to the provisions of the Personal Property Security Act, Ontario (all of the aforementioned security, together with any security granted to the Prior Mortgagee by any guarantors or indemnitors of the Loan shall hereinafter be collectively referred to herein as the “**Prior Mortgage Security**”);
- E.** The Subsequent Mortgagee has agreed to provide the Mortgagor with a loan in the amount of **Three Million Dollars (\$3,000,000.00)** ;
- F.** As security for the debts, liabilities and obligations of the Mortgagor to the Subsequent Mortgagee (the “**Subsequent Mortgage Indebtedness**”), the Mortgagor has agreed to provide the Subsequent Mortgagee with various security documents for the same including, without limitation, a charge/mortgage of land in the amount of \$3,000,000.00, to be registered on title to the Property (as set out in Schedule “C” hereto), and security granted against the personal property and assets of the Mortgagor pursuant to the provisions of the Personal Property Security Act, Ontario (all of the aforementioned security, together with any security granted to the Subsequent Mortgagee by any guarantors or indemnitors of the Loan between the Mortgagor and the Prior Mortgagee shall hereinafter be collectively referred to herein as the “**Subsequent Mortgage Security**”);
- G.** The Subsequent Mortgagee acknowledges the priority of the Prior Mortgage Indebtedness to the Subsequent Mortgage Indebtedness and has agreed to postpone

all of the Subsequent Mortgage Security to the Prior Mortgage Security on the terms and conditions hereinafter set out.

**NOW THEREFORE** in consideration of the sum of \$2.00 paid by each of the parties hereto to the other and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), it is hereby declared and agreed as follows:

1. The Subsequent Mortgagee represents and warrants to the Prior Mortgagee that (i) the Subsequent Mortgage Indebtedness and the Subsequent Mortgage Security are in good standing and neither the Mortgagor nor any other person is in default thereunder, (ii) the Subsequent Mortgagee holds no security of any kind against the Property or the Mortgagor other than the Subsequent Mortgage Security, (iii) the Subsequent Mortgagee is the registered and beneficial owner of the Subsequent Mortgage Security and has full power, authority and legal right to enter into this Agreement, (iv) the total principal amount owing to the Subsequent Mortgagee under the Subsequent Mortgage Indebtedness as of the date hereof is not greater than \$3,000,000.00, which amount shall be the maximum debt between the Mortgagor and the Subsequent Mortgagee, and which amount shall not be increased without the consent of the Prior Mortgagee acting in its sole and unfettered discretion, and (v) the Subsequent Mortgage Indebtedness bears interest, and is due and payable to the Subsequent Mortgagee in the manner specified in the Subsequent Mortgage Security. Upon request by the Prior Mortgagee from time to time, the Subsequent Mortgagee shall provide to the requesting party copies of the Subsequent Mortgage Security and/or a statement of the Subsequent Mortgage Indebtedness then outstanding.
2. The Prior Mortgage Security shall have and be entitled to priority over the Subsequent Mortgage Security in all respects and any mortgage, pledge, charge, assignment and any other security interest created by or pursuant to or granted for the obligations secured by the Subsequent Mortgage Security to the full extent of the Prior Mortgage Indebtedness from time to time, and the Subsequent Mortgage Security shall in all respects rank subordinate and junior to the Prior Mortgage Security. This priority shall be effective in all events and in all circumstances. Without limiting the generality of the foregoing, this priority shall be effective notwithstanding:
  - (a) the respective dates of execution, delivery, attachment, registration, filing, perfection or enforcement of the Prior Mortgage Security and the Subsequent Mortgage Security;
  - (b) the respective dates of any advances secured by the Prior Mortgage Security or the Subsequent Mortgage Security;
  - (c) the respective dates of default under the Prior Mortgage Security or the Subsequent Mortgage Security;
  - (d) any priority to which the Subsequent Mortgage Security may otherwise be entitled by reason of the giving or failure to give any notice of the acquisition of any charge, lien or security interest, by reason of the failure to register or to register any renewal or by reason of any defect in any item constituting the Prior Mortgage Security;
  - (e) the provisions of the instruments creating the Prior Mortgage Security and the Subsequent Mortgage Security; and
  - (f) any modification, extension, renewal, replacement, supplement or restatement of the Prior Mortgage Security or the Prior Mortgage Indebtedness.
3.
  - (a) The Subsequent Mortgagee hereby irrevocably and unconditionally postpones and subordinates the Subsequent Mortgage Indebtedness and the Subsequent Mortgage Security to the Prior Mortgage Indebtedness and the Prior Mortgage Security, and the Subsequent Mortgagee hereby acknowledges and agrees that notwithstanding that the money or monies worth of the Prior Mortgage Indebtedness or that some part of the Prior Mortgage Indebtedness has not been advanced as of the time of creation or registration of the Subsequent Mortgage Security, the Prior Mortgage Security shall constitute a security interest, encumbrance and charge upon the Property in priority to the Subsequent Mortgage Security to the full extent of the Prior Mortgage Indebtedness.
  - (b) The Subsequent Mortgagee hereby releases to the Prior Mortgagee, to the extent required to give effect to the subordinations and postponements and priorities as

aforesaid, all the rights in and to the Property now or hereafter existing in favour of the Subsequent Mortgagee under and by virtue of the Subsequent Mortgage Security.

- (c) The Mortgagor hereby acknowledges the subordination of the priority of the Subsequent Mortgage Security to the Prior Mortgage Security to the same effect as if all monies secured or intended to be secured by the Prior Mortgage Security were advanced prior to the creation and registration of the Subsequent Mortgage Security and the advance of any monies secured by the Subsequent Mortgage Security as have been or will be advanced, and the Mortgagor expressly agrees to execute any instruments giving effect to such subordination and postponement as may be required by the Prior Mortgagee from time to time for such purpose.
4. The Subsequent Mortgagee covenants and agrees to deliver to the Prior Mortgagee, at the same time as the same is delivered to the Mortgagor, any notice alleging any default by the Mortgagor pursuant to the Subsequent Mortgage Security or otherwise in relation to the Subsequent Mortgage Indebtedness.
  5. **Payments.** The Subsequent Mortgagee agrees after an event of default under the Prior Mortgage Security and/or the Subsequent Mortgage Security that (i) no rents, revenue, income, cash flow, insurance proceeds, and any other proceeds arising from or relating to the Property including, without limitation, any funds that have been advanced by the Prior Mortgagee under the Mortgage (collectively, the "**Property Cash Flow**") shall be applied to any payment on account of the Subsequent Mortgage Indebtedness until the **Prior Mortgage Indebtedness** is paid in full, and (ii) it shall not accept any payment on account of the Subsequent Mortgage Indebtedness from the Property Cash Flow and if any such payments are received, the Subsequent Mortgagee shall immediately pay such amount to the Prior Mortgagee without deduction. All monies received by the Prior Mortgagee on account of the **Prior Mortgage Indebtedness** including without limitation sale, refinancing, occupancy fees, insurance, expropriation and condemnation proceeds relating to the Property shall be dealt with and applied, whether before or after any default under or in respect of the **Prior Mortgage Indebtedness** or the Subsequent Mortgage Indebtedness, to any part of the **Prior Mortgage Indebtedness** as the Prior Mortgagee, in its sole, unfettered and subjective discretion, may determine notwithstanding any provision to the contrary in the Subsequent Mortgage Security . If any payments, from the Property Cash Flow, are made to or received by the Subsequent Mortgagee in contravention of this Agreement, the Subsequent Mortgagee shall hold such payments in trust for the Prior Mortgagee and shall forthwith pay such payments to the Prior Mortgagee for application to the payment of the **Prior Mortgage Indebtedness**. The Subsequent Mortgagee hereby agrees that if all or any part of any payment made on account of the **Prior Mortgage Indebtedness** is recovered from the Prior Mortgagee as a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or other law, any payment or distribution received by the Subsequent Mortgagee on the Subsequent Mortgage Indebtedness, will be deemed to have been received by it in trust for the Prior Mortgagee and will promptly be paid over to the Prior Mortgagee until the **Prior Mortgage Indebtedness** is indefeasibly paid and satisfied in full. For clarity purposes, and notwithstanding anything contained to the contrary in this section, it is hereby agreed that the Subsequent Mortgagee may accept payments on account of principal, interest and costs after an event of default provided that the same is not from the Property Cash Flow.
  6. The Subsequent Mortgagee confirms that the outstanding principal balance on the Subsequent Mortgage is not greater than \$3,000,000.00 and that it shall not make any further principal advances under the Subsequent Mortgage, without the prior written consent of the Prior Mortgagee (which consent shall not be unreasonably withheld). To the extent that any principal advances are hereinafter made under the Subsequent Mortgage Security, then, such funds shall be held in trust by the Subsequent Mortgagee, on account of the Prior Mortgage Indebtedness, and, until directed otherwise in writing by the Prior Mortgagee, shall be paid by the Subsequent Mortgagee to the Prior Mortgagee on account of the Prior Mortgage Indebtedness.
  7. The Subsequent Mortgagee covenants and agrees not to amend, extend or otherwise alter or permit to be amended, extended or altered the Subsequent Mortgage Security, without in each case the prior written consent of the Prior Mortgagee, which consent shall not be unreasonably withheld.
  8. The Subsequent Mortgagee and the Mortgagor acknowledge and agree that should default be made in the observance or performance of any of the covenants, provisos, agreements or conditions contained in any of the security forming part of the Subsequent Mortgage



Security, such default shall constitute an event of default under the Prior Mortgage Security, provided, however, that the Prior Mortgagee shall not be obligated to take any action or exercise any remedy or power to enforce the Prior Mortgage Security as a result of such default without prejudice to its rights under or pursuant to the Prior Mortgage Security.

9. The Subsequent Mortgagee covenants and agrees with the Prior Mortgagee that the Subsequent Mortgagee shall not assert, enforce or exercise any right or remedy, contractual or otherwise, against all or any part of the Property or any other property or assets of the Mortgagor, or against the Mortgagor, any beneficial owner of the Property or any guarantors of the Prior Mortgage Indebtedness and/or the Subsequent Mortgage Indebtedness and it shall not take any steps whatsoever to enforce the Subsequent Mortgage Security, including, without limitation, making demand, commencing an action or any proceedings, giving any notice of intention to enforce security, commencement of bankruptcy proceedings, foreclosure, sale, power of sale, taking of possession, attornment of rents, appointing or making an application to a court for an order appointing an agent or a receiver or receiver and manager of some or all of the Property or by any other means of enforcement, unless, prior to the taking of such steps, (i) there is a default under the Subsequent Mortgage; (ii) the Subsequent Mortgagee has given the Prior Mortgagee written notice of such default; and (iii) a minimum period of ninety (90) days has elapsed since the Subsequent Mortgagee's giving of written notice of the default to the Prior Mortgagee. The Subsequent Mortgagee and the Mortgagor further covenant and agree with the Prior Mortgagee that they shall not challenge, contest or bring into question the validity, priority or perfection of the Prior Mortgage Security or any enforcement action taken by the Prior Mortgagee or any servicer or agent under or in respect of the Prior Mortgage Indebtedness or the Prior Mortgage Security against the Mortgagor or against all or any part of the Property.
10. This Agreement shall remain in full force and effect without regard to, and the obligations of the Subsequent Mortgagee hereunder shall not be affected or impaired by:
  - (a) any exercise or non-exercise by the Prior Mortgagee of any right, remedy, power or privilege in the Prior Mortgage Security, the Commitment Letter, or in any other security held by the Prior Mortgagee;
  - (b) any waiver, consent, extension, indulgence or other action, inaction or omission by the Prior Mortgagee under or in respect of this Agreement, the Commitment Letter or the Prior Mortgage Security or any other security held by the Prior Mortgagee;
  - (c) any default by the Mortgagor or any invalidity or unenforceability of, or any limitation on the liability of the Mortgagor or any other person, or any irregularity or other defect in the Commitment Letter or the Prior Mortgage Security or any other security held by the Prior Mortgagee; and
  - (d) any insolvency, bankruptcy, liquidation, reorganization, arrangement, winding-up, dissolution or similar proceeding involving or affecting the Subsequent Mortgagee, the Mortgagor or any other person.
11. The Mortgagor and the Subsequent Mortgagee shall forthwith, and from time to time, execute and do all deeds, documents and things which may be necessary or advisable to give full effect to the subordination of the Subsequent Mortgage Indebtedness and the Subsequent Mortgage Security and the rights and remedies of the Subsequent Mortgagee thereunder to the Prior Mortgage Indebtedness and the Prior Mortgage Security and the rights and remedies of the Prior Mortgagee thereunder in accordance with the intent of this Agreement. Without limiting the generality of the foregoing, the Subsequent Mortgagee shall, upon the written request of the Prior Mortgagee, execute such documentation for registration on title to the Property as may hereinafter be required by the Prior Mortgagee for the purpose of discharging and reregistering the Prior Mortgage Security and the Subsequent Mortgage Security as blanket security against the Property and all other assets of the Mortgagor in the priorities contemplated under this Agreement.
12. The Mortgagor consents and agrees to be bound by the provisions of this Agreement. The Mortgagor agrees that the provisions of this Agreement shall be for the sole benefit of the Prior Mortgagee and that nothing herein shall grant any right or benefit to the Mortgagor or otherwise amend, restrict, limit or otherwise affect any of the rights and remedies of any mortgagee or any additional covenantors against the Mortgagor or any other person under its security or applicable laws.

13. Any notice, demand, request, consent, agreement or approval (a “Notice”) which may or is required to be given pursuant to this Agreement shall be in writing and shall be sufficiently given or made if delivered personally upon the party for whom it is intended, or transmitted by electronic or facsimile transmission, or (except in the case of an actual or pending disruption of postal service) mailed by registered mail, and in the case of:

- (a) the Prior Mortgagee, addressed as follows:

163 Cartwright Avenue

Toronto, Ontario

M6A 1V5

Attention: Jonathan Mair

E-mail Address: [jmair@firmeapital.com](mailto:jmair@firmeapital.com) Facsimile  
Number: (416) 635-1713

- (b) the Subsequent Mortgagee, addressed as follows:

MCO MANAGEMENT INC.

8920 Woodbine Ave., Suite 400

Markham, ON L3R 9W9

And

KARAMITSOS, TONY

44 Upjohn Road

Toronto, ON M3B 2W1

E-mail Address:

Facsimile Number:

- (c) the Mortgagor, addressed as follows:

STATEVIEW HOMES (HAMPTON HEIGHTS) INC.

Attention: Daniel Ciccone

E-mail Address: [daniel@stateviewhomes.com](mailto:daniel@stateviewhomes.com)

Facsimile Number: (905) 851-1841

Any such Notice, (i) if delivered personally, shall be deemed to be delivered on the date of delivery thereof, (ii) if transmitted by electronic or facsimile transmission prior to 5:00 p.m. on any Business Day shall be deemed to have been delivered on the date of transmission and if delivered by electronic or facsimile transmission after 5:00 p.m. on any Business Day shall be deemed to have been delivered on the next following Business Day or (iii) if mailed as aforesaid, the fourth (4th) Business Day following the date of mailing. For the purposes hereof, personal delivery, including delivery by way of a courier service, shall be made by delivery to an officer, director or responsible employee of the party for whom it is intended at its address set out above. If on the date of mailing or on or before such fourth (4th) Business Day thereafter there is a general interruption in the operation of postal service in Canada, Notices shall be delivered personally or by electronic or facsimile transmission. Each party may, from time to time, change its address or stipulate an address different from the address set out above by giving Notice thereof to each other party in the manner provided in this Section 13. For purposes hereof, “Business Day” means a day, excluding Saturday and Sunday, on which banks are open for commercial business in Toronto, Ontario.

14. The Subsequent Mortgagee hereby confirms and agrees that, the Subsequent Mortgage shall, at any time or times (including without limitation any period of default under the

Subsequent Mortgage), upon the request of the Prior Mortgagee, execute and deliver to the Prior Mortgagee, without delay and without any payment therefor, all plans documentation, and other materials necessary to enable the Mortgagor (and, where applicable, the Prior Mortgagee) to complete the development of the Property, including without limitation the execution and delivery of the following in respect to the Subsequent Mortgagee Security:

- (i) such partial discharges and/or other assurances as may be required in order to convey to any governmental authority any lands as required for municipal or governmental, including, without limiting the generality of the foregoing, such lands as may be required for public purposes such as roads, road widenings, walkways, and one foot reserves;
  - (ii) such consents and postponements as may be required for the creation of easements for utilities or municipal purposes, or for easements and rights of way between the Property and any adjoining properties;
  - (iii) such consents and postponements as may be required in order to register any Plan of Condominium, Plan of Subdivision, or Reference Plan of the Property or any part thereof;
  - (iv) engineering, financial, site plan, development, section 37, condominium and/or subdivision agreements required by the Property;
  - (v) any consent or consents required to be executed in order to have the Property or any part thereof re zoned or divided; and
  - (vi) such consents as may be required by the Mortgagor for the purpose of enabling the Lands to be brought forward into Land Titles Absolute or Absolute Plus as governed by the *Land Titles Act* (Ontario).
15. In the event that the Subsequent Mortgagee fails to provide any of the partial discharges and/or other documentation and materials required under Section 14. of this Agreement, forthwith upon the request of the Prior Mortgagee, then the Prior Mortgagee, in addition to any of its other rights and remedies, shall have the right from time to time to apply (at the sole cost and expense of the Subsequent Mortgagee) for a court order authorizing the execution of such documentation and materials and/or the registration of such partial discharges for the Subsequent Mortgagee Security as may be required by the Prior Mortgagee to satisfy the outstanding obligations of the Subsequent Mortgagee pursuant to this Agreement. In furtherance of the foregoing, the Subsequent Mortgagee acknowledges and agrees that right of the Prior Mortgagee to compensation in damages for any default by the Subsequent Mortgagee of its obligations pursuant to Section 14. of this Agreement is not a complete and sufficient remedy to the Prior Mortgagee for such default and that court relief as aforesaid may also be required.
16. To the extent that there is any Prior Encumbrance registered against title to the Property, then the Subsequent Mortgagee agrees that, during the term of this Agreement, the Prior Mortgagee shall have the exclusive right to cure any default arising in respect to any such Prior Encumbrance without interference from the Subsequent Mortgagee. To the extent that the Prior Mortgagee obtains a transfer or assignment of any Prior Encumbrance in its favour, then such Prior Encumbrance shall be deemed to form part of the Prior Mortgagee Security and the provisions of this Agreement shall hereinafter apply thereto *mutatis mutandis*.
17. This Agreement is binding upon the Subsequent Mortgagee, the Prior Mortgagee and the Mortgagor and their respective successors and permitted assigns and shall enure to the benefit of the Prior Mortgagee and its successors and assigns.
18. The Subsequent Mortgagee agrees that it shall not sell, transfer, assign or otherwise dispose of any interest in the Subsequent Mortgagee Indebtedness or the Subsequent Mortgagee Security unless concurrently with any such sale, transfer, assignment or other disposition, the Subsequent Mortgagee shall cause each assignee to enter into a subordination and standstill agreement with the Prior Mortgagee on the same terms and conditions as this Agreement.
19. The Subsequent Mortgagee confirms that it has the exclusive irrevocable power and authority to enter into the within Agreement on behalf of all parties having an interest in the Subsequent Mortgagee Security and that the execution of this Agreement by the Subsequent Mortgagee constitutes a valid, legal and binding obligation of all parties having

an interest therein to the provisions of this Agreement, enforceable against such parties in accordance with the terms hereof.

20. The Prior Mortgagee agrees that it shall not increase the original principal amount of its Loan or increase the interest rate set out therein beyond the principal amount and interest rate set out in the draft mortgage attached hereto as Schedule "B", without obtaining a revised postponement agreement from the Subsequent Mortgagee.
21. To the extent that any of the Prior Mortgage Security or Subsequent Mortgage Security has not been registered on title to the Property prior to the date of execution of this Agreement, the parties hereto irrevocably authorize and direct the Prior Mortgagee to append the same, from time to time as schedules to this Agreement, whereupon the same shall be deemed to be incorporated and form part of this Agreement.
22. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
23. This Agreement may be executed in counterparts and each counterpart so executed shall be binding upon the person executing same as if such counterpart were executed by all parties.
24. This Agreement may be transmitted by telecopier, or electronic mail (including DocuSign) and shall be binding upon the parties hereto as if executed and delivered in the original.
25. Any provision of this Agreement which is prohibited or unenforceable shall be ineffective and shall not invalidate or render unenforceable any other provision herein.

*(Remainder of page intentionally left blank  
Signatures to follow on next page)*

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first written above.

MCO MANAGEMENT INC.

Per: 

Name: Jason Karametch

Title: A.S.O

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

Name:

Title:

~~I~~We have the authority to bind the corporation

Witness:

  
Name: KIM PACE  
(please print)

  
TONY KARAMITSOS

FIRM CAPITAL MORTGAGE FUND INC.

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

Name: Jonathan Mair

Title: Vice President

I have authority to bind the corporation.

STATEVIEW HOMES (HAMPTON HEIGHTS) INC.

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

Name: Daniel Ciccone

Title: Secretary

I have authority to bind the corporation.


IN WITNESS WHEREOF the parties have executed this Agreement as of the date first written above.

**MCO MANAGEMENT INC.**

Per: \_\_\_\_\_  
Name: TONY KARAMITSOS  
Title: President  
I have authority to bind the Corporation

\_\_\_\_\_  
TONY KARAMITSOS

**FIRM CAPITAL MORTGAGE FUND INC.**

Per:  \_\_\_\_\_  
Name: Jonathan Mair  
Title: Vice President  
I have authority to bind the corporation.

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Per: \_\_\_\_\_  
Name: Daniel Ciccone  
Title: Secretary  
I have authority to bind the corporation.

**IN WITNESS WHEREOF** the parties have executed this Agreement as of the date first written above.

**MCO MANAGEMENT INC.**

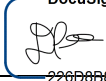
Per: \_\_\_\_\_  
Name: TONY KARAMITSOS  
Title: President  
I have authority to bind the Corporation

\_\_\_\_\_  
TONY KARAMITSOS

**FIRM CAPITAL MORTGAGE FUND INC.**

Per: \_\_\_\_\_  
Name: Jonathan Mair  
Title: Vice President  
I have authority to bind the corporation.

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

DocuSigned by:  
  
Per: \_\_\_\_\_  
Name: Daniel Ciccone  
Title: Secretary

I have authority to bind the corporation.

# **APPENDIX “G”**



**TDB Restructuring Limited**  
**Court-Appointed Receiver and Manager of Stateview Homes (Hampton Heights) Inc.**  
**Interim Statement of Receipts and Disbursements**  
**For the period June 15, 2023 to November 11, 2024**

Receipts		Notes
Sale of Property	\$ 7,200,000	1
Advance from secured lenders - Receiver's Certificate #1	60,000	2
HST Refunds	126,784	
Interest	18,621	
<b>Total receipts</b>	<b>\$ <u>7,405,405</u></b>	
Disbursements		
Distributions to the First Mortgagee	\$ 6,518,827	3
Payments to Lien Claimaints	168,160	4
Operational, Repairs and Maintenance	53,140	
Insurance	12,000	
Miscellaneous	10,844	
Property Taxes	7,636	
HST Paid	77,847	
Legal Fees incurred by the Receiver	75,369	
Legal Fees of First Mortgagee for Enforcement/Priority	298,179	
Receiver's Fees	153,031	
<b>Total disbursements</b>	<b>\$ <u>7,375,033</u></b>	
<b>Excess of Receipts over Disbursements</b>	<b>\$ <u>30,372</u></b>	<b>5</b>

**Notes:**

- 1 The Property was sold for a gross sale price of \$7,200,000, of which the Receiver received \$1,200,000 as the deposit. The balance of the purchase price was received by the Receiver's real estate counsel Fogler Rubinoff LLP in trust, and subsequently distributed via directions from the Receiver:

Sale Price	\$ 7,200,000
Adjustments on closing	4,268
Paid to Firm Capital via direction of funds	(5,992,364)
Property taxes paid via direction of funds	(11,904)
Deposit held by the Receiver	<u>\$ 1,200,000</u>

- 2 Represents an advance from Firm Capital Corporation ("Firm") secured by Receiver Certificate No. 1.

- 3 Payments made to the First Mortgagee pursuant to the Order dated August 18, 2023.

- 4 The payments to Lien Claimants are comprised of the following:

LIUNA Local 183	\$ 14,343
Sunbelt Rentals	556
Pro Star Excavating & Grading Ltd.	22,305
Tamarack Lumber Inc.	58,205
Woodbridge Stoneslinger (1994) Limited	9,642
Terra Forma	53,074
EME Professional Corp.	10,035
<b>Total Payments to Secured Creditors</b>	<b>\$ <u>168,160</u></b>

- 5 All professional fees as set out on the fee affidavits appended to the Second Report have been paid, and the payments are reflected in the R&D above. The balance of funds held in the estate are expected to be applied to unbilled time from October 1, 2024 onward for TGF and TDB.

# **APPENDIX “H”**

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

**BETWEEN :**

**FIRM CAPITAL MORTGAGE FUND INC.**

Applicant

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Respondent

**AFFIDAVIT OF JEFFREY BERGER**  
**(Sworn November 7, 2024)**

I, **JEFFREY BERGER**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Managing Director of TDB Restructuring Limited (“**TDB**”) and as such I have personal knowledge of the matters to which I hereinafter depose, save and except those matters based upon information and belief, in which case I have stated the source of such facts, all of which I verily believe to be true.
2. Pursuant to an order of the Court dated June 15, 2023, RSM Canada Limited (“**RCL**”) was appointed receiver and manager (the “**Receiver**”), without security, of the assets, undertakings and properties of Stateview Homes (Hampton Heights) Inc. (the “**Debtor**”), acquired for, or used in relation to the business carried on by the Debtor, and

all proceeds thereof, including, but not limited to the real estate development known as “Hampton Heights”, and the lands and premises municipally known as 39 Auburn Court, Barrie, Ontario and 2, 4, 6 and 8 Teck Road, Barrie, Ontario.

3. Pursuant to an Order of the Court dated March 1, 2024, the Receiver’s name change from RCL to TDB Restructuring Limited (“**TDB**”) was approved.


4. Attached hereto and marked as **Exhibit “A”** to this my affidavit are copies of invoices issued by RCL & TDB for fees incurred by TDB in respect of the receivership proceedings for the period August 1, 2023 to September 30, 2024 (the “**Period**”). The total fees charged for the Period are \$60,015.00, and HST of \$7,801.96 for a total of \$67,816.96. The average hourly rate charged during the Period was \$435.68.


5. The invoices are a fair and accurate description of the services provided and the amounts charged by TDB for the Period.

6. Attached hereto and marked as **Exhibit “B”** is a schedule summarizing the invoices in Exhibit “A”, the total billable hours charged, the total fees charged and the average hourly rate charged.

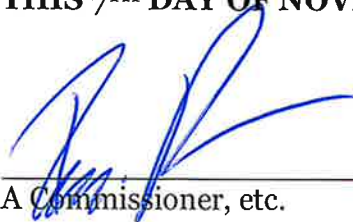
7. I make this affidavit in support of a motion for an Order approving the Receiver’s fees and disbursements and for no other or improper purpose.

SWORN BEFORE ME at the City of )  
Toronto, in the Province of Ontario, on )  
the 7<sup>th</sup> day of November, 2024 )  
)  
)  
)  
)  
)  
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)  
)  
)

  
\_\_\_\_\_  
Bryan Altman, etc.,  
a Commissioner, etc., Province of Ontario,  
for TDB Restructuring Limited.  
Expires March 6, 2027.

  
\_\_\_\_\_  
JEFFREY BERGER

**THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF JEFFREY BERGER SWORN BEFORE ME  
THIS 7<sup>TH</sup> DAY OF NOVEMBER, 2024**

A handwritten signature in blue ink, appearing to be 'B. Tannenbaum', written over a horizontal line.

A Commissioner, etc.

**Bryan Allan Tannenbaum,  
a Commissioner, etc., Province of Ontario,  
for TDB Restructuring Limited.  
Expires March 6, 2027.**



GST/HST: 80784 1440 RT 0001

**RSM CANADA LIMITED**  
**Licensed Insolvency Trustee**  
11 King St W, Suite 700, Box 27  
Toronto, ON M5H 4C7

T +1 416 480 0160  
F +1 416 480 2646

www.rsmcanada.com

**To** RSM Canada Limited  
Court-Appointed Receiver of Stateview Homes  
(Hampton Heights) Inc.  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

**Date** October 4, 2023

**Client File** 8781516

**Invoice** 3

**No.** CI-10106369

For professional services rendered with respect to the appointment of RSM Canada Limited as Court-Appointed Receiver of Stateview Homes (Hampton Heights) Inc. ("Stateview" or "Debtor") for the period August 1, 2023 to August 31, 2023.

<b>Date</b>	<b>Professional</b>	<b>Description</b>
8/1/2023	Bryan Tannenbaum	Review and edit First Report to Court.
8/1/2023	Jeff Berger	Review B. Tannenbaum's comments on draft First Report and discuss same; arrange site visit for purchaser; arrange for site inspections pursuant to insurance policy requirements.
8/2/2023	Bryan Tannenbaum	Review draft report with J. Berger to discuss edits; receipt and review of D.J. Miller of Thornton Grout Finnigan LLP ("TGF") email re Tarion position; receipt and review of Torys letter on Tarion position; receipt and review of D.J. Miller email with comments of Torys letter; attend TGF Zoom call to discuss the Tarion position and items for response; emails re security opinion and need for opinion on second mortgagee; various emails regarding a responding letter from TGF to Torys.
8/2/2023	Jeff Berger	Call with the secured lender and counsel re letter received from Tarion and response thereto.
8/3/2023	Bryan Tannenbaum	Receipt and review of Loopstra Nixon LLP ("Loopstra") updated opinion letter; various emails re Tarion; review draft report and TGF comments.
8/3/2023	Jeff Berger	Receipt and review of amended security opinion from Loopstra; forward same to TGF; attend to various administrative matters.
8/4/2023	Bryan Tannenbaum	Receipt and review of D.J. Miller email reporting on Tarion withdrawing their claim; Teams call with D.J. Miller, J. Fried of Fogler, Rubinoff LLP ("Foglers") and J. Berger to finalize the court report.
8/4/2023	Jeff Berger	Amend Receiver's report per discussions with counsel; discuss same with B. Tannenbaum; conference call with D.J. Miller and J. Fried to review the draft Receiver's report in detail.

Date	Professional	Description
8/5/2023	Jeff Berger	Edit Receiver's First Report per discussion with TGF and send amended report to TGF for further comments; email to Loopstra to request their fee affidavit to append to the Receiver's report.
8/6/2023	Bryan Tannenbaum	Various emails with comments on the report to finalize, etc.; receipt and review of draft Notice of Motion and Approval of Sale.
8/7/2023	Bryan Tannenbaum	Review edits and comments to the court report.
8/8/2023	Bryan Tannenbaum	Various emails re discharge amounts, registrations, finalizing report, fees, lien claim schedule, PPSA registrations, etc.
8/8/2023	Jeff Berger	Amend Receiver's First Report per discussions with counsel; prepare and compile appendices to the Receiver's First Report, including the interim statement of receipts and disbursements, fee affidavit of the Receiver, etc.; call with J. Mair of Firm Capital Corporation ("Firm Capital") re comments on the draft report; receipt and review of Firm Capital discharge statement; commission fee affidavit for Bryan Tannenbaum.
8/9/2023	Bryan Tannenbaum	Various emails with comments on the finalization of the report.
8/9/2023	Jeff Berger	Receipt and review of final motion materials; arrange for same to be posted to the Receiver's web page.
8/10/2023	Bryan Tannenbaum	Receipt and review of P. Hancock, lawyer for a lien claimant, email regarding court report and lien claimants position; emails re same from R. MacDougall of Foglers, J. Fried, D.J. Miller; email from P. Fesharaki of TGF regarding correspondence with purchasers on their deposit status; email from J. Berger to P. Fesharaki responding on Receiver's position; receipt and review of R. MacDougall email re secured creditors loan ledger and impact on holdback, etc.; P. Fesharaki email regarding J. Long position that holdback is 10% of work performed, etc.; second J. Long email re same to D.J. Miller; further emails re same amongst Receiver's counsel; R. MacDougall email re Altus cost reports and appraisal, etc.; discussion with J. Berger regarding status and estimated realizations waterfall, etc.; various emails re second secured creditors inquiries on the sale price and surplus, if any; receipt and review of P. Fesharaki email that he heard from second secured's lawyer and they will not oppose relief sought; receipt and review of R. MacDougall email regarding call with Altus representative and draft email to the lien claimants re amount of holdback.
8/10/2023	Donna Nishimura	Received RTS mail; update address and re-send Notice & Statement of Receiver.
8/10/2023	Jeff Berger	Call with R. MacDougall and A. Boucher of Altus regarding the latest cost consultants' reports; email to A. Boucher with copy of the Appointment Order and request for further information; review and send Antec appraisals to counsel per request from TGF.
8/11/2023	Bryan Tannenbaum	Receipt and review of R. MacDougall email with draft email to counsel for the lien claimants; various emails following from counsel with edits, comments and questions, etc.; receipt and review of final email sent to lien claimants' counsel; receipt and review of D.J. Miller email regarding her call with P. Hancock; call from equipment lessor and receipt of email re same providing details.

Date	Professional	Description
8/11/2023	Jeff Berger	Email and call to Antec re sharing of existing appraisals with lien claimants; email to TGF and Foglers re same; review various emails re lien claims and the potential holdback for lien claimants; discuss same with B. Tannenbaum.
8/15/2023	Jeff Berger	Review file and prepare statement of estimated distributions; receipt and review of various emails from counsel re lien holdback and response from counsel to lien claimants; call with D.J. Miller, P. Fesharaki, J. Fried, J. Mair and R. MacDougall re statement of estimated distributions, letter to lien claimants re holdback, and other matters.
8/16/2023	Bryan Tannenbaum	Various emails amongst counsel regarding lien claimants and amount to be withheld, etc.; review and final Receiver's Supplementary Report.
8/16/2023	Anne Baptiste	Review and post disbursement; prepare bank reconciliation.
8/16/2023	Jeff Berger	Call with P. Fesharaki re lien claims; calls from existing unit purchasers; edit Receiver's supplementary report to Court and discuss same with TGF.
8/17/2023	Bryan Tannenbaum	Further emails re lien claimants; review of draft order; LiUNA position; review our Factum; TGF email to service list re no opposition, etc.
8/17/2023	Jeff Berger	Amend and finalize Receiver's supplementary report; discuss same with TGF and B. Tannenbaum.
8/18/2023	Bryan Tannenbaum	Court approval; closing document emails, etc.; receipt and review of Judge's Endorsement and Orders.
8/18/2023	Jeff Berger	Prepare for Court re approval of sale; attend Court re motion for approval of sale; receipt and review of signed Court orders and arrange for same to be posted to the Receiver's web page.
8/21/2023	Bryan Tannenbaum	Emails with J. Fried regarding information for closing and providing documents to City of Barrie.
8/21/2023	Jeff Berger	Review and respond to emails from existing unit purchasers.
8/22/2023	Bryan Tannenbaum	Receipt and review of J. Fried email to City of Barrie re closing and transfer of deposits to purchaser, etc.; receipt and review of C. Packman of City of Barrie email to J. Fried.
8/23/2023	Bryan Tannenbaum	Receipt and review of email from Pollard Windows regarding windows for shipment; response sent.
8/24/2023	Bryan Tannenbaum	Telephone call with J. Fried regarding closing date and review of draft documents, etc.
8/25/2023	Bryan Tannenbaum	Review D.J. Miller email re WEPP applicability; discuss with J. Berger; receipt and review of J. Berger email to the debtor re if they had employees; review of several emails with closing documents and comments thereto; telephone call with J. Fried regarding addition of Sunbelt to the vesting order; telephone call with P. Fesharaki re same; receipt and review of D.J. Miller email re same; several further emails and corrected by Courts.
8/25/2023	Jeff Berger	Email to Debtor to request information about employees (if any); call with P. Fesharaki re union claim for wage and pension priority amounts.
8/28/2023	Bryan Tannenbaum	Receipt and review of updated statement of adjustments from Foglers; discussion re same with J. Berger; receipt, review and execution of closing documents.



Date	Professional	Description
8/29/2023	Bryan Tannenbaum	Various emails regarding closing; receipt and review of V. Taneja email re employees; sign and return Receiver's certificate; receipt and review of P. Fesharaki email re workers employer.
8/29/2023	Jeff Berger	Review and update schedule of distributions from proceeds of sale and discuss same with B. Tannenbaum; review and respond to emails from P. Fesharaki and D.J. Miller re union claim for wages and pension priority amounts; call with Canada Revenue Agency to inquire about existence of payroll account; email to Debtor to request information about employee relationships (if any); attend to various administrative matters re closing of sale transaction.
8/30/2023	Bryan Tannenbaum	Dealing with emails on closing and payment of funds, etc.; process payments; review D.J. Miller email regarding employee claim.
8/30/2023	Donna Nishimura	Prepare cheque requisition for payment of invoices and submit paperwork for processing.
8/30/2023	Anne Baptiste	Post disbursements.
8/30/2023	Jeff Berger	Call with D.J. Miller, P. Fesharaki and J. Harnum re union claim for wages and pension amounts; review issue in further detail and discuss with B. Tannenbaum; arrange for payment of distribution to secured creditor.
8/31/2023	Bryan Tannenbaum	Processing payments; email re terminating liabilities, dealing with purchaser, dealing with Tarion, etc.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

### FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	President	26.50	\$ 625	\$ 16,562.50
Jeffrey K. Berger, CPA, CA, CIRP, LIT	Vice President	38.80	\$ 425	16,490.00
Anne Baptiste/Donna Nishimura	Estate Administrator	1.20	\$ 110	132.00
<b>Total hours and professional fees</b>		<b>66.50</b>		\$ 33,184.50
HST @ 13%				4,313.99
<b>Total payable</b>				<b>\$ 37,498.49</b>

VISA/MASTERCARD  
 Payments can be made by calling the Accounts Receivable Department at 647.726.0483.

WIRE PAYMENT DETAILS  
 Please contact Donna Nishimura at 647.727.3552 for wire instructions.

Invoices are due upon receipt.  
 RSM Canada Limited



GST/HST: 80784 1440 RT 0001

**RSM CANADA LIMITED**  
**Licensed Insolvency Trustee**  
11 King St W, Suite 700, Box 27  
Toronto, ON M5H 4C7

T +1 416 480 0160  
F +1 416 480 2646

www.rsmcanada.com

**To** RSM Canada Limited  
Court-Appointed Receiver of Stateview Homes  
(Hampton Heights) Inc.  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

**Date** October 5, 2023

**Client File** 8781516

**Invoice** 4

**No.** CI-10219839

For professional services rendered with respect to the appointment of RSM Canada Limited as Court-Appointed Receiver of Stateview Homes (Hampton Heights) Inc. ("Stateview" or "Debtor") for the period September 1, 2023 to September 30, 2023.

Date	Professional	Description
9/1/2023	Bryan Tannenbaum	Receipt and review of Fogler, Rubinoff LLP ("Foglers") invoices.
9/5/2023	Jeff Berger	Prepare schedule of remaining disbursements and forward to B. Tannenbaum for review and comments; email to J. Fried of Foglers re invoices to be paid; email to P. Fesharaki of Thornton Grout Finnigan LLP ("TGF") re invoices through June 30, 2023; review and respond to email from J. Mair of Firm Capital Corporation ("Firm Capital") re timing of remaining payments; review and sign letter to Canada Revenue Agency ("CRA") re opening RT0002 account.
9/6/2023	Bryan Tannenbaum	Review statement of receipts and disbursements and outstanding liabilities; discuss with J. Berger.
9/6/2023	Jeff Berger	Email to counsel and secured lenders re remaining distributions, etc.; review and respond to email from A. Hoy re Receiver's factum.
9/7/2023	Bryan Tannenbaum	Call with D.J. Miller of TGF and J. Berger to discuss distribution of remaining funds, lien claimants settlement, etc.
9/7/2023	Jeff Berger	Call with B. Tannenbaum and D.J. Miller re outstanding payments and distributions; call with R. MacDougall and P. Fesharaki re LiUNA 183 claim for priority amounts and other lien claim adjustments.
9/8/2023	Jeff Berger	Call with V. Taneja of Stateview to discuss outstanding HST returns to be filed by the Debtor; receipt and review of filed HST returns and the accompanying support; call from CRA representative re same.
9/11/2023	Anne Baptiste	Post disbursements.
9/11/2023	Bryan Tannenbaum	Process payments.
9/11/2023	Jeff Berger	Review and edit draft letter to existing unit purchasers; discuss same with P. Fesharaki; finalize schedule of distributions and arrange for distribution payments to be processed.

Date	Professional	Description
9/12/2023	Bryan Tannenbaum	Email from F. Todd of Firm Capital re funds; response sent with proof of EFT paid.
9/18/2023	Anne Baptiste	Post invoices; prepare bank reconciliation.
9/20/2023	Jeff Berger	Finalize and sign letter to existing purchasers; arrange for letter to be sent to existing purchasers and discuss same with T. Irshad; exchange emails re letter to existing purchasers with P. Fesharaki.
9/20/2023	Tanveel Irshad	Send out letters regarding termination of purchase agreements.
9/22/2023	Bryan Tannenbaum	Process payment to Foglers.
9/22/2023	Anne Baptiste	Post disbursements.
9/28/2023	Bryan Tannenbaum	Process payment to Moreau Onsite.
9/28/2023	Anne Baptiste	Post disbursement; review bank reconciliation report.
9/28/2023	Jeff Berger	Review file and prepare payment requisitions for various outstanding payments.
9/29/2023	Tanveel Irshad	Prepare cheque requisition.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

### FEE SUMMARY

Professional	Level	Hours	Rate	Fees
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	President	2.20	\$ 625	\$ 1,375.00
Jeffrey K. Berger, CPA, CA, CIRP, LIT	Vice President	10.50	\$ 425	4,462.50
Tanveel Irshad	Associate	1.15	\$ 200	230.00
Anne Baptiste	Estate Administrator	1.90	\$ 110	209.00
<b>Total hours and professional fees</b>		<u>15.75</u>		\$ 6,276.50
HST @ 13%				815.95
<b>Total payable</b>				<b>\$ 7,092.45</b>

**VISA/MASTERCARD**

Payments can be made by calling the Accounts Receivable Department at 647.726.0483.

**WIRE PAYMENT DETAILS**

Please contact Donna Nishimura at 647.727.3552 for wire instructions.

Invoices are due upon receipt.  
 RSM Canada Limited



GST/HST: 80784 1440 RT 0001

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11 King St W, Suite 700, Box 27  
Toronto, ON M5H 4C7

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F +1 416 480 2646

www.rsmcanada.com

**To** RSM Canada Limited  
Court-Appointed Receiver of Stateview Homes  
(Hampton Heights) Inc.  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

**Date** January 15, 2024

**Client File** 8781516  
**Invoice** 5  
**No.** CI-10219843

For professional services rendered with respect to the appointment of RSM Canada Limited as Court-Appointed Receiver of Stateview Homes (Hampton Heights) Inc. ("Stateview" or "Debtor") for the period October 1, 2023 to December 31, 2023.

Date	Professional	Description
10/2/2023	Jeff Berger	Receipt and review of draft release for lien claimants; call with Sunbelt Rentals re fencing on site; call from waste bin vendor re retrieval of bins from site and cost to dispose of bin contents, etc.; discuss same with B. Tannenbaum; email to T. Irshad re Alectra Utilities ("Alectra") account arrears.
10/3/2023	Tanveel Irshad	Call and draft email to Alectra Utilities regarding collection notice.
10/4/2023	Tanveel Irshad	Review unpaid HST invoices and create and update master excel file.
10/4/2023	Jeff Berger	Review and respond to email from V. Taneja of Stateview re HST examination; review HST return support and discuss same with T. Irshad.
10/5/2023	Jeff Berger	Calls from existing unit purchasers regarding the deposit refund protocols, etc.
10/20/2023	Anne Baptiste	Prepare bank reconciliation.
10/27/2023	Bryan Tannenbaum	Various emails regarding the distribution of the holdback; telephone call with R. MacDougall of Fogler Rubinoff LLP ("Fogler") re same and releases.
10/30/2023	Tanveel Irshad	Prepare cheque requisitions.
10/31/2023	Jeff Berger	Call with V. Taneja regarding the Debtor's proposed response to a Canada Revenue Agency examination of pre-receivership HST returns; review Receiver's analysis of ITCs claimed.
11/1/2023	Anne Baptiste	Post disbursements.
11/6/2023	Bryan Tannenbaum	Process payments.
11/6/2023	Anne Baptiste	Post disbursements.
11/6/2023	Tanveel Irshad	Prepare cheque requisition.
11/7/2023	Anne Baptiste	Post disbursements.
11/14/2023	Bryan Tannenbaum	Receipt and review of R. MacDougall email re lien claim holdbacks.

Date	Professional	Description
11/15/2023	Bryan Tannenbaum	Receipt and review of R. MacDougall response to amounts of holdback owed; responding email sent.
11/16/2023	Bryan Tannenbaum	Review correspondence on lien claim holdback amounts between Fogler and Thornton Grout Finnigan LLP ("TGF"); telephone call with R. MacDougall re same.
11/17/2023	Anne Baptiste	Prepare bank reconciliation.
11/24/2023	Tanveel Irshad	Prepare payment requisition.
11/27/2023	Anne Baptiste	Review and post disbursement.
11/28/2023	Bryan Tannenbaum	Review lien claim amounts and process payments.
11/28/2023	Anne Baptiste	Post disbursements; review reconciliation report for November.
12/5/2023	Bryan Tannenbaum	Receipt and review of J. Long email and response sent re distribution of funds.
12/6/2023	Bryan Tannenbaum	Process and sign cheque.
12/6/2023	Anne Baptiste	Post disbursement.
12/7/2023	Bryan Tannenbaum	Process release and payment to Woodbridge Stoneslinger; receipt and review of correspondence with Tamarack's counsel re release.
12/8/2023	Bryan Tannenbaum	Receipt and review of S. Turajlich email for Tamarack.
12/11/2023	Bryan Tannenbaum	Review release and process payment for Tamarack; receipt, review and response to B. Mills of Grant Steel re status of unsecured account.
12/11/2023	Anne Baptiste	Post disbursements.
12/12/2023	Anne Baptiste	Print cheques.
12/12/2023	Bryan Tannenbaum	Process payments to lien claimant hold backs to Tamarack and Woodbridge Stoneslinger.
12/15/2023	Bryan Tannenbaum	Process Terra Forma release payment.
12/18/2023	Anne Baptiste	Post disbursement.
12/18/2023	Bryan Tannenbaum	Receipt and review of P. Fesharaki of TGF email regarding P. Hancock request for us to complete a form, etc.
12/19/2023	Anne Baptiste	Prepare bank reconciliation.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

**FEE SUMMARY**

<b>Professional</b>	<b>Level</b>	<b>Hours</b>	<b>Rate</b>	<b>Fees</b>
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	President	4.70	\$ 625	\$ 2,937.50
Jeffrey K. Berger, CPA, CA, CIRP, LIT	Vice President	3.60	\$ 425	1,530.00
Tanveel Irshad	Associate	4.60	\$ 200	920.00
Anne Baptiste	Estate Administrator	3.10	\$ 110	341.00
<b>Total hours and professional fees</b>		<u>16.00</u>		\$ 5,728.50
HST @ 13%				744.71
<b>Total payable</b>				<b>\$ 6,473.21</b>

**VISA/MASTERCARD**

Payments can be made by calling the Accounts Receivable Department at 647.726.0483.

**WIRE PAYMENT DETAILS**

Please contact Donna Nishimura at 647.727.3552 for wire instructions.

Invoices are due upon receipt.  
 RSM Canada Limited

GST/HST: 80784 1440 RT0001



**To** TDB Restructuring Limited (formerly RSM Canada Limited)  
Court-Appointed Receiver of Stateview Homes  
(Hampton Heights) Inc.  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

**TDB Restructuring Limited**  
Licensed Insolvency Trustee

11 King St. W., Suite 700  
Toronto, ON M5H 4C7

info@tdbadvisory.ca  
416-575-4440  
416-915-6228

tdbadvisory.ca

**Date** May 13, 2024

**Client File** 24-001  
**Invoice** TDB #1  
**No.** 2405025

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of Stateview Homes (Hampton Heights) Inc. ("Stateview" or "Debtor") for the period January 1, 2024 to April 30, 2024.

Date	Professional	Description
2/10/2024	Anne Baptiste	Prepare bank reconciliation.
2/26/2024	Jennifer Hornbostel	Prepare S246 report.
2/29/2024	Jennifer Hornbostel	File HST returns.
3/5/2024	Brenda Wong	Review draft S246 report and R&D and make changes.
3/6/2024	Jennifer Hornbostel	Prepared S246(2) report.
3/8/2024	Jeff Berger	Correspond with Sunbelt Rentals and the Purchaser regarding the removal of fencing and closure of the account.
3/8/2024	Jennifer Hornbostel	Prepare cheque requisition.
3/13/2024	Bryan Tannenbaum	Email from R. MacDougall of Fogler Rubinoff LLP with Stardrain direction for payment; email sent re release missing.
3/15/2024	Anne Baptiste	Prepare bank reconciliation.
3/21/2024	Bryan Tannenbaum	Process payment to vendor.
3/21/2024	Jennifer Hornbostel	Post transaction to Ascend.
3/28/2024	Jennifer Hornbostel	Email to Alectra re not opening accounts under RSM.
4/1/2024	Bryan Tannenbaum	Process payment to lien claimant re holdback.
4/1/2024	Jennifer Hornbostel	Prepare cheque requisitions.
4/2/2024	Jennifer Hornbostel	Investigate location of copier machines; email/call to Vault Credit.
4/4/2024	Anne Baptiste	Prepare bank reconciliation.
4/4/2024	Bryan Tannenbaum	Process payment to lien claimant.
4/4/2024	Jennifer Hornbostel	Record transaction.
4/5/2024	Jennifer Hornbostel	Email to vendor.
4/10/2024	Bryan Tannenbaum	Issue replacement payment to lien claimant.
4/16/2024	Jennifer Hornbostel	Email to vendor.

<b>Date</b>	<b>Professional</b>	<b>Description</b>
4/24/2024	Nisan Thurairatnam	Obtain general ledger from Ascend and tie in the amounts claimed for ITCs to the Canada Revenue Agency ("CRA") NetFile statements; prepare a draft response to CRA regarding audit.
4/26/2024	Nisan Thurairatnam	CRA audit letter; pull support from Ascend.
4/26/2024	Jennifer Hornbostel	Assemble documents for audit.
4/29/2024	Nisan Thurairatnam	Review all invoices regarding ITCs and prepare the appendices for the letter to CRA; call with CRA to obtain the RT0001 information.
4/29/2024	Jennifer Hornbostel	Assemble documents for audit.
4/30/2024	Nisan Thurairatnam	Update appendices provided by J. Hornbostel for CRA audit.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

**FEE SUMMARY**

<b>Professional</b>	<b>Level</b>	<b>Hours</b>	<b>Rate</b>	<b>Fees</b>
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	Managing Director	1.20	\$ 695	\$ 834.00
Jeffrey K. Berger, CPA, CA, CIRP, LIT	Managing Director	0.60	\$ 575	345.00
Brenda Wong, CIRP, LIT	Director	0.40	\$ 495	198.00
Nisan Thurairatnam, CPA	Manager	3.60	\$ 425	1,530.00
Anne Baptiste/Jennifer Hornbostel	Estate Administrator	6.20	\$ 150	930.00
<b>Total hours and professional fees</b>		<b>12.00</b>		\$ 3,837.00
HST @ 13%				498.81
<b>Total payable</b>				<b>\$ 4,335.81</b>



GST/HST: 80784 1440 RT0001



**To** TDB Restructuring Limited (formerly RSM Canada Limited)  
Court-Appointed Receiver of Stateview Homes  
(Hampton Heights) Inc.  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

**TDB Restructuring Limited**  
Licensed Insolvency Trustee

11 King St. W, Suite 700  
Toronto, ON M5H 4C7

info@tdbadvisory.ca  
416-575-4440  
416-915-6228

tdbadvisory.ca

**Date** June 21, 2024

**Client File** 24-001  
**Invoice** TDB #2  
**No.** 2406022

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of Stateview Homes (Hampton Heights) Inc. ("Stateview" or "Debtor") for the period May 1, 2024 to May 31, 2024.

Date	Professional	Description
5/6/2024	Nisan Thurairatnam	Edit letter to Canada Revenue Agency ("CRA"); compile response; fax response; call with CRA representative regarding same.
5/6/2024	Jeff Berger	Review and edit response to CRA audit inquiry; sign letter responding to CRA audit.
5/9/2024	Nisan Thurairatnam	Respond to call from CRA agent regarding HST audit, search for indemnity contract and internal email regarding same.
5/9/2024	Jeff Berger	Review correspondence from CRA re need to purchaser's HST Certificate; email to J. Fried of Fogler, Rubinoff LLP to request same and forward to N. Thurairatnam to send to CRA in response.
5/10/2024	Nisan Thurairatnam	Review indemnity documents provided by counsel and confirm with CRA representative this is all they need; send fax to CRA.
5/13/2024	Nisan Thurairatnam	Call with CRA auditor to confirm they received the certificate faxed on Friday May 10; correspond with auditor to confirm no outstanding items from the Receiver ; internal email regarding same; meeting with J. Berger regarding same; call with W. Ruger of CRA to discuss the hold on the HST refund owing to Stateview and how to get the hold released; same discussion regarding the RT02 account; internal email regarding all HST matters.
5/15/2024	Nisan Thurairatnam	Prepare the RC342 forms for 2022 and 2023; internal email regarding same; correspond with J. Hornbostel regarding February March and April HST filings; review the draft HST filings.
5/15/2024	Jennifer Hornbostel	Prepare and file HST return.
5/16/2024	Nisan Thurairatnam	Call with T. Irshad regarding all HST filings for file.
5/17/2024	Tanveel Irshad	Update HST tracker.
5/21/2024	Nisan Thurairatnam	Email correspondence with W. Ruger regarding the Company's income tax returns.
5/21/2024	Tanveel Irshad	Reconcile HST filings.

Date	Professional	Description
5/27/2024	Tanveel Irshad	Obtain and update status of HST on iManage and on HST tracker.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

**FEE SUMMARY**

Professional	Level	Hours	Rate	Fees
Jeffrey K. Berger, CPA, CA, CIRP, LIT	Managing Director	1.00	\$ 575	\$ 575.00
Nisan Thurairatnam, CPA	Manager	4.70	\$ 425	1,997.50
Tanveel Irshad	Associate	0.40	\$ 295	118.00
Jennifer Hornbostel	Estate Administrator	0.30	\$ 150	45.00
<b>Total hours and professional fees</b>		<u><b>6.40</b></u>		\$ 2,735.50
HST @ 13%				355.62
<b>Total payable</b>				<b>\$ 3,091.12</b>



**To** TDB Restructuring Limited (formerly RSM Canada Limited)  
Court-Appointed Receiver of Stateview Homes  
(Hampton Heights) Inc.  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

**TDB Restructuring Limited**  
Licensed Insolvency Trustee

11 King St. W, Suite 700  
Toronto, ON M5H 4C7

info@tdbadvisory.ca  
416-575-4440  
416-915-6228

tdbadvisory.ca

**Date** September 10, 2024

**Client File** 24-001  
**Invoice** TDB #3  
**No.** 2409005

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of Stateview Homes (Hampton Heights) Inc. ("Stateview") for the period June 1, 2024 to August 31, 2024.

Date	Professional	Description
6/9/2024	Anne Baptiste	Prepare bank reconciliation.
6/12/2024	Nisan Thurairatnam	Dealing with Canada Revenue Agency ("CRA") auditor and CRA's results of our response to their request; meeting with T. Irshad regarding same.
6/12/2024	Tanveel Irshad	Meeting with N. Thurairatnam; review correspondence sent to CRA regarding HST audit and call CRA contact and left message; send update to N. Thurairatnam.
6/13/2024	Tanveel Irshad	Follow-up with CRA agent and left message re HST audit refund; call with CRA agent and send update to N. Thurairatnam.
6/13/2024	Nisan Thurairatnam	Review Globe and Mail article regarding Stateview and lawsuits.
6/14/2024	Nisan Thurairatnam	Follow-up regarding CRA HST audit.
6/25/2024	Jeff Berger	Receipt and review of CRA audit response re returns all assessed as filed; email to T. Irshad re follow-up with CRA to determine when the refunds will be released to the Receiver; receipt and review of T. Irshad response re same.
6/25/2024	Tanveel Irshad	Correspondence with J. Berger and CRA re refund.
6/25/2024	Nisan Thurairatnam	Attend to matters related to HST refunds; review letter received from CRA.
6/28/2024	Tanveel Irshad	Prepare S246(2) Notice and Interim Statement of Receipts and Disbursements.
7/2/2024	Jeff Berger	Review file and status of remaining tasks; review CRA accounts and discuss preparation of RC342 waiver and nil T2 returns to be filed with T. Irshad.
7/2/2024	Tanveel Irshad	Discuss preparation of RC342 waiver and nil T2 returns with J. Berger.
7/4/2024	Tanveel Irshad	Prepare letter to CRA and complete nil T2 returns.
7/5/2024	Tanveel Irshad	Update letter to CRA re T2 Returns and send to J. Berger for review.
7/8/2024	Nisan Thurairatnam	Review the notice and statement of the Receiver S246(2) report for the period ending December 15, 2023 and for the period ending June 15, 2024.
7/10/2024	Tanveel Irshad	Update S246(2) Notices and Statements of Receipts and Disbursements and send to J. Berger.
7/10/2024	Jeff Berger	Review and respond to emails from unit purchaser on another Stateview project.

Date	Professional	Description
7/11/2024	Jeff Berger	Review and respond to email from D.J. Miller of Thornton Grout Finnigan LLP re status of CRA refunds and payment of professional fees; send email to CRA re waiver of requirement to file T2 corporate returns for the pre-filing period.
7/11/2024	Tanveel Irshad	Call with CRA Officer to confirm outstanding corporate tax periods and update on previous forms filed; update letter and return to CRA re corporate tax and send to J. Berger for review; compile letter, return and substitution order which replaces RSM Canada Limited with TDB Restructuring Limited and send to CRA.
7/11/2024	Anne Baptiste	Prepare bank reconciliation.
7/18/2024	Bryan Tannenbaum	Review S246 (2) notice and sign.
7/18/2024	Nisan Thurairatnam	Review and finalize the S246(2) notice along with the summary of receipts and disbursements for the period ending December 15, 2023 and period ending June 15, 2024.
7/19/2024	Tanveel Irshad	Call with N. Thurairatnam re HST; update HST schedule to showcase outstanding HST returns.
7/22/2024	Jennifer Hornbostel	File S246(2) reports with the Office of the Superintendent of Bankruptcy.
7/25/2024	Tanveel Irshad	Call with CRA re status of HST refund.
7/26/2024	Tanveel Irshad	Review general ledger and trial balance from iManage and update HST schedule; update J. Berger and N. Thurairatnam re HST refund.
7/26/2024	Nisan Thurairatnam	Review of internal email update on RT0002 and HST refund; attend to HST matters.
7/29/2024	Jeff Berger	Review email from T. Irshad re imminent release of HST refunds and approval of corporate return waiver; review and approve HST return.
7/29/2024	Tanveel Irshad	File HST returns and update J. Berger; update HST Tracking schedules.
7/29/2024	Nisan Thurairatnam	File the RT0002 HST returns for May 2024 and June 2024.
7/30/2024	Nisan Thurairatnam	Review of HST refund cheque and send update to T. Irshad.
7/30/2024	Donna Nishimura	Prepare receipts processing form and deposit cheque at the bank.
7/30/2024	Jennifer Hornbostel	Post receipt.
7/31/2024	Tanveel Irshad	Review email from N. Thurairatnam re cheque received and update HST schedule with comments.
8/14/2024	Nisan Thurairatnam	Meeting with J. Berger regarding all aspects of mandate.
8/15/2024	Tanveel Irshad	Call with CRA officer re status of HST refund and update J. Berger.
8/17/2024	Anne Baptiste	Prepare bank reconciliation.
8/19/2024	Tanveel Irshad	Review and save general ledger and trial balance to iManage and update HST schedule.
8/26/2024	Nisan Thurairatnam	Prepare statement of receipts and disbursements.
8/27/2024	Donna Nishimura	Prepare receipts processing form and deposit cheque at the bank.
8/27/2024	Nisan Thurairatnam	Review cheque received, update SRD; internal email re same.
8/27/2024	Jennifer Hornbostel	Post transaction.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

**FEE SUMMARY**

<b>Professional</b>	<b>Level</b>	<b>Hours</b>	<b>Rate</b>	<b>Fees</b>
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	Managing Director	0.20	\$ 695	\$ 139.00
Jeffrey K. Berger, CPA, CA, CIRP, LIT	Managing Director	1.80	\$ 575	1,035.00
Nisan Thurairatnam, CPA	Manager	4.20	\$ 425	1,785.00
Tanveel Irshad	Associate	6.80	\$ 295	2,006.00
Anne Baptiste/Jennifer Hornbostel/Donna Nishimura	Estate Administrator	1.30	\$ 150	195.00
<b>Total hours and professional fees</b>		<u>14.30</u>		\$ 5,160.00
HST @ 13%				670.80
<b>Total payable</b>				<b>\$ 5,830.80</b>

GST/HST: 80784 1440 RT0001



**To** TDB Restructuring Limited (formerly RSM Canada Limited)  
Court-Appointed Receiver of Stateview Homes  
(Hampton Heights) Inc.  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

**TDB Restructuring Limited**  
Licensed Insolvency Trustee

11 King St. W, Suite 700  
Toronto, ON M5H 4C7

info@tdbadvisory.ca  
416-575-4440  
416-915-6228

tdbadvisory.ca

**Date** October 30, 2024

**Client File** 24-001  
**Invoice** TDB #4  
**No.** 2410025

For professional services rendered with respect to the appointment of TDB Restructuring Limited as Court-Appointed Receiver of Stateview Homes (Hampton Heights) Inc. ("Stateview") for the period September 1, 2024 to September 30, 2024.

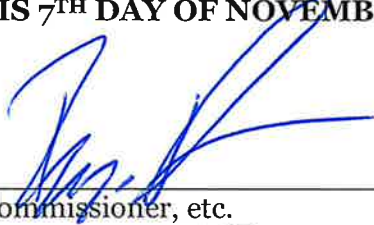
Date	Professional	Description
9/3/2024	Tanveel Irshad	Assemble HST schedule and general ledger for J. Berger's review.
9/10/2024	Jeff Berger	Review file; prepare list of outstanding fees and estimated distributions; discuss same with B. Tannenbaum.
9/10/2024	Bryan Tannenbaum	Review a list of outstanding fees and estimated distributions with J. Berger.
9/10/2024	Jennifer Hornbostel	Prepare payments.
9/11/2024	Jennifer Hornbostel	Post transaction.
9/16/2024	Anne Baptiste	Prepare bank reconciliation.
9/23/2024	Jennifer Hornbostel	Update and prepare payment.
9/24/2024	Tanveel Irshad	Review iManage for security opinion; correspond with B. Tannenbaum and send S.246(2) notice for his review.
9/25/2024	Bryan Tannenbaum	Review interim statement of receipts and disbursements and estimated liabilities; discuss same with J. Berger; teams call with P. Fesharaki of Thornton Grout Finnigan LLP and J. Berger to discuss response to second mortgagee counsel and arrangements to proceed to Receiver's discharge.
9/25/2024	Jeff Berger	Review legal accounts and prepare schedule of estimated distributions; prepare updated interim statement of receipts and disbursements; call with P. Fesharaki re discharge and final distribution motion, etc.; discuss same with B. Tannenbaum.
9/25/2024	Jennifer Hornbostel	Prepare payment.
9/30/2024	Jennifer Hornbostel	Prepare payments.
		To all other administrative matters with respect to this engagement, including supervision, all meetings, telephone attendances, and written and verbal correspondence to facilitate the foregoing.

**FEE SUMMARY**

<b>Professional</b>	<b>Level</b>	<b>Hours</b>	<b>Rate</b>	<b>Fees</b>
Bryan A. Tannenbaum, FCPA, FCA, FCIRP, LIT	Managing Director	0.50	\$ 695	\$ 347.50
Jeffrey K. Berger, CPA, CA, CIRP, LIT	Managing Director	4.10	\$ 575	2,357.50
Tanveel Irshad	Associate	0.40	\$ 295	118.00
Anne Baptiste/Jennifer Hornbostel	Estate Administrator	1.80	\$ 150	270.00
<b>Total hours and professional fees</b>		<b>6.80</b>		\$ 3,093.00
HST @ 13%				402.09
<b>Total payable</b>				<b>\$ 3,495.09</b>

GST/HST: 80784 1440 RT0001

**THIS IS EXHIBIT "B" REFERRED TO IN THE  
AFFIDAVIT OF JEFFREY BERGER SWORN BEFORE ME  
THIS 7<sup>TH</sup> DAY OF NOVEMBER, 2024**



\_\_\_\_\_  
A Commissioner, etc.

**Bryan Allan Tannenbaum,  
a Commissioner, etc., Province of Ontario,  
for TDB Restructuring Limited.  
Expires March 6, 2027.**



**In the Matter of the Court-Appointed Receivership of  
Stateview Homes (Hampton Heights) Inc.  
Summary of Receiver's Fees  
For the Period August 1, 2023 to September 30, 2024**

<b>Invoice #</b>	<b>Invoice Date</b>	<b>Period</b>	<b>Hours</b>	<b>Fees</b>	<b>Disburse - ments</b>	<b>Subtotal</b>	<b>HST</b>	<b>Total</b>	<b>Average Hourly Rate</b>
3	4-Oct-23	August 1, 2023 to August 31, 2024	66.5	\$ 33,184.50	\$ -	\$ 33,184.50	\$ 4,313.99	\$ 37,498.49	\$ 499.02
4	5-Oct-23	September 1, 2023 to September 30, 2023	15.8	\$ 6,276.50	\$ -	\$ 6,276.50	\$ 815.95	\$ 7,092.45	\$ 398.51
5	15-Jan-24	October 1, 2023 to December 31, 2023	16.0	\$ 5,728.50	\$ -	\$ 5,728.50	\$ 744.71	\$ 6,473.21	\$ 358.03
TDB #1	13-May-24	January 1, 2024 to April 30, 2024	12.0	\$ 3,837.00	\$ -	\$ 3,837.00	\$ 498.81	\$ 4,335.81	\$ 319.75
TDB #2	21-Jun-24	May 1, 2024 to May 31, 2024	6.4	\$ 2,735.50	\$ -	\$ 2,735.50	\$ 355.62	\$ 3,091.12	\$ 427.42
TDB #3	10-Sep-24	June 1, 2024 to August 31, 2024	14.3	\$ 5,160.00	\$ -	\$ 5,160.00	\$ 670.80	\$ 5,830.80	\$ 360.84
TDB #4	30-Oct-24	September 1, 2024 to September 30, 2024	6.8	\$ 3,093.00	\$ -	\$ 3,093.00	\$ 402.09	\$ 3,495.09	\$ 454.85
<b>Total</b>			<b>137.8</b>	<b>\$ 60,015.00</b>	<b>\$ -</b>	<b>\$ 60,015.00</b>	<b>\$ 7,801.96</b>	<b>\$ 67,816.97</b>	<b>\$ 435.68</b>

# **APPENDIX “I”**

**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:**

**FIRM CAPITAL MORTGAGE FUND INC.**

Applicant

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Respondent

**AFFIDAVIT OF RUDRAKSHI CHAKRABARTI**  
*(Sworn November 7, 2024)*

I, **Rudrakshi Chakrabarti**, of the City of Vaughan, in the Regional Municipality of York, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a lawyer in the law firm of Thornton Grout Finnigan LLP (“**TGF**”), lawyers for TDB Restructuring Limited (formerly known as RSM Canada Limited) in its capacity as the Court-appointed receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of Stateview Homes (Hampton Heights) Inc., including the condominium project municipally known as 2, 4, 6 and 8 Teck Road and 39 Auburn Court, Barrie, Ontario. As such, I have knowledge of the matters to which I hereinafter depose, except where stated to be on information and belief, and where so stated, I verily believe it to be true.

2. Attached hereto as Exhibit “**A**” are copies of the bills of costs (the “**Bills of Costs**”) issued by TGF to the Receiver (redacted for privilege where appropriate) for fees and disbursements incurred by TGF in the course of these receivership proceedings for the period from August 1, 2023 to September 30, 2024 (the “**Fee Approval Period**”).

3. As evidenced by the Bills of Costs attached at Exhibit “A”, in the course of the Fee Approval Period, TGF counsel and law clerks have expended a total of 17.8 hours in connection with these receivership proceedings, and have incurred CAD \$15,275.00 in fees, CAD \$458.27 in disbursements and CAD \$2,045.33 in HST, for a total of CAD \$17,778.60.

4. Attached hereto as Exhibit “B” is a schedule summarizing the Bills of Costs and the total billable hours charged.

5. In addition to the foregoing fees, as of November 4, 2024, TGF has incurred approximately CAD \$6,800.00 since September 30, 2024, which has not yet been invoiced to the Receiver. This amount includes disbursements and HST. Additional amounts are expected to accrue by TGF until the receivership proceedings are completed.

6. Attached hereto as Exhibit “C” is a schedule summarizing the respective years of call, where applicable, and billing rates of each of the TGF professionals who acted for the Receiver during the Fee Approval Period.

7. In addition to TGF acting as counsel to the Receiver, in accordance with paragraph 4 of the Receivership Order, TGF is also counsel to the Applicant (the first mortgagee). TGF’s fees incurred in connection with the property and secured under the first mortgage were billed to the Applicant and form part of the indebtedness secured by the first mortgage. The Receiver paid these accounts following a direction from the Applicant, as part of the first mortgage indebtedness.

8. To the best of my knowledge, the rates charged by TGF in the course of these receivership proceedings are comparable to the rates charged by other law firms in the Toronto market for the provision of similar services. I believe the total hours, fees and disbursements incurred by TGF on this matter are reasonable and appropriate in the circumstances.

9. This Affidavit is sworn in support of a motion, *inter alia*, approving TGF’s fees and disbursements incurred in respect of these receivership proceedings during the Fee Approval Period.

SWORN remotely via videoconference, by Rudrakshi Chakrabarti stated as being located in the City of Vaughan, in the Regional Municipality of York, in the Province of Ontario, before me at the City of Toronto, the Province of Ontario, this 7<sup>th</sup> day of November, 2024 in accordance with O. Reg 431/20, *Administering Oath or Declaration Remotely*.



---

Commissioner for Taking Affidavits, etc.

**PUYA FESHARAKI**

**LSO # 70588L**

*Rudrakshi Chakrabarti*  

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**RUDRAKSHI CHAKRABARTI**

This is Exhibit “A” referred to in the Affidavit of Rudrakshi Chakrabarti sworn by Rudrakshi Chakrabarti of the City of Vaughan, in the Regional Municipality of York, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, this 7<sup>th</sup> day of November, 2024, in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



---

*Commissioner for Taking Affidavits (or as may be)*

**Puya Fesharaki (LSO#70588L)**



**Thornton Grout Finnigan LLP**  
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre  
100 Wellington Street West  
Suite 3200, P.O. Box 329  
Toronto, ON Canada M5K 1K7  
T 416.304.1616 F 416.304.1313

RSM Canada Limited  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

September 15, 2023

Attention: Bryan Tennenbaum

**Invoice No. 39868**  
**File No. 2028-003**

**RE: Receivership of StateView Homes (Hampton Heights) Inc.**

**TO ALL PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING THE FOLLOWING for the period ending: August 31, 2023**

**FEES**

Aug-28-23	Emails regarding proposed closing of sale transaction and matters to be finalized in respect of same;	0.20	DJM
	Review article on StateView project per RSM email;	0.20	PF
	Submitting Order to be entered through online civil submissions portal; email to Toronto Commercial List Filing; review of email from P. Fesharaki and respond to same;	0.20	BJB
Aug-29-23	Emails to and from the Receiver as to LIUNA's claim, information obtained from debtor, no response from LIUNA's counsel as to information requests; emails to and from counsel for LIUNA as to documents to be provided to support claim; coordinate closing of transaction; emails with Firm Capital as to same and updated Discharge Statement to be provided; confirm Receiver's Certificate delivered on closing; emails with P. Fesharaki and review LIUNA claim in advance of call with LIUNA's counsel tomorrow; [REDACTED]	0.70	DJM
	Emails in respect of transaction closing, discharge statement; review LIUNA proof of claim and support therefor and basis for their claim; phone conversation with individual purchaser about Tarion claim;	2.40	PF
Aug-30-23	Call with counsel for LIUNA as to their claim, [REDACTED] [REDACTED] further call with Receiver as to proposed path forward in resolving all lien and similar claims;	0.60	DJM
	Emails with respect to discharge amounts and statements of adjustments;	0.60	PF
	Instructions from P. Fesharaki and attend to filing of Receiver's Certificate;	0.20	RGM
Aug-31-23	Emails with Commercial List registrar regarding filing of Receiver's Certificate and providing stamped copy of same;	0.20	RGM

And to all other necessary telephone communications, attendances and correspondence with respect to the conduct of this matter.

<u>Lawyer</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
D. J. Miller	1.50	\$1,175.00	\$1,762.50
Puya Fesharaki	3.20	\$750.00	\$2,400.00
Bobbie-Jo Brinkman (Law Clerk)	0.20	\$375.00	\$75.00
Roxana Manea (Law Clerk)	0.40	\$375.00	\$150.00
<b>Total Fees</b>			<b>\$4,387.50</b>
<b>HST (@ 13%) on Fees</b>			<b><u>\$570.38</u></b>
<b>Total Fees and HST</b>			<b>\$4,957.88</b>
<b><u>DISBURSEMENTS</u></b>			
3% Administrative Fee			\$131.63
<b>Total Taxable Disbursements</b>			<b>\$131.63</b>
<b>HST (@ 13%) on Taxable Disbursements</b>			<b>\$17.11</b>
<b>Total *Non-Taxable Disbursements</b>			<b><u>\$0.00</u></b>
<b>Total Disbursements and HST</b>			<b><u>\$148.74</u></b>
<b>TOTAL NOW DUE</b>			<b><u>\$5,106.62</u></b>

**THORNTON GROUT FINNIGAN LLP**



**Per: D.J. Miller**

E.& O.E.

GST/HST #87042 1039 RT0001 \* GST/HST Exempt

Terms: Payment due upon receipt. Any disbursements not posted to your account on the date of this statement will be billed later. In accordance with Section 33 of The Solicitor's Act, interest will be charged at the rate of 4.00% per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this Statement is delivered.

Payment can be made to us by:

1. Cheque Payable to Thornton Grout Finnigan LLP or

2. EFT or Wire Transfer to:



Account Name - Thornton Grout Finnigan LLP

Address of Bank - 111 Yonge Street, Toronto, Ontario M5C 1W4

Name of Bank - HSBC Bank Canada

SwiftCode: HKBCCATT

Attention: Credit Services Department

Please send remittance advice to [ychiu@tgf.ca](mailto:ychiu@tgf.ca)





**Thornton Grout Finnigan LLP**  
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre  
100 Wellington Street West  
Suite 3200, P.O. Box 329  
Toronto, ON Canada M5K 1K7  
T 416.304.1616 F 416.304.1313

RSM Canada Limited  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

October 12, 2023

Attention: Bryan Tennenbaum

**Invoice No. 39953**  
**File No. 2028-003**

**RE: Receivership of StateView Homes (Hampton Heights) Inc.**

**TO ALL PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING THE FOLLOWING for the period ending: September 30, 2023**

**FEES**

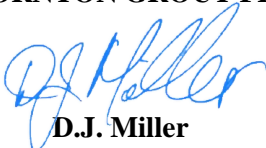
Sep-06-23	Emails with P. Fesharaki regarding termination provisions in pre-sale agreements;	0.30	RGM
Sep-07-23	Conference call with J. Berger and R. MacDougall regarding LIUNA claim;	0.40	PF
Sep-08-23	Email from R. MacDougall as to resolving amounts for each lien claims;	0.10	DJM
Sep-11-23	Draft notice to individual purchasers; emails regarding same with RSM;	0.70	PF
Sep-13-23	Update emails with individual purchasers;	0.20	PF
Sep-14-23	Update Notice to individual purchasers;	0.20	PF
Sep-15-23	Emails regarding purchase agreement termination and Tarion contact information;	0.20	PF
Sep-18-23	Emails with individual purchasers;	0.30	PF
Sep-19-23	Emails about Tarion contact and termination letter;	0.20	PF
Sep-20-23	Emails from J. Berger as to letter sent to purchasers;	0.10	DJM

And to all other necessary telephone communications, attendances and correspondence with respect to the conduct of this matter.

<u>Lawyer</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
D. J. Miller	0.20	\$1,175.00	\$235.00
Puya Fesharaki	2.20	\$750.00	\$1,650.00
Roxana Manea (Law Clerk)	0.30	\$375.00	\$112.50

<b>Total Fees</b>	<b>\$1,997.50</b>	
<b>HST (@ 13%) on Fees</b>	<b><u>\$259.68</u></b>	
<b>Total Fees and HST</b>		<b>\$2,257.18</b>
<b><u>DISBURSEMENTS</u></b>		
3% Administrative Fee	\$59.93	
<b>Total Taxable Disbursements</b>	<b>\$59.93</b>	
<b>HST (@ 13%) on Taxable Disbursements</b>	<b>\$7.79</b>	
<b>Total *Non-Taxable Disbursements</b>	<b><u>\$0.00</u></b>	
<b>Total Disbursements and HST</b>		<b><u>\$67.72</u></b>
<b>TOTAL NOW DUE</b>		<b><u>\$2,324.90</u></b>

**THORNTON GROUT FINNIGAN LLP**

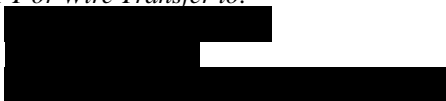
  
**Per: D.J. Miller**

E.& O.E.  
 GST/HST #87042 1039 RT0001 \* GST/HST Exempt

Terms: Payment due upon receipt. Any disbursements not posted to your account on the date of this statement will be billed later. In accordance with Section 33 of The Solicitor's Act, interest will be charged at the rate of 4.00% per annum on unpaid fees, charges or disbursements calculated from a date that is one month after this Statement is delivered.

*Payment can be made to us by:*

- 1. Cheque Payable to Thornton Grout Finnigan LLP or*
- 2. EFT or Wire Transfer to:*



*Account Name - Thornton Grout Finnigan LLP  
 Address of Bank - 111 Yonge Street, Toronto, Ontario M5C 1W4  
 Name of Bank - HSBC Bank Canada  
 SwiftCode: HKBCCATT  
 Attention: Credit Services Department  
 Please send remittance advice to ychiu@tgf.ca*



Thornton Grout Finnigan LLP  
RESTRUCTURING + LITIGATION

RSM Canada Limited  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

Toronto-Dominion Centre  
100 Wellington Street West  
Suite 3200, P.O. Box 329  
Toronto, ON Canada M5K 1K7  
T 416.304.1616 F 416.304.1313

December 11, 2023

Attention: Bryan Tannenbaum

Invoice No. 40188  
File No. 2028-003

**RE: Receivership of StateView Homes (Hampton Heights) Inc.**

**TO ALL PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING THE FOLLOWING for the period ending: November 30, 2023**

**FEES**

Oct-02-23	Emails relating to lien claimant releases and review of release;	0.40	PF
Oct-13-23	Emails from construction lien claimants;	0.20	PF
Oct-23-23	Emails with individual purchasers about running a claims process;	0.30	PF
Oct-25-23	Emails from counsel to Tamarack Lumber and with P. Fesharaki as to status of paying out lien claimants; email to RSM as to same; respond to lien claimant;	0.50	DJM
Oct-26-23	Emails with B. Tannenbaum as to request by Tamarack;	0.10	DJM
	Review emails from lien claimants and emails with Fogler regarding same;	0.20	PF
Nov-06-23	Emails from and to R. MacDougall and RSM as to reconciliation of amounts payable to lien claimants; emails with P. Fesharaki as to terms of court Orders and request for lifting of stay by one lien claimant;	0.20	DJM
Nov-07-23	Emails from and in reply to R. MacDougall relating to lien claimants' claims and suitability of lift-stay order; review corresponding case law;	1.60	PF
Nov-09-23	Discussion with P. Fesharaki as to responding to R. MacDougall's questions on request for lift of stay and proposed payouts from trust amount;	0.10	DJM
Nov-14-23	Emails from R. MacDougall and P. Fesharaki as to request by one party for lifting of stay and potential implications of same;	0.10	DJM
Nov-15-23	Emails from and to R. MacDougall as to LIUNA claim and amount to be paid; emails with B. Tannenbaum; further emails with R. MacDougall as to various claimant amounts;	0.50	DJM
Nov-17-23	Email from counsel for second mortgagee as to accounting for proceeds of sale;	0.10	DJM

	Call with R. MacDougall and lien claimant regarding lift-stay request;	0.30	PF
Nov-20-23	Emails to and from J. Berger as to HST refunds;	0.10	DJM
Nov-23-23	Emails with R. MacDougall as to response to lien claimants and means of finalizing payments and completing receivership;	0.20	DJM
Nov-28-23	Emails from R. MacDougall as to inquiry from counsel to one lien claimant and providing copy of Orders;	0.10	DJM
	Emails relating to lien claimant releases;	0.30	PF
Nov-29-23	Email from counsel for lien claimant as to Order previously issued; email from B. Tannenbaum as to release to be executed for release of funds;	0.20	DJM
	Emails regarding lien claimant positions;	0.20	PF

And to all other necessary telephone communications, attendances and correspondence with respect to the conduct of this matter.

<u>Lawyer</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
D. J. Miller	2.20	\$1,175.00	\$2,585.00
Puya Fesharaki	3.50	\$750.00	\$2,625.00
<b>Total Fees</b>			<b>\$5,210.00</b>
<b>HST (@ 13%) on Fees</b>			<b><u>\$677.30</u></b>
<b>Total Fees and HST</b>			<b>\$5,887.30</b>
<b><u>DISBURSEMENTS</u></b>			
3% Administrative Fee			\$156.30
<b>Total Taxable Disbursements</b>			<b>\$156.30</b>
<b>HST (@ 13%) on Taxable Disbursements</b>			<b>\$20.32</b>
<b>Total *Non-Taxable Disbursements</b>			<b><u>\$0.00</u></b>
<b>Total Disbursements and HST</b>			<b><u>\$176.62</u></b>
<b>TOTAL NOW DUE</b>			<b><u>\$6,063.92</u></b>

**THORNTON GROUT FINNIGAN LLP**



**Per: Puya Fesharaki**

E.& O.E. GST/HST #87042 1039 RT0001 \* GST/HST Exempt

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- 1. Cheque Payable to Thornton Grout Finnigan LLP or*
- 2. EFT or Wire Transfer to:*



*Account Name - Thornton Grout Finnigan LLP*

*Address of Bank - 111 Yonge Street, Toronto, Ontario M5C 1W4*

*Name of Bank - HSBC Bank Canada*

*SwiftCode: HKBCCATT*

*Attention: Credit Services Department*

*Please send remittance advice to [ychiu@tgf.ca](mailto:ychiu@tgf.ca)*



**Thornton Grout Finnigan LLP**  
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre  
100 Wellington Street West  
Suite 3200, P.O. Box 329  
Toronto, ON Canada M5K 1K7  
T 416.304.1616 F 416.304.1313

RSM Canada Limited  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

January 22, 2024

Attention: Bryan Tannenbaum

**Invoice No. 40370**  
**File No. 2028-003**

**RE: Receivership of StateView Homes (Hampton Heights) Inc.**

**TO ALL PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING THE FOLLOWING for the period ending: December 31, 2023**

**FEES**

Dec-07-23	Review emails exchanged with one lien claimant counsel as to edits to form of Release;	0.10	DJM
Dec-08-23	Review executed Release from one party; email from R. MacDougall as to status of remaining payments to lien claimants;	0.10	DJM
Dec-11-23	Call from party as to difficulty in obtaining return of deposit and issues with Tarion; email to RSM and Fogler as to same;	0.20	DJM
Dec-12-23	Emails from counsel to purchasers of units as to failure to obtain return of deposit, issues with Tarion position and intended litigation; further emails from counsel to one party as to inquiries to other parties; emails with RSM and Fogler as to obtaining final releases on construction lien holdback payments;	0.60	DJM
Dec-13-23	Email from counsel to former purchaser of disclaimed Agreement of Purchase and Sale as to not proceeding with claim within receivership;	0.10	DJM
	Review and comments on lien claimants' release;	0.50	PF
Dec-18-23	Research and analysis [REDACTED]	0.50	PF

And to all other necessary telephone communications, attendances and correspondence with respect to the conduct of this matter.

<u>Lawyer</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
D. J. Miller	1.10	\$1,175.00	\$1,292.50
Puya Fesharaki	1.00	\$750.00	\$750.00
<b>Total Fees</b>			<b>\$2,042.50</b>
<b>HST (@ 13%) on Fees</b>			<b>\$265.53</b>

**Total Fees and HST** **\$2,308.03**

**DISBURSEMENTS**

3% Administrative Fee \$61.28

**Total Taxable Disbursements** **\$61.28**

**HST (@ 13%) on Taxable Disbursements** **\$7.97**

**Total \*Non-Taxable Disbursements** **\$0.00**

**Total Disbursements and HST** **\$69.25**

**TOTAL NOW DUE** **\$2,377.28**

**THORNTON GROUT FINNIGAN LLP**



**Per: Puya Fesharaki**

E.& O.E.  
GST/HST #87042 1039 RT0001 \* GST/HST Exempt

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2. *EFT or Wire Transfer to:*



*Account Name - Thornton Grout Finnigan LLP  
Address of Bank - 111 Yonge Street, Toronto, Ontario M5C 1W4  
Name of Bank - HSBC Bank Canada  
SwiftCode: HKBCCATT  
Attention: Credit Services Department  
Please send remittance advice to ychiu@tgf.ca*



**Thornton Grout Finnigan LLP**  
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre  
100 Wellington Street West  
Suite 3200, P.O. Box 329  
Toronto, ON Canada M5K 1K7  
T 416.304.1616 F 416.304.1313

TDB Restructuring Limited  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

September 9, 2024

**Invoice No. 41387**

**File No. 2028-003**

Attention: Bryan Tannenbaum

**RE: Receivership of StateView Homes (Hampton Heights) Inc.**

**TO ALL PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING THE FOLLOWING for the period ending: August 31, 2024**

**FEES**

2024-03-06	Email the Receiver as to status of HST refund;	DJM	0.10
2024-08-06	Receive and consider Statement of Claim issued in respect of property; email to the Receiver and J. Fried as to proposed response to be provided; email from the Receiver as to same;	DJM	0.30
2024-08-07	Email from Firm Capital as to Statement of Claim received;	DJM	0.10

And to all other necessary telephone communications, attendances and correspondence with respect to the conduct of this matter.

<u>Lawyer</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
D.J. Miller	0.50	1,175.00	587.50
<b>Total FEES</b>			<b>\$587.50</b>
GST/HST on Fees			\$76.38

**DISBURSEMENTS**

3% Admin Fee			17.63
<b>Total DISBURSEMENTS</b>			<b>\$17.63</b>
GST/HST on Disbursements			\$2.29

Total Fees & Disbursements	\$605.13
HST	\$78.67
<b>Total</b>	<b>\$683.80</b>



**Thornton Grout Finnigan LLP**

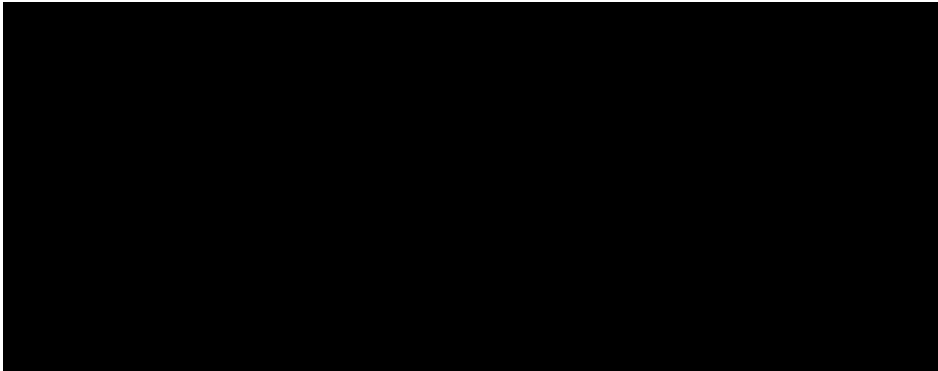
Per:   
D.J. Miller

**E. & O. E. 87042 1039 RT0001**

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**Thornton Grout Finnigan LLP**  
RESTRUCTURING + LITIGATION

Toronto-Dominion Centre  
100 Wellington Street West  
Suite 3200, P.O. Box 329  
Toronto, ON Canada M5K 1K7  
T 416.304.1616 F 416.304.1313

TDB Restructuring Limited  
11 King Street West, Suite 700  
Toronto, ON M5H 4C7

October 18, 2024

**Invoice No. 41544**  
**File No. 2028-003**

Attention: Bryan Tannenbaum

**RE: Receivership of StateView Homes (Hampton Heights) Inc.**

**TO ALL PROFESSIONAL SERVICES RENDERED HEREIN INCLUDING THE FOLLOWING for the period ending: September 30, 2024**

**FEES**

2024-09-04	Review letter and statement of claims from MCO Management; draft reply letter;	PF	0.60
2024-09-25	Conference call with TDB regarding remaining steps; email response to MCO Management's counsel; emails with R. Chakrabarti regarding next steps;	PF	0.20
2024-09-26	Email Court regarding available dates for a discharge motion; email regarding same to P. Fesharaki, B. Tannenbaum and J. Berger; draft Commercial List Request Form;	RC	0.30
2024-09-27	Email Commercial List Request Form to court;	RC	0.10
2024-09-27	Emails with second mortgagee's counsel; emails with R. Chakrabarti regarding materials;	PF	0.20
2024-09-30	Email N. Longmore regarding deadlines for service of receivership discharge motion materials; [REDACTED]	RC	0.10

And to all other necessary telephone communications, attendances and correspondence with respect to the conduct of this matter.

<u>Lawyer</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
Puya Fesharaki	1.00	800.00	800.00
Rudrakshi Chakrabarti	0.50	500.00	250.00

**Total FEES** **\$1,050.00**  
GST/HST on Fees \$136.50

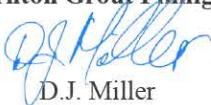
**DISBURSEMENTS**

3% Admin Fee 31.50

**Total DISBURSEMENTS** **\$31.50**  
GST/HST on Disbursements \$4.10

Total Fees & Disbursements	\$1,081.50
HST	\$140.60
<b>Total</b>	<b>\$1,222.10</b>

**Thornton Grout Finnigan LLP**



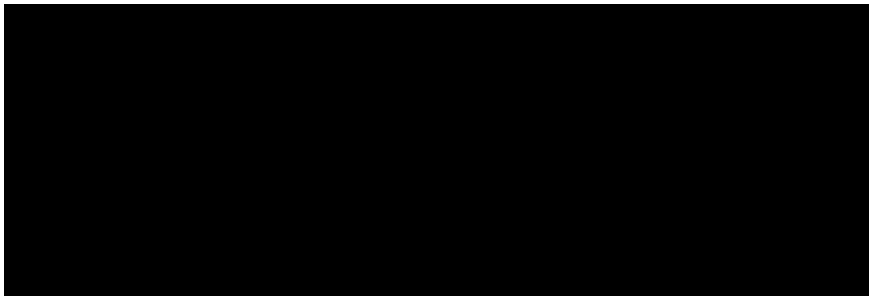
Per: D.J. Miller

**E. & O. E. 87042 1039 RT0001**

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1. *Cheque Payable to Thornton Grout Finnigan LLP or*
2. *Wire Transfer to:*



This is Exhibit “**B**” referred to in the Affidavit of Rudrakshi Chakrabarti sworn by Rudrakshi Chakrabarti of the City of Vaughan, in the Regional Municipality of York, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, this 7<sup>th</sup> day of November, 2024, in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



---

*Commissioner for Taking Affidavits (or as may be)*

**Puya Fesharaki (LSO#70588L)**

## Exhibit "B"

**Summary of professional fees by invoice for the period August 1, 2023 to September 30, 2024**

<b>Bill of Costs (Invoice #)</b>	<b>Period of Service</b>	<b>Total Hrs</b>	<b>Fees</b>	<b>Disbs.</b>	<b>HST</b>	<b>Invoice Total</b>	<b>Average Rate/Hr</b>
1st Bill (Inv. 39868)	For period ended August 31, 2023	5.3	\$ 4,387.50	\$ 131.63	\$ 587.49	\$ 5,106.62	\$ 827.83
2nd Bill (Inv. 39953)	For period ended September 30,	2.7	\$ 1,997.50	\$ 59.93	\$ 267.47	\$ 2,324.90	\$ 739.81
3rd Bill (Inv. 40188)	For period ended November 30, 2023	5.7	\$ 5,210.00	\$ 156.30	\$ 697.62	\$ 6,063.92	\$ 914.04
4th Bill (Inv. 40370)	For period ended December 31, 2023	2.1	\$ 2,042.50	\$ 61.28	\$ 273.49	\$ 2,377.27	\$ 972.62
5th Bill (Inv. 41387)	For period ended August 31, 2024	0.5	\$ 587.50	\$ 17.63	\$ 78.67	\$ 683.80	\$ 1,175.00
6th Bill (Inv. 41544)	For period ended September 30,	1.5	\$ 1,050.00	\$ 31.50	\$ 140.60	\$ 1,222.10	\$ 700.00
<b>TOTAL</b>		<b>17.8</b>	<b>\$ 15,275.00</b>	<b>\$ 458.27</b>	<b>\$ 2,045.33</b>	<b>\$ 17,778.60</b>	

This is Exhibit “C” referred to in the Affidavit of Rudrakshi Chakrabarti sworn by Rudrakshi Chakrabarti of the City of Vaughan, in the Regional Municipality of York, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, this 7<sup>th</sup> day of November, 2024, in accordance with *O. Reg. 431/20, Administering Oath or Declaration Remotely*.



---

*Commissioner for Taking Affidavits (or as may be)*

**Puya Fesharaki (LSO#70588L)**

## Exhibit "C"

### Summary of professionals by position for the period August 1, 2023 to September 30, 2024

Legal Professional	Position	Year of Call	Rate/hr 2023	Rate/hr 2024	Hrs Billed
D.J. Miller	Partner	1993	\$1,175.00	\$1,175.00	5.50
Puya Fesharaki	Associate	2016	\$750.00	\$800.00	10.90
Rudrakshi Chakrabarti	Associate	2023	n/a	\$500.00	0.50
Roxana Manea	Law clerk	n/a	\$375.00	\$375.00	0.70
Bobbie-Jo Brinkman	Law clerk	n/a	\$375.00	\$375.00	0.20
<b>Total</b>					<b>17.80</b>

*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*

**FIRM CAPITAL MORTGAGE FUND INC.**

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

- and -

Applicant

Respondent

Court File No. CV-23-00700356-00CL

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

Proceedings commenced at Toronto, Ontario

**AFFIDAVIT OF RUDRAKSHI CHAKRABARTI**

**Thornton Grout Finnigan LLP**

TD West Tower, Toronto-Dominion Centre  
100 Wellington Street West, Suite 3200  
Toronto, ON M5K 1K7  
Fax: (416) 304-1313

**D.J. Miller** (LSO# 34393P)

Email: [djmiller@tgf.ca](mailto:djmiller@tgf.ca)

Tel: (416) 304-0559

**Puya Fesharaki** (LSO# 70588L)

Email: [pfesharaki@tgf.ca](mailto:pfesharaki@tgf.ca)

Tel: (416) 304-7979

Lawyers for the Court-appointed Receiver,  
TDB Restructuring Limited



# **APPENDIX “J”**

**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:**

**FIRM CAPITAL MORTGAGE FUND INC.**

Applicant

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Respondent

**AFFIDAVIT OF JOSEPH FRIED**  
(Sworn 7th November, 2024)

I, **JOSEPH FRIED**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Partner at Fogler, Rubinoff LLP ("**FR**"), and as such have knowledge of the matters hereinafter deposed to.
2. Pursuant to an Order of The Honorable Mr. Justice Centa, dated 15<sup>th</sup> June, 2023, (the "**Receivership Order**") RSM Canada Limited (now TDB Restructuring Limited) was appointed as Receiver (the "**Receiver**") of all of the lands and premises legally described in the Receivership Order (the "**Lands**") and all of the assets, undertakings and properties of the Respondent (collectively, the "**Property**"). FR is the real estate legal counsel to the Receiver.
3. This affidavit is made in connection with the Receiver's motion for, *inter alia*, the approval of the fees and disbursements of FR for the period from August 1, 2023 to November 7,

2024 (the "Period"). Attached hereto and marked as **Exhibit "A"** are the accounts of FR for the Period, in the total amount of \$62,536.20.

4. The account attached as Exhibit "A" provide a fair and accurate description of the activities undertaken by FR. Attached hereto and marked as **Exhibit "B"** is a summary of the hourly rate and time expended by the professionals at FR.

5. FR has rendered services throughout the Period in a manner consistent with instructions from the Receiver.

6. To the best of my knowledge, the rates charged by FR are comparable to the rates charged for the provision of services of a similar nature and complexity by other legal firms in the Toronto market providing such services.

7. FR requests that the Court approve its accounts for the Period for fees in the amount of \$62,536.20 consisting of legal fees of \$54,714.90, disbursements of \$626.86 and taxes of \$7,194.44, for services rendered and recorded to the 7th day of November 2024.

**DECLARED BEFORE ME** remotely )  
by video conference with the )  
Commissioner in the City of )  
Toronto, in the Province of Ontario, )  
this 7th day of November, 2024 )

Completed in accordance with the )  
the Commissioners for Taking Affidavits )  
Act, O. Reg. 431/20 )

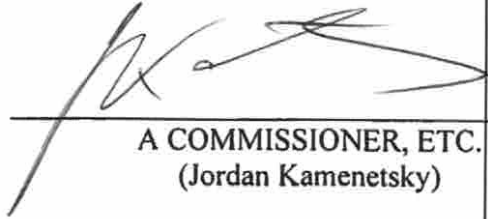
 )  
A Commissioner for Taking Affidavits )

(Jordan Kamenetsky)

  
\_\_\_\_\_  
**JOSEPH FRIED**

THIS IS EXHBIT "A"  
TO THE AFFIDAVIT OF JOSEPH FRIED  
SWORN THE 7th DAY OF NOVEMBER, 2024

Completed in accordance with  
the Commissioners for Taking Affidavits Act, O. Reg. 431/20



A COMMISSIONER, ETC.  
(Jordan Kamenetsky)

Invoice Num: 22312652

September 5, 2023

RSM Canada Limited  
11 King Street Weest, Suite 700  
Box 27  
Toronto ON  
M5H 4C7  
Attention: Bryan Tannenbaum  
President

IN ACCOUNT WITH  
Fogler, Rubinoff LLP  
77 King Street West, Suite 3000  
TD Centre North Tower  
P.O. Box 95  
Toronto, ON  
M5K 1G8  
Telephone: 416-864-9700  
Fax: 416-941-8852  
www.foglers.com

fogler  
rubinoff

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**Our File: R2864 / 232554**  
**Receivership of Stateview Homes (Hampton Heights) Inc.**

---

re Construction Lien Defences	\$14,079.00
Acting on Sale	\$15,000.00
Docketed Time	\$13,645.40

**OUR FEE HEREIN: \$42,724.40**

**Disbursements**

Taxable	Copies of Instruments	\$30.00	
Taxable	Courier & Delivery	\$165.01	
Taxable	OnCorp Fee for Electronic Filing	\$64.80	
Taxable	PPSA Search	\$8.00	
Taxable	Prints	\$104.10	
Taxable	Scanning	\$0.25	
Taxable	Search of Title	\$207.00	
Taxable	Writs name search	\$16.10	
	Total Disbursements		\$595.26
	Total Fees and Disbursements		\$43,319.66
	HST @ 13% on Fees and Taxable Disbursements		\$5,631.56
	<b>Total Fees, Disbursements and Taxes this Bill</b>		<b>\$48,951.22</b>
	<b>Balance Due:</b>		<b>\$48,951.22</b>



**THIS IS OUR ACCOUNT HEREIN  
FOGLER, RUBINOFF LLP**

*Joseph Fried*

*\*Executed pursuant to the Electronic Commerce Act*

**Joseph Fried**

THIS ACCOUNT BEARS INTEREST, COMMENCING ONE MONTH AFTER DELIVERY, AT THE RATE OF 4.80% PER ANNUM AS AUTHORIZED BY THE SOLICITORS' ACT. ANY DISBURSEMENTS NOT POSTED TO YOUR ACCOUNT ON THE DATE OF THIS STATEMENT WILL BE BILLED LATER.

E. & O.E.

*Please return a copy of this account with your payment. Thank you.*

GST/HST No : R119420859

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- Cheque by mail or courier.

Should you require assistance, please contact our Accounts Receivable Department at 416.864.9700 x152 or by e-mail [accountsreceivable@foglers.com](mailto:accountsreceivable@foglers.com).

Invoice Num: 22413660

July 26, 2024

RSM Canada Limited  
11 King Street Weest, Suite 700  
Box 27  
Toronto ON  
M5H 4C7

Attention: Bryan Tannenbaum  
President

IN ACCOUNT WITH  
Fogler, Rubinoff LLP  
77 King Street West, Suite 3000  
TD Centre North Tower  
P.O. Box 95  
Toronto, ON  
M5K 1G8  
Telephone: 416-864-9700  
Fax: 416-941-8852  
www.foglers.com

fogler  
rubinoff

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**Our File:** R2864 / 232554  
Receivership of Stateview Homes (Hampton Heights) Inc.

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<u>Date</u>	<u>Lawyer</u>	<u>Description</u>
Sep-06-23	WRM	Correspondence with J. Berger.
Sep-07-23	WRM	Teams meeting with J. Berger and P. Fesharaki to discuss lien claims.
Sep-08-23	WRM	Review correspondence, email to counsel for various lien claimants re: confirmation of lien values.
Sep-11-23	WRM	Review correspondence from counsel for Terra Forma, review Altus Group report, correspondence with J. Berger.
Sep-14-23	WRM	Correspondence with J. Berger re: Woodbridge Stoneslinger and Tamarack lien values, review Altus "billed to date" spreadsheet to confirm HST values, correspondence with counsel for Woodbridge Stoneslinger.
Oct-02-23	WRM	Correspondence with J. Berger, prepare draft release for lien claimants.
Oct-03-23	WRM	Review file, instructions to B. Kaddoura re: preparation of releases for lien claimants, correspondence with P. Fesharaki.
Oct-12-23	WRM	Correspondence with P. Hancock (counsel for Terra Forma).
Oct-26-23	WRM	Correspondence with RSM, correspondence with various lien claimants, review accounting documents and draft releases re: holdback payments.
Oct-27-23	WRM	Correspondence from D. Resnick, correspondence with RSM, telephone with B. Tannenbaum, email to RSM.
Nov-06-23	WRM	Correspondence with counsel for LIUNA, correspondence with RSM and TGF.
Nov-15-23	WRM	Review file, correspondence with various lien claimants following up on status of holdback payout proposals, prepare status report, correspondence with B. Tannenbaum and DJ Miller.
Nov-16-23	WRM	Telephone discussion with B. Tannenbaum, email to B. Tannenbaum and J. Berger re: LIUNA holdback release.
Nov-17-23	WRM	Correspondence with Bryan and Jeff re: Sunbelt payment, conference call with P. Hancock and P. Fesharaki re: Terra Forma release.

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>
Nov-22-23	WRM	Review correspondence from counsel for Pro Star, review additional invoices, email to RSM re: holdback amount.
Nov-23-23	WRM	Review correspondence from counsel to Tamarack Lumber, email to RSM and TGF re: requirement for a release.
Nov-24-23	WRM	Correspondence with counsel for Tamarack Lumber re: requirement for a release.
Nov-28-23	WRM	Correspondence with B. Tannenbaum, review revisions to Tamarack release, correspondence with J. Long re: Pro Star holdback payment and release, review correspondence and vesting order.
Dec-07-23	WRM	Review correspondence from counsel for Stoneslinger, correspondence with RSM re: payment, email to P. Fesharaki re: Terra Forma release, correspondence with counsel for Tamarack.
Dec-08-23	WRM	Correspondence with counsel for Tamarack re: Release.
Dec-11-23	WRM	Correspondence with B. Tannenbaum re: holdback payment to Tamarack lumber.
Dec-12-23	WRM	Correspondence with counsel for Terra Forma, telephone discussion with counsel for Stardrain Concrete, correspondence with B. Tannenbaum.
Dec-15-23	WRM	Review Terra Forma signed release and direction, correspondence with RSM.
Jan-10-24	WRM	Correspondence with B. Tannenbaum, correspondence with counsel for Stardrain re: lien settlement.
Jan-29-24	WRM	Correspondence with counsel for Stardrain re: holdback payment, correspondence with B. Tannenbaum.
Feb-27-24	WRM	Correspondence with counsel for Stardrain re: authorization and direction.
Mar-11-24	WRM	Correspondence from counsel for Stardrain, correspondence with B. Tannenbaum.
Mar-14-24	WRM	Correspondence with B. Tannenbaum re: Stardrain release.
Apr-03-24	WRM	Correspondence with B. Tannenbaum and counsel for Stardrain re: holdback payment.

**OUR FEE HEREIN: \$7,375.50**

**Disbursements**

Taxable	Prints	\$3.30	
Taxable	Wired Funds Charge	\$25.00	
	Total Disbursements		\$28.30
	Total Fees and Disbursements		\$7,403.80
	HST @ 13% on Fees and Taxable Disbursements		\$962.50
	<b>Total Fees, Disbursements and Taxes this Bill</b>		<b>\$8,366.30</b>



**Balance Due:** \$8,366.30

**THIS IS OUR ACCOUNT HEREIN  
FOGLER, RUBINOFF LLP**

THIS ACCOUNT BEARS INTEREST, COMMENCING ONE MONTH AFTER DELIVERY, AT THE RATE OF 5.30% PER ANNUM AS AUTHORIZED BY THE SOLICITORS' ACT. ANY DISBURSEMENTS NOT POSTED TO YOUR ACCOUNT ON THE DATE OF THIS STATEMENT WILL BE BILLED LATER.

E. & O.E. GST/HST No : R119420859  
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**Joseph Fried**

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Invoice Num: 22420449

November 7, 2024

RSM Canada Limited  
11 King Street Weest, Suite 700  
Box 27  
Toronto ON  
M5H 4C7  
Attention: Bryan Tannenbaum  
President

IN ACCOUNT WITH  
Fogler, Rubinoff LLP  
77 King Street West, Suite 3000  
TD Centre North Tower  
P.O. Box 95  
Toronto, ON  
M5K 1G8  
Telephone: 416-864-9700  
Fax: 416-941-8852  
www.foglers.com

fogler  
rubinoff

Our File: R2864 / 232554  
Receivership of Stateview Homes (Hampton Heights) Inc.

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Fees</u>
Oct-02-24	WRM	Meeting with P. Fesharaki and J. Berger, review file, email report to P. Fesharaki and J. Berger re: process for evaluation of liens.	1.30	773.50
Oct-03-24	WRM	Correspondence re: priority claim of MCO.	0.20	119.00
Oct-21-24	WRM	Review file, correspondence with TDB and TGF re: MCO claim for priority over lien claims.	1.00	595.00
Oct-22-24	WRM	Correspondence with J. Fried, correspondence with M. Kaplan, telephone discussion with M. Kaplan re: MCO.	0.50	297.50
Oct-23-24	WRM	Discussion with J. Fried, review file, email to TDB and TGF re: response to claim for priority of 2nd mortgagee.	1.30	773.50
Oct-24-24	WRM	Preparation for and meeting with RSM and TGF to discuss priority claim of 2nd Mortgagee.	0.70	416.50
Oct-25-24	WRM	Prepare draft response to G. Govedaris (counsel for 2nd Mortgagee) re: priority of lien holdbacks.	2.00	1,190.00
Nov-06-24	MY	Call with Ross and J Fried; review three invoices and prepare affidavit re fees; provide to J Fried to review.	0.70	262.50
Nov-07-24	MY	FEE AFFIDAVIT - Instructions from J Fried; review with J Fried and finalize for sign up.	0.50	187.50
		<b>TOTAL FEES:</b>		<b>\$4,615.00</b>
		<b>OUR FEE HEREIN:</b>		<b>\$4,615.00</b>

Disbursements

**fogler  
rubinoff**

Taxable Prints

\$3.30

Total Disbursements	<u>\$3.30</u>
Total Fees and Disbursements	\$4,618.30
HST @ 13% on Fees and Taxable Disbursements	\$600.38
<b>Total Fees, Disbursements and Taxes this Bill</b>	<b><u>\$5,218.68</u></b>

**Balance Due: \$5,218.68**

**THIS IS OUR ACCOUNT HEREIN  
FOGLER, RUBINOFF LLP**

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E. & O.E.

GST/HST No : R119420859

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**Joseph Fried**

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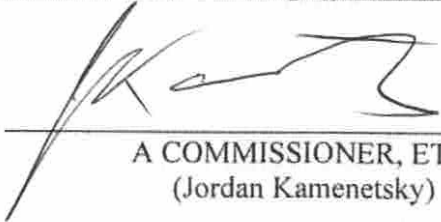
**MOVE ALERT: Effective December 2, 2024, our office is moving to:**

**Scotia Plaza  
40 King Street West, Suite 2400  
P.O. Box 215  
Toronto, ON M5H 3Y2**

All phone and email contact information will remain the same. Please update your records.

THIS IS EXHBIT "B"  
TO THE AFFIDAVIT OF JOSEPH FRIED  
SWORN THE 7th DAY OF NOVEMBER, 2024

Completed in accordance with  
the Commissioners for Taking Affidavits Act, O. Reg. 431/20



A horizontal line is drawn across the page, passing through the signature and the text below it.

A COMMISSIONER, ETC.  
(Jordan Kamenetsky)

**Fees and Disbursements Summary of Fogler, Rubinoff LLP  
for the period from August 1, 2023 to November 7, 2024**

<b>Name of Professional</b>	<b>Total Hours Billed</b>	<b>Average Hourly Rate (\$/hr)</b>	<b>Total Charged</b>
Joseph Fried (Lawyer)	31.81	740.00	\$23,537.00
W. Ross MacDougall (Lawyer)	43.70	570.00	\$24,909.00
W. Ross MacDougall (Lawyer)	0.90	595.00	\$535.50
Liya Rakhshan (Clerk)	0.42	325.00	\$136.50
Medina Young (Clerk)	9.40	360.00	\$3,384.00
Medina Young (Clerk)	1.20	375.00	\$450.00
Deanna Wehby (Clerk)	2.75	330.00	\$907.50
Gahee Lim (Clerk)	1.01	310.00	\$313.10
Carlos Lopez (Student)	1.87	290.00	\$542.30
<b>TOTAL HR/AVG RATE/TOTAL FEES</b>	<b>93.06</b>	<b>598.82</b>	<b>\$54,714.90</b>
<b>TOTAL DISBURSEMENTS</b>			<b>\$626.86</b>
<b>TOTAL FEES AND DISBURSEMENTS EXCLUDING TAXES</b>			<b>\$55,341.76</b>
<b>TAXES</b>			<b>\$7,194.44</b>
<b>TOTAL FEES AND DISBURSEMENTS INCLUDING TAXES</b>			<b>\$62,536.20</b>

*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*

**FIRM CAPITAL MORTGAGE FUND INC.**

- and -

**STATEVIEW HOMES (HAMPTON HEIGHTS) INC.**

Applicant

Respondent

Court File No. CV-23-00700356-00CL

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

Proceedings commenced at Toronto, Ontario

**SECOND REPORT OF THE RECEIVER**

**Thornton Grout Finnigan LLP**  
TD West Tower, Toronto-Dominion Centre  
100 Wellington Street West, Suite 3200  
Toronto, ON M5K 1K7  
Fax: (416) 304-1313

**D.J. Miller** (LSO# 34393P)  
Email: [djmillert@tgf.ca](mailto:djmillert@tgf.ca)  
Tel: (416) 304-0559

**Puya Fesharaki** (LSO# 70588L)  
Email: [pfesharaki@tgf.ca](mailto:pfesharaki@tgf.ca)  
Tel: (416) 304-7979

Lawyers for the Court-appointed Receiver,  
TDB Restructuring Limited