

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) DAY, THE 18th DAY
JUSTICE MCEWEN) OF MARCH, 2014

BETWEEN:

HOME TRUST COMPANY

Applicant

- and -

2122775 ONTARIO INC.

Respondent

APPLICATION UNDER section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended
and section 101 of the *Court of Justice Act*, R.S.O. 1990, c. C-43, as amended

AMENDED AND RESTATED APPROVAL AND VESTING ORDER

THIS MOTION, made by Collins Barrow Toronto Limited in its capacity as the Court-appointed receiver and manager (the "Receiver") of the undertaking, property and assets of 2122775 Ontario Inc. (the "Debtor") for an order amending the Approval and Vesting Order dated February 14, 2014 granted by the Honourable Mr. Justice D. Brown (the " Order ") which approved the sale transaction (the "Transaction") contemplated by the agreement of purchase and sale (the "Sale Agreement") between the Receiver and Urbancorp (Downtown) Developments Inc. ("Urbancorp") made as of January 22, 2014, a copy of which was appended to the Supplemental Report of the Receiver dated February 5, 2014(the "First Supplemental"),

and provided for the vesting in Urbancorp of the Debtor's right, title and interest in and to the assets described in the Sale Agreement and repeated in Schedules B and B1 hereto (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Order, the Third Supplemental Report of the Receiver dated March 13, 2014, and the Assignment and Assumption of Purchase Agreement dated February 21, 2014 between Urbancorp, Urbancorp (Bridlepath) Inc. (the "Purchaser"), and the Receiver appended thereto (the "Assignment Agreement"), and on hearing submissions of counsel for the Receiver,

1. THIS COURT ORDERS that the Order is hereby amended and restated as set out herein.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and that the Sale Agreement is commercially reasonable and in the best interests of the Debtor and its stakeholders. The execution of the Sale Agreement and the Assignment Agreement by the Receiver is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Thorburn dated November 15, 2013; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system including, without limitation, the registrations listed on Schedule C; and (iii) those Claims listed on Schedule C1 hereto (all of which are collectively referred to as the

"Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of Toronto of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B1 hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C1 hereto.

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

6. THIS COURT ORDERS AND DIRECTS the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

8. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;

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

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

10. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



A handwritten signature in black ink, appearing to read 'McE...', is written above a horizontal line.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

MAR 10 2014

MB

Schedule A – Form of Receiver’s Certificate

Court File No. CV-13-10313-00CL

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SUPERIOR COURT OF JUSTICE
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B E T W E E N:

HOME TRUST COMPANY

Applicant

- and -

2122775 ONTARIO INC.

Respondent

APPLICATION UNDER section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended and section 101 of the *Court of Justice Act*, R.S.O. 1990, c. C-43, as amended

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Thorburn of the Ontario Superior Court of Justice (the "Court") dated November 15, 2013, Collins Barrow Toronto Limited was appointed as the receiver and manager (the "Receiver") of the undertaking, property and assets of 2122775 Ontario Inc. (the "Debtor").

B. Pursuant to an Amended and Restated Approval and Vesting Order of the Court dated March __, 2014, the Court approved the agreement of purchase and sale made as of January 22, 2014 (the "Sale Agreement") between the Receiver and Urbancorp (Downtown) Developments Inc. ("Urbancorp"), and the assignment of the Sale Agreement by Urbancorp to Urbancorp (Bridlepath) Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor’s

right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 4 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 4 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ [TIME] on _____ 2014.

**COLLINS BARROW TORONTO LIMITED,
in its capacity as Court Appointed Receiver
and Manager of the undertaking, property
and assets of 2122775 Ontario Inc., and not in
its personal capacity**

Per: _____
Name:
Title:

Schedule B – Purchased Assets

The right, title and interest of the Debtor, if any, in the real property described as PIN No. 10126-1010 (LT) Part of Lot 8 Concession 2 EYS (N York), designated as Parts 1 & 2 on Plan 66R24078; City of Toronto, including the existing underground parking garage, and one townhome situated thereon, and all plans in the possession or control of the Receiver relevant to the development thereof, and the construction of any buildings thereon.

The right, title and interest of the Debtor, if any, in all prepaid Development Charges, payment in lieu of Park, Hydro connection fees, security for Hydro usage and similar payments previously made with respect to the Lands and the benefit of any Letters of Credit posted with respect to compliance with any Site Plan Agreement or similar Agreements with the City of Toronto or any utility provider.

Schedule B1 – Lands

The right, title and interest of the Debtor, if any, in the real property described as PIN No. 10126-1010 (LT) Part of Lot 8 Concession 2 EYS (N York), designated as Parts 1 & 2 on Plan 66R24078; City of Toronto.

Schedule C – Ontario Personal Property Security Act Registrations

File no.	Registration No.	Secured Party
681038991	20120829 0840 1793 9852	VS Capital Corporation
675878715	20120127 0928 1590 5353	Zaherali Visram
675878751	20120127 0931 1590 5354	VS Capital Corporation
669737052	20110510 1414 1590 1560	Aviva Insurance Company of Canada
666544761	20101214 1035 1590 3393	Home Trust Company

Schedule C1 – Claims to be deleted and expunged from title to Real Property

Reg. Num.	Date	Instrument Type	Amount	Parties From	Parties To
AT2708324	2011/06/01	Charge	\$6,500,000.00	2122775 Ontario Inc.	Home Trust Company
AT2708325	2011/06/01	No Assgn Rent Gen		2122775 Ontario Inc.	Home Trust Company
AT2918710	2012/01/13	Charge	5,100,000.00	2122775 Ontario Inc.	Visram, Zaherali
AT2918711	2012/01/13	No Assgn Rent Gen		2122775 Ontario Inc.	Visram, Zaherali
AT3114322	2012/08/29	Charge	8,750,000.00	2122775 Ontario Inc.	VS Capital Corporation
AT3153542	2012/10/17	Charge	4,000,000.00	2122775 Ontario Inc.	VS Capital Corporation
AT3224700	2013/01/25	Postponement		Visram, Zaherali	VS Capital Corporation
AT3269812	2013/04/04	Construction Lien	8,782.00	King Masonry Yard Ltd.	
AT3270855	2013/04/05	Construction Lien	29,595.00	UCIT Online Security Inc.	
AT3298579	2013/05/13	Certificate		UCIT Online Security Inc.	
AT3302736	2013/05/16	Certificate		King Masonry Yard Ltd.	2122775 Ontario Inc. Hush Homes Inc. c.o.b. as Hush Fine Home
AT3312698	2013/05/31	Charge	30,000.00	2122775 Ontario Inc.	Cameo Fine Cabinetry (Mississauga) Inc.
AT3324858	2013/06/14	Construction	37,500.00	Silverado Custom Home	

		Lien		Corporation	
AT3361475	2013/07/26	Certificate		Silverado Custom Home Corporation	
AT3470427	2013/12/04	Court Order appointing receiver		Collins Barrow Toronto Limited	
13-0008877	2013/11/06	Writ of Execution	\$31,583.62	UCIT Online Security Inc.	

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

1. Plan 66R24078 Reference Plan;
2. AT1970343 Application for Absolute Title;
3. AT2259143 Notice from the City of Toronto – Site Plan Agreement;
4. AT2659602 Application for Consolidation;
5. AT2666523 Land Registrar's Order;
6. AT2950684 Notice from the City of Toronto – Amendment to Site Plan

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-and- **2122775 ONTARIO INC.**
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Court File No. CV-13-10313-00CL

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PROCEEDING COMMENCED AT
TORONTO

AMENDED AND RESTATED
APPROVAL AND VESTING ORDER

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199 Bay Street
Toronto Ontario, M5L 1G4
Fax: (416) 865-1398

LISA S. CORNE

LSUC Registration No. 27974M

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Lawyers for Collins Barrow Toronto Limited in its capacity
as receiver of 2122775 Ontario Inc.