

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM) WEDNESDAY, THE
JUSTICE CONWAY) 3RD DAY OF FEBRUARY, 2021

B E T W E E N:

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant

- and -

YORKVILLE CENTRAL INVESTMENTS INC., YORKVILLE CENTRAL 2
INVESTMENTS INC., YORKVILLE CENTRAL 3 INVESTMENTS INC.

Respondents

VESTING ORDER

WHEREAS by Order of this Court made October 14, 2020, the stalking horse agreement with SC Land Inc. (the “**Purchaser**”) was approved (the “**Stalking Horse Agreement**”);

AND WHEREAS by order of this Court made December 16, 2020 (the “**December 2020 Order**”), the Stalking Horse Agreement was deemed to be the Back-Up Bid (as defined in the Sale Procedure Order approved by this Court on October 14, 2020) and the Receiver was authorized and directed to complete the Stalking Horse Agreement in the event that the Synvest Agreement (as defined in the December 2020 Order) was not completed;

AND WHEREAS the Synvest Agreement was not completed and has been terminated by the Receiver;

AND WHEREAS the Receiver intends to complete the Stalking Horse Agreement (the "**Sale Agreement**") with the Purchaser and vest the right, title and interest of the Debtors (as defined in the form attached as Schedule A hereto) in and to the assets described in the Stalking Horse Agreement (the "**Purchased Assets**") as the Purchaser has directed.

NOW THEREFORE:

1. **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 Debtors' right, title and interest in and to:

- (a) 110, 112 and 116 Avenue Road, Toronto, Ontario, as described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in 2809220 Ontario Inc.; and
- (b) 114 Avenue Road, Toronto, Ontario, as described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in 2809222 Ontario Inc.,

in each case, 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 Dietrich dated September 11, 2020; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the 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.

2. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Toronto (#66) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter (i) 2809220 Ontario Inc. as the owner of the real property municipally known as 110 Avenue Road, Toronto, 112 Avenue Road, Toronto, and 116 Avenue Road Toronto; and (ii) 2809222 Ontario Inc. as the owner of the real property municipally known as 114 Avenue Road, Toronto, all as identified in Schedule B hereto (collectively the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

3. **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.

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

5. **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 information in the Company's records. 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 Debtors.

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

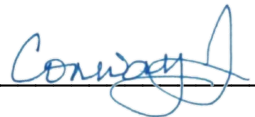
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors or

any of them and any bankruptcy order issued pursuant to any such applications; and

- (c) any assignment in bankruptcy made in respect of each of the Debtors;

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

7. **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.



Schedule A – Form of Receiver’s Certificate

Court File No. CV-20-00644927-00CL

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B E T W E E N:

CAMERON STEPHENS MORTGAGE CAPITAL LTD.

Applicant

- and -

YORKVILLE CENTRAL INVESTMENTS INC., YORKVILLE CENTRAL 2
INVESTMENTS INC., YORKVILLE CENTRAL 3 INVESTMENTS INC.

Respondents

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Madam Justice Dietrich of the Ontario Superior Court of Justice (the "Court") dated September 11, 2020, RSM Canada Limited (the "Receiver") was appointed as receiver and manager over the lands and premises municipally known as 110 Avenue Road, Toronto, 112 Avenue Road, Toronto, 114 Avenue Road, Toronto and 116 Avenue Road, Toronto (collectively the "Properties") owned by Yorkville Central Investments Inc., Yorkville Central 2 Investments Inc., and Yorkville Central 3 Investments Inc. (collectively, the "Debtors"), and for all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to the Properties, including all proceeds thereof.

B. Pursuant to an Order of the Court dated October 14, 2020, the Court approved the agreement of purchase and sale made as of October 9 2020 (the "Sale Agreement") between the Receiver and SC Land Inc. (the "Purchaser") and pursuant to an Order of the Court dated [DATE], the Court provided for the vesting in 2809220 Ontario Inc. of the

Debtors' right, title and interest in and to 110 Avenue Road, Toronto, 112 Avenue Road, Toronto and 116 Avenue Road, Toronto and the vesting in 2809222 Ontario Inc. of the Debtors' right, title and interest in and to 114 Avenue Road, Toronto, 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 sections 4.1 and 4.2 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 sections 4.1 and 4.2 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 _____ [DATE].

RSM Canada Limited, solely in its capacity as Court-appointed receiver and manager of the lands and premises municipally known as 110 Avenue Road, Toronto, 112 Avenue Road, Toronto, 114 Avenue Road, Toronto and 116 Avenue Road, Toronto and not in its personal capacity and without personal or corporate liability

Per: _____

Name:

Title:

Schedule B – Purchased Assets

All of the Receiver's (if any) and the Debtors' right, title and interest in and to the Subject Assets (as defined in the Sale Agreement) including, without limitation, the following real property:

PIN No. 21214-0194 (LT) – 110 Avenue Road

Part Lot 3 Plan 742 City East as in EM50567; Toronto

PIN No. 21214-0195 (LT) – 112 Avenue Road

Part Lot 3-4 Plan 742 City East as in CA739828; Toronto

PIN No. 21214-0196 (LT) – 114 Avenue Road

Part Lot 4 Plan 742 City East as in CT963202; Toronto

PIN No. 21214-0221 (LT) – 116 Avenue Road

Lot 1 Plan 639 City East S/T & T/W CA628958; Toronto

Schedule C – Claims to be deleted and expunged from Title

The following Instruments are to be discharged upon registration of the Vesting Order:

1. Instrument No. AT4748471 is a Charge registered on December 1, 2017 in favour of Cameron Stephens Mortgage Capital Ltd. ("**Cameron**") in the amount of \$11,800,000.00.
2. Instrument No. AT4748472 is a General Assignment of Rents registered on December 1, 2017 in favour of Cameron as collateral security to the Charge registered as Instrument No. AT4748471.
3. Instrument No. AT5022192 is a Charge registered on December 3, 2018 in favour of GC Capital Inc. in the amount of \$5,000,000.00.
4. Instrument No. AT5022193 is a General Assignment of Rents registered on December 3, 2018 in favour of GC Capital Inc. as collateral security to the Charge registered as Instrument No. AT5022192.
5. Instrument No. AT5461718 is a Certificate of Pending Litigation registered on June 26, 2020 in favour of SC Land Inc. against Yorkville Central 3 Investments Inc., Yorkville Central 2 Investments Inc., and Yorkville Central Investments Inc.
6. Instrument No. AT5462671 is a Certificate of Pending Litigation registered on June 29, 2020 in favour of SC Land Inc. against Yorkville Central 3 Investments Inc., Yorkville Central 2 Investments Inc., and Yorkville Central Investments Inc.

Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants on Title

(unaffected by the Vesting Order)

Permitted Encumbrances with respect to Title means:

1. Encumbrances for real property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and municipal utilities in connection with the Property that have accrued but are not yet due and owing or, if due and owing, are adjusted for pursuant to this agreement.
2. Any deficiencies, encroachments, zoning by-law violations and other matters that might be revealed by an up-to-date plan of survey of the Property.
3. The reservations, limitations, provisos and conditions, if any, expressed in the original grant from the Crown, in right of Canada or a Province thereof.
4. Any rights of expropriation, access or use, or any other right conferred or reserved by or in any statute of Canada or the Province of Ontario or in any other governmental authority.
5. All applicable municipal, provincial or federal statutes, by-laws, regulations or ordinances (including all building and zoning by-laws and regulations).
6. Any easements and/or agreements relating to drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services, provided: (i) they do not materially and adversely affect the ordinary use or operation, or value, of the Property; and (ii) they have been complied with by the Vendor in all material respects.
7. Minor encumbrances or defects in title which do not, individually or in the aggregate, materially affect the use, enjoyment or value of the Property or any party thereof.
8. Encumbrances respecting minor encroachments by the Property over neighbouring lands permitted under agreements with the owners of such other lands and minor encroachments over any of the Property by improvements of abutting land owners permitted under agreements with such abutting owners.
9. Undermined or inchoate liens incidental to construction, renovations or current operations against the Property, a claim for which shall not at the time have been registered against the Property or of which notice in writing shall not at the time have been given to the Vendor pursuant to the *Construction Act* (Ontario).
10. The specific encumbrances, excluding any mortgages or charges, listed on the parcel registers for the Property as of the date of this Agreement.
11. The following instruments registered on title to the Real Property:

Instrument No. AT4748470 is a Transfer from Aitco Limited and Michele Atlin to Yorkville Central 3 Investments Inc. registered December 1, 2017.

Instrument No. AT4615549 is a Transfer from Red Brick Properties Inc. to Yorkville Central 2 Investments Inc. registered June 30, 2017.

Instrument No. AT4529868 is a Transfer from Rachel Karniol and Barbara Mary Farkas to Yorkville Central Investments Inc. registered April 4, 2017.

CAMERON STEPHENS MORTGAGE CAPITAL LTD.
Applicant

-and-

Court File No. CV-20-00644927-00CL
YORKVILLE CENTRAL INVESTMENTS INC. et al.
Respondents

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PROCEEDING COMMENCED AT
TORONTO

APPROVAL AND VESTING ORDER

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