



No. KEL-S-H-135244
KELOWNA REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

HARBOURFRONT HOLDINGS LTD.

PETITIONER

AND:

1245946 B.C. LTD.
RICHARD VERNON PROVOST
LINDSAY ANDREA KNITTER
HIS MAJESTY THE KING IN RIGHT OF CANADA
OCCUPANTS OF THE LANDS
CHAD MOENCH, BRAYDEN HESSLER, HAYLEY CARTWRIGHT
FRANCOIS ST. ONGE AND VILAY KHAMMANIVONG
SARAH GARNISS AND COLE COLE
NATHAN OBRIGEWITSCH, JEN OBRIGEWITSCH AND JULIE PILLON
LEANNE ROCKWELL AND ANTHONY WARMANN
JOHN ALEX MCGREGOR AND AMANDA MCGREGOR

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE

MASTER SCHWARTZ

MONDAY, THE 16th DAY
OF JANUARY, 2023

ON THE APPLICATION of the Receiver, C. Cheveldave & Associates Ltd., coming on for hearing at Kelowna, British Columbia on January 16, 2023 and on hearing Sherryl Dubo, appearing as counsel for the Receiver for the purposes of this application, and no one else appearing although duly served;

THIS COURT ORDERS that:

1. Paragraph 17 of the Order made herein on November 23, 2022 appointing C. Cheveldave & Associates Ltd. as Receiver of the lands the subject of this proceeding (the “**Receivership Order**”) is amended to increase the amount that the Receiver is authorized and empowered to borrow from \$25,000 to \$200,000.

2. The Respondents, Francois St. Onge, Vilay Khammanivong, Sarah Garniss, Cole Cole, Nathan Obrigewitsch, Jen Obrigewitsch, Julie Pillon, Leanne Rockwell, Anthony Warmann and any other persons in possession (collectively the “**Tenants**”), and the Respondents 1245946 B.C. Ltd. and Richard Vernon Provost, having failed to pay rents to the Receiver in accordance with the Receivership Order, shall forthwith deliver vacant possession to Units 2, 3, 4 and 5 of the Lands (as defined in the Receivership Order) more particularly known and described as:

Civic: Unit 2, 1275 Brookside Avenue, Kelowna, BC

PID: 031-114-458

Strata Lot 2, Section 19, Township 26, ODYD, Strata Plan EPS6505

Civic: Unit 3, 1275 Brookside Avenue, Kelowna, BC

PID: 031-114-466

Strata Lot 3, Section 19, Township 26, ODYD, Strata Plan EPS6505

Civic: Unit 4, 1275 Brookside Avenue, Kelowna, BC

PID: 031-114-474

Strata Lot 4, Section 19, Township 26, ODYD, Strata Plan EPS6505

Civic: Unit 5, 1275 Brookside Avenue, Kelowna, BC

PID: 031-114-482

Strata Lot 5, Section 19, Township 26, ODYD, Strata Plan EPS6505

(collectively the “**Tenanted Units**”).

3. The Registrar shall issue a Writ of Possession in respect of each of the Tenanted Units on the terms and conditions contained in the draft Writ of Possession annexed hereto as **Schedule A**.
4. Francois St. Onge and Vilay Khammanivong (tenants of Unit 2) shall pay to the Receiver the amount of \$9,900 representing unpaid rents for November, December 2022 and January 2023.
5. Sarah Garniss and Cole Cole (tenants of Unit 3) shall pay to the Receiver the amount of \$10,500 representing unpaid rents for November, December 2022 and January 2023.
6. Nathan Obrigewitsch, Jen Obrigewitsch and Julie Pillon (tenants of Unit 4) shall pay to the Receiver the amount of \$9,900 representing unpaid rents for November, December 2022 and January 2023.
7. Leanne Rockwell (tenant of Unit 5) shall pay to the Receiver the amount of \$10,350 representing unpaid rents for November, December 2022 and January 2023.

8. 1245946 B.C. Ltd., Richard Vernon Provost and any agent or intermediary acting on behalf of either of them as landlord of any of the Lands including without limitation 1245948 BC Ltd. (collectively the “**Landlord**”) are directed to pay all rents to the Receiver in the event any further rents are received by any of them, until such time as the Receiver provides written direction otherwise or until further Order of this Court.
9. In the event of non-compliance with the terms of this Order by any of the Tenants or the Landlord, the Receiver be at liberty to apply for an order of contempt.
10. The Receiver be at liberty to offer all of the Lands as defined in the Receivership Order (meaning, for greater clarity, Units 1 through 6 of 1275 Brookside Avenue, Kelowna, BC) for sale, either individually or *en bloc*, by private sale, free and clear of all encumbrances of the parties, together with any other charges, liens, encumbrances, caveats, or certificates of pending litigation registered against the Lands subsequent to the Petitioner’s certificate of pending litigation, but subject to the reservations, provisos, exceptions, and conditions expressed in the original grant(s) from the Crown.
11. The Receiver shall have exclusive conduct of the said sale and may list the Lands individually or *en bloc* with one or more licensed real estate agents or real estate firms, and further, that the Receiver shall be at liberty to pay such real estate agent or firm who may arrange the sale of the Lands commission of not more than three (3%) percent of the gross selling price with respect to such sale from the proceeds of such sale(s).
12. The Respondents or any person on behalf of the Respondents including any person in possession of the Lands shall permit authorized real estate agents or other agents appointed by the Petitioner to inspect or appraise the Lands and to show the Lands to prospective purchasers between the hours of 9:00 a.m. to 7:00 p.m. on any day of the week, and to post signs on the Lands that the Lands are offered for sale.
13. The Receiver be authorized to apply for an order approving the sale(s) of the Lands in the event acceptable offer(s) to purchase are received.
14. Any sale be subject to the approval of the Court unless otherwise agreed to in writing by all parties.
15. The Receiver is entitled to its costs of this application on a full indemnity basis and costs shall be recoverable by the Receiver, at its option, from the Receiver’s Charge (as defined in the Receivership Order) against the Lands or from the Respondents, 1245946 B.C. Ltd., Richard Vernon Provost, Francois St. Onge, Vilay Khammanivong, Sarah Garniss, Cole Cole, Nathan Obrigewitsch, Jen Obrigewitsch, Julie Pillon, Leanne Rockwell and Anthony Warmann, jointly and severally.
16. The parties be at liberty to schedule hearings of future applications in this proceeding at the Kamloops Registry of this Court.
17. Service of a copy of this Order may be effected either by personal service or by posting a copy of the Order to the door of each of the Tenanted Lands, or in the case of 1245946

B.C. Ltd. and Richard Vernon Provost by email to richard@pmbchomebuyers.ca in accordance with the Order for alternative service granted in this proceeding on October 19, 2022.

18. All other relief claimed in the Notice of Application of the Receiver filed December 23, 2022 be adjourned generally.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT.



Signature of Sherryl A. Dubo

☐ party ☒ lawyer for the Receiver
for the purposes of this application

By the Court

Registrar

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RESPONDENTS

ORDER

FILE NO. 5001-108

SAD/lt

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