



FORM 32 (RULE 8-1(4))

No. H 200039
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

PEOPLES TRUST COMPANY

Petitioner

AND:

CENSORIO GROUP (HASTINGS & CARLETON)
HOLDINGS LTD. ET AL

Respondents

NOTICE OF APPLICATION

Name of applicant: D. Manning and Associates Inc., the Court appointed Receiver and Manager of Censorio Group (Hastings & Carleton) Holdings Ltd.

To: Without notice

TAKE NOTICE that an application will be made by the applicant(s) to the presiding judge or master at the courthouse at the Vancouver Law Courts, 800 Smithe Street, Vancouver, British Columbia, V6Z 2E1 on Wednesday, February 10, 2021, at 9:45 a.m. by Microsoft Teams for the order(s) set out in Part 1 below.

Part 1: ORDER(S) SOUGHT

1. An Order in the form attached as Schedule "A" hereto directing that the Commercial Unit (as defined below) be conveyed to and vest in the purchaser "1197619 B.C. Ltd.", notwithstanding that the Vesting Order with respect to the Commercial Unit filed in this action directs that the Commercial Unit be conveyed to and vest in the purchaser "S.J.M.A Holdings Ltd.".

Part 2: FACTUAL BASIS

1. D. Manning & Associates Inc. was appointed Receiver and Manager (the “**Receiver**”) in respect of the assets, undertakings and property of Censorio Group (Hastings & Carleton) Holdings Ltd. (the “**Company**”) relating to the Property, pursuant to the Order of Mr. Justice Crerar pronounced February 5, 2020 (the “**Receivership Order**”).
2. The Receivership Order authorizes the Receiver to, *inter alia*, market and sell the Company’s Property and to apply for any orders necessary to convey the Company’s Property of any part or parts thereof to a purchaser, free and clear of any liens or encumbrances.
3. The Company’s property includes a five storey multi-family condominium project in Burnaby, British Columbia containing a total of 28 residential strata lots consisting of 27 residential units and 1 commercial strata lot, being the Commercial Unit in question (the “**Commercial Unit**”).
4. As of the date of the Receivership Order, there were 13 residential presale contracts for 14 of the residential units (one contract for 2 units contemplated combining 2 strata lots as one residential space) and one Pre-Sale contract for the Commercial Unit (the “**Pre-Sale Contracts**”).
5. The Receiver was of the view that the Pre-Sale Contracts were at prices under market value and that the proceeds of realization would be substantially increased if the Pre-Sales Contracts were disclaimed and the units sold on the open market.
6. By way of an order granted by the Honourable Madam Justice Fitzpatrick on July 6, 2020 with written reasons for that order issued on July 7, 2020 the Receiver was authorized to, *inter alia*, disclaim the remaining 11 Pre-Sales Contracts and market and sell those units (the “**July 6 Order**”).
7. The July 6 Order also directed the Receiver to offer the 10 residential units that were previously under Pre-Sale Contracts to the pre-sale purchasers at 92.5% of the price recommended by Rennie Developer Services & Advisory, being a real estate services company retained by the Receiver to assist with marketing and selling the units

(“Rennie”). The Commercial Unit was one of the units under a Pre-Sale Contract and pursuant to the July 6 Order, was offered for sale to the pre-sale purchaser for \$3,100,000.

8. In accordance with the July 6 Order the Receiver offered the remaining pre-sale units for sale to the pre-sale purchasers at the court directed prices, including the Commercial Unit. However the pre-sale purchaser of the Commercial Unit declined to purchase the Commercial Unit at that price.
9. On November 20, 2020 the Receiver obtained an Order pre-approving minimum sales prices of 24 of the units in the Development on the basis of valuations of those units by Rennie (the “Pre-Approval Order”).
10. The November 20 Order did not pre-approve a minimum price for the Commercial Unit as the Receiver was in the process of negotiating a sale with prospective purchasers.
11. On December 17, 2020 Master Elwood granted a Vesting Order directing that the Commercial Unit be conveyed to and vest in the purchaser S.J.M.A. Holdings Ltd. which sale is set to close on February 11, 2021.
12. Subsequent to the Vesting Order being granted, S.J.M.A. Holdings Ltd. advised that it wished to assign the contract to 1197619 B.C. Ltd. This Notice of Application is being made to make that change.

Part 3: LEGAL BASIS

1. Rule 13-1(17) provides that “[t]he court may at any time correct a clerical mistake in an order or an error arising in an order from an accidental slip or omission, or may amend an order to provide for any matter that should have been but was not adjudicated on.”

Rule 13-1(17).

2. Rule 1-3(1) provides that “[t]he object of these Supreme Court Civil Rules is to secure the just, speedy and inexpensive determination of every proceeding on its merits”.

Rule 1-3(1).

3. Rule 8-5(6) provides that “[t]he court may make an order without notice in the case of urgency”.

Rule 8-5(6).

Part 4: MATERIAL TO BE RELIED ON :

1. The Receivership Order, pronounced February 5, 2020;
2. The Preapproval Order, pronounced November 20, 2020;
3. The Vesting Order, pronounced December 17, 2020; and
4. Affidavit #1 of Antonia Chen, sworn February 8, 2021.

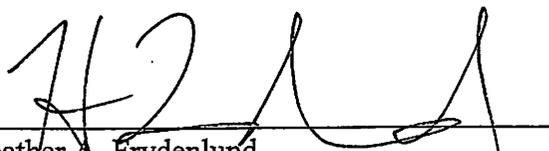
The applicant estimates that the application will take 5 minutes.

This matter is within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- a) file an application response in Form 33,
- b) file the original of every affidavit, and of every other document, that
 - i) you intend to refer to at the hearing of this application, and
 - ii) has not already been filed in the proceedings, and
- c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - i) a copy of the filed application response;
 - ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: February 8, 2021



Heather A. Frydenlund
Signature of lawyer for applicant, Receiver and
Manager, D. MANNING & ASSOCIATES INC.

To be completed by the court only:

Order made

in the terms requested in paragraphs _____ of Part 1 of this notice of application

with the following variations and additional terms:

Date: _____

Signature of Judge Master

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts.

SCHEDULE "A"

Form 35 (Rules 8-4(1), 13-1(3), 17-1(2), and 25-9(2))

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ORDER MADE AFTER APPLICATION

BEFORE) MASTER) _____, THE ___ DAY
)) OF FEBRUARY, 2021
))

ON THE APPLICATION of D. MANNING & ASSOCIATES INC. (the "Receiver") coming on for hearing on this day at Vancouver, British Columbia, and on hearing HEATHER A. FRYDENLUND, counsel for the Receiver, by Microsoft Teams, brought without notice, and on reading the materials filed herein:

THIS COURT ORDERS THAT:

1. The Order granted in this action on December 17, 2020 be amended by changing paragraph 1 therein to as follows:

“The sale of the following lands and premises:

City of Burnaby

Parcel Identifier: 031-227-902

Strata Lot 29 District Lot 121 Group 1 NWD Strata Plan EPS5728

(the “Lands”)

to 1197619 B.C. Ltd., Inc. No. BC1197619, of #201 – 20353 64 Avenue, Langley, B.C. V2Y 1N5, or if amended or assigned by the purchaser and agreed to by the Receiver, as set out in a letter from the solicitors for the Receiver, on the terms and conditions set out in the Contract of Purchase and Sale dated December 15, 2020 for the sum of \$3,225,000 is hereby approved”.

2. The Order granted in this action on December 17, 2020 be further amended by changing the name “S.J.M.A Holdings Ltd.” to “1197619 B.C. Ltd.” in paragraph 2 therein.

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:

APPROVED BY:

BY THE COURT

Signature of Heather A. Frydenlund
lawyer for Receiver and Manager,
D. MANNING & ASSOCIATES INC.

REGISTRAR

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ORDER MADE AFTER APPLICATION

OWEN BIRD LAW CORPORATION
P.O. Box 49130
Three Bentall Centre
2900 - 595 Burrard Street
Vancouver, BC V7X 1J5
Attention: Heather A. Frydenlund
File No. 23024-0093

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OWEN BIRD LAW CORPORATION
P.O. Box 49130
Three Bentall Centre
2900-595 Burrard Street
Vancouver, B.C.
V7X 1J5
Tel: (604) 688-0401
Fax: (604) 632-4458

Attention: Heather A. Frydenlund
File No. 23024-0093