

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

THE HONOURABLE) FRIDAY, THE 5th DAY
JUSTICE WILTON-SIEGEL) OF APRIL, 2024

BETWEEN:

OWEMANCO MORTGAGE HOLDING COPORATION

Applicant

- and -

CONCEPT LOFTS LTD. and DONALD DESROCHERS

Respondents

APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

APPROVAL AND VESTING ORDER

THIS MOTION, made by Rosen Goldberg Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the assets, undertakings, and properties of Heritage Towns at Hallum Inc. (formerly named Concept Lofts Ltd.) and of the property owned by Donald Desrochers (“**Desrochers**”) legally described in Schedule B hereto (the “**Real Property**”), for an Order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale (the “**Sale Agreement**”) between the Receiver and Audrey Joan Davidson and Alexander Scott Davidson (collectively, the “**Purchasers**”) dated March 4th, 2024, as amended by an amendment to agreement of purchase and sale dated March 18, 2024, and appended as Confidential Appendices 2 and 3 to the Sixth Report of the Receiver dated March 23, 2024 (the “**Sixth Report**”)

and vesting in the Purchasers all of Desrochers' right, title and interest in and to the Real Property, was heard this day by judicial videoconference via Zoom at Toronto, Ontario.

ON READING the Sixth Report and hearing the submissions of counsel for the Receiver and such other counsel that were present as listed on the participant information sheet, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

1. THIS COURT ORDERS that the time for service of the Receiver's Motion Record, including the Sixth Report and the Receiver's Factum, is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. 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 Real Property to the Purchasers.

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchasers substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Desrochers' right, title and interest in and to the Real Property shall vest absolutely in the Purchasers, 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 Expanded Powers Order of the Honourable Justice Cavanagh dated November 7th, 2022; (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 Real Property are hereby expunged and discharged as against the Real Property.

4. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of Toronto (No. 66) of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchasers as the owners of 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.

5. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Real Property shall stand in the place and stead of the Real Property, 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 Real Property with the same priority as they had with respect to the Real Property immediately prior to the sale, as if the Real Property 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.

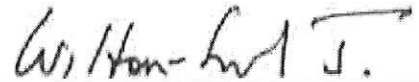
7. THIS COURT ORDERS that, notwithstanding:

- (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 Desrochers and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of Desrochers

the vesting of the Real Property in the Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Desrochers and shall not be void or voidable by creditors of Desrochers, 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.

8. 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.



Justice, Ontario Superior Court of Justice

Schedule A – Form of Receiver’s Certificate

Court File No. CV-22-000688570-00CL

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- and -

CONCEPT LOFTS LTD. and DONALD DESROCHERS

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APPLICATION UNDER Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, and Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to the Expanded Powers Order of the Court dated Monday November 7th, 2022, Rosen Goldberg Inc. was appointed as the receiver (the “**Receiver**”) of the assets, undertakings and properties of Heritage Towns at Hallum Inc. (formerly named Concept Lofts Ltd.) and of the property owned by Donald Desrochers (“**Desrochers**”) (“**Desrochers**”).

B. Pursuant to an Order of the Court dated April 2nd, 2024, the Court approved the agreement of purchase and sale (the “**Sale Agreement**”) respecting the property municipally known as Suites 502 and 503, Balmoral Avenue in Toronto, Ontario (the “**Real Property**”) between the Receiver and Audrey Joan Davidson and Alexander Scott Davidson (collectively, the “**Purchasers**”) dated March 4th, 2024, as amended by an amendment to agreement of purchase and sale dated March 18, 2024 (the “**Sale Agreement**”) between the Receiver and Audrey Joan Davidson and Alexander Scott Davidson (the “**Purchasers**”) and provided for the vesting in the Purchasers of Desrochers’

right, title and interest, in and to the Real Property, which vesting is to be effective with respect to the Real Property upon the delivery by the Receiver to the Purchasers of a certificate confirming (i) the payment by the Purchasers of the Purchase Price for the Real Property; (ii) that the conditions to Closing as set out in 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 Purchasers has paid and the Receiver has received the Purchase Price for the Real Property payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in 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].

**ROSEN GOLDBERG INC., in its capacity as
Receiver of the assets, undertakings and
properties of CONCEPT LOFTS LTD., and
DONALD DESROCHERS and not in its
personal capacity**

Per: _____

Name: Brahm Rosen

Title: Senior Vice-Principal

Schedule B – Property

<i>PIN</i>	12205 - 0069LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	UNIT 2, LEVEL 5, METRO TORONTO CONDOMINIUM PLAN NO. 1205 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS: REM PCL 1-1, SEC A703; LTS 1 & 2 & PT LT 6, PL 703 YORK; PT LTS 1, 2 & 3, PT LANE (CLOSED), PT 6” RES., PL 1207 YORK; PT LT A, PL 1432 YORK; ALL DES AS PTS 1 & 2 ON 66R17690; S/T & T/W AS SET OUT IN SCHEDULE ‘A’ OF DECLARATION E184380; WLY LIMIT OF YONGE ST CONFIRMED BY BOUNDARIES ACT PL BA1748, INST. CT416761; CITY OF TORONTO. SUBJECT TO A RIGHT FOR 5 YEARS FROM 98 09 09 AS IN D621469, CITY OF TORONTO		
<i>Address</i>	UNIT 502, 1 BALMORAL AVENUE TORONTO		

<i>PIN</i>	12205 - 0177LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	UNIT 8, LEVEL B, METRO TORONTO CONDOMINIUM PLAN NO. 1205 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS: REM PCL 1-1, SEC A703; LTS 1 & 2 & PT LT 6, PL 703 YORK; PT LTS 1, 2 & 3, PT LANE (CLOSED), PT 6” RES., PL 1207 YORK; PT LT A, PL 1432 YORK; ALL DES AS PTS 1 & 2 ON 66R17690; S/T & T/W AS SET OUT IN SCHEDULE ‘A’ OF DECLARATION E184380; WLY LIMIT OF YONGE ST CONFIRMED BY BOUNDARIES ACT PL BA1748, INST. CT416761; CITY OF TORONTO. SUBJECT TO A RIGHT FOR 5 YEARS FROM 98 09 09 AS IN D621469, CITY OF TORONTO		
<i>Address</i>	UNIT 8, LEVEL B, 1 BALMORAL AVENUE TORONTO		

<i>PIN</i>	12205 - 0070LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	UNIT 3, LEVEL 5, METRO TORONTO CONDOMINIUM PLAN NO. 1205 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS: REM PCL 1-1, SEC A703; LTS 1 & 2 & PT LT 6, PL 703 YORK; PT LTS 1, 2 & 3, PT LANE (CLOSED), PT 6” RES., PL 1207 YORK; PT LT A, PL 1432 YORK; ALL DES AS PTS 1 & 2 ON 66R17690; S/T & T/W AS SET OUT IN SCHEDULE ‘A’ OF DECLARATION E184380; WLY LIMIT OF YONGE ST CONFIRMED BY BOUNDARIES ACT PL BA1748, INST. CT416761; CITY OF TORONTO.		
<i>Address</i>	UNIT 503, 1 BALMORAL AVENUE TORONTO		

<i>PIN</i>	12205 - 0281LT	<i>Interest/Estate</i>	Fee Simple
<i>Description</i>	UNIT 24, LEVEL C, METRO TORONTO CONDOMINIUM PLAN NO. 1205 AND ITS APPURTENANT INTEREST. THE DESCRIPTION OF THE CONDOMINIUM PROPERTY IS: REM PCL 1-1, SEC A703; LTS 1 & 2 & PT LT 6, PL 703 YORK; PT LTS 1, 2 & 3, PT LANE (CLOSED), PT 6" RES., PL 1207 YORK; PT LT A, PL 1432 YORK; ALL DES AS PTS 1 & 2 ON 66R17690; S/T & T/W AS SET OUT IN SCHEDULE 'A' OF DECLARATION E184380; WLY LIMIT OF YONGE ST CONFIRMED BY BOUNDARIES ACT PL BA1748, INST. CT416761; CITY OF TORONTO.		
<i>Address</i>	UNIT 24, LEVEL C, 1 BALMORAL AVENUE TORONTO		

Together with exclusive use of the building lockers described as P2 #47 and P3 #123

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

REG NO.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
AT5256286	2019/10/04	TRANS PERSONAL REP		DESROCHER, DONALD JOSEPH	DESROCHER, DONALD
AT5710049	2021/04/19	CHARGE	\$1,600,000.00	DESROCHERS, DONALD	OWEMANCO MORTGAGE HOLDING CORPORATION
AT6017956	2022/03/15	NOTICE	\$2.00	DESROCHERS, DONALD	OWEMANCO MORTGAGE HOLDING CORPORATION
AT6209972	2022/10/26	APPLICATION COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	ROSEN GOLDBERG INC.
AT6220106	2022/1108	APPLICATION COURT ORDER		ONTARIO SUPERIOR COURT OF JUSTICE	ROSEN GOLDBERG INC.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property
(unaffected by the Vesting Order)**

1. The reservations, limitations, provisos, conditions, restrictions and exceptions expressed in the letters patent or grant from the Crown and all statutory exceptions to title;
2. The provisions of governing municipal by-laws;
3. Municipal taxes, liens, charges, including hydro and water charges, rates and assessments accruing from day to day and not yet due and payable;
4. Any minor encroachments which might be revealed by an up to date survey of the Premises but which do not materially adversely affect the use and marketability of the Premises;
5. Any right of expropriation conferred upon, reserved to or vesting in Her Majesty the Queen in Right of Canada and Ontario;
6. Any agreements, restrictions or covenants that run with the Premises and any agreements with the municipal, utilities or public authorities provided that same have been complied with in all material respects and do not materially adversely affect the use and marketability of the Premises;
7. Any easements, rights of way or right of re-entry, which do not impair the intended use of the Premises, by the Purchaser, and provided that same have been complied within all material respects and do not materially adversely affect the use and marketability of the Premises; and
8. The following instruments registered on title to the Premises in the Toronto Land Registry Office:

REG NO.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO
E184380	1998/07/27	DECLARATION CONDO		ONE BALMORAL LIMITED	ONE BALMORAL LIMITED
MTCP1205	1998/07/27	PLAN CONDOMINIUM			
E185275	1998/07/29	NOTICE		ONE BALMORAL LIMITED	CITY OF TORONTO
D621133	1998/09/09	BYLAW NO. 1		MTCC NO. 1205	
D621134	1998/09/09	BYLAW NO. 2		MTCC NO. 1205	
AT695547	2004/12/24	BYLAW NO. 3		MTCC NO. 1205	
AT695592	2004/12/24	BYLAW NO. 4		MTCC NO. 1205	
AT695660	2004/12/24	BYLAW NO. 5		MTCC NO. 1205	
AT6518278	2024/02/22	NOTICE	\$0.00	MTCC NO. 1205	DESROCHERS, DONALD

OWEMANCO MORTGAGE HOLDING CORPORATION

-and-

CONCEPT LOFTS LTD. et al.

Applicant

Respondents

Court File No. CV-22-00688570-00CL

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COMMERCIAL LIST
PROCEEDING COMMENCED AT
TORONTO

APPROVAL AND VESTING ORDER

MAND | RAI LLP

Lawyers

155 Rexdale Blvd

Suite 400

Toronto, ON M9W 5Z8

Paul H. Mand (46022F)

Tel: (416) 740-5653

Email: pmand@mandlaw.com

Lawyers for Rosen Goldberg Inc., Court-appointed
Receiver